

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

EFFECTS OF OIL AND GAS ACTIVITIES IN THE ARCTIC OCEAN  
ENVIRONMENTAL IMPACT STATEMENT

PUBLIC SCOPING MEETING AND COMMENT PERIOD

BARROW, ALASKA

MARCH 10, 2010

APPEARANCES BY AGENCY STAFF AND CONSULTANTS:

Michael Payne, National Marine Fisheries Service

Jeffery Loman, Minerals Management Service

Kimberly Skrupky, Minerals Management Service

Joan Kluwe, URS

Sheyna Wisdom, URS

Amy Lewis, URS

\* \* \* \*

## P R O C E E D I N G S

1  
2 (On record)

3 (Presentation)

4 TODD SFORMO: Can you go back one. One more.

5 MICHAEL PAYNE: One more.

6 TODD SFORMO: So the eight -- analyzed effects of eight  
7 concurrent surveys in the Arctic?

8 MICHAEL PAYNE: Yeah.

9 TODD SFORMO: You don't think that will -- you said you  
10 didn't think that will be reached. Is that.....

11 MICHAEL PAYNE: I don't. I don't. I don't think  
12 the -- even if they -- well, here's where I don't. You got  
13 four or five companies up there right now doing as much as they  
14 can in what's basically about a two-month window. And you  
15 don't have that many vessels. I mean, they're bouncing back  
16 and forth between the Beaufort trying to stay out of the way of  
17 subsistence hunting. If they were left on their own to do it  
18 without any concern about anything else, maybe then they can  
19 pull it off.

20 If you want to compare this area to an area that really  
21 is overly produced when it comes to seismic, last year there  
22 were almost 5,000 seismic surveys in the Gulf of Mexico in one  
23 year. At any one time on any one day, there's at least ten  
24 boats running in the Gulf of Mexico. But they don't have the  
25 same kind of issues. And for the most part it's all deep

1 water, and it's kind of out of sight, out of mind, to be  
2 honest.

3 But that -- if you take a -- you know, if you did a  
4 snapshot of the Gulf of Mexico and look at their oil lines and  
5 things like that, it would look like downtown Manhattan. It  
6 really does. So you don't want that to happen up here. So we  
7 did that number because we tried to put a cap -- we tried to  
8 put a maximum number out there that we never thought we would  
9 hit and analyze that effect.

10 And if you got to that level of activity and you still  
11 could make the determination that the effect was negligible,  
12 you're probably okay in between. To be honest, I don't know  
13 what the outcome was on that right there because we pulled it  
14 back and stopped. But that's why that, yeah, you have eight.

15 (Presentation continued)

16 DOREEN LAMPE: If the oil companies haven't shown you  
17 what their plan is on how they plan to export the oil to the  
18 world, are you truly ready for the impact in the Arctic?

19 MICHAEL PAYNE: Well, that's a good question.  
20 Doreen Lampe, correct, just for the record? This EIS, I didn't  
21 emphasize it enough, when you get to that phase of exportation,  
22 you're in production. That's a long ways away. This document  
23 right here is just looking at the exploratory phase, which I  
24 think will probably go on for three to five years. So I  
25 don't think that's going to be an issue, at least in the life

1 of this particular analysis.

2           However, if Shell Oil goes out there on one of the  
3 Chukchi Sea sites and hits oil this summer, it will make us  
4 have to change our mind about what goes into this document very  
5 quickly. I don't think they're going to go into production  
6 that fast. I don't know how long that takes. Jeff might know  
7 probably. I know he knows better than I do.

8           But going into production from exploration is a long  
9 process. It doesn't happen overnight. And the infrastructure  
10 needed to build those pipelines and things that would feed back  
11 into it would take a separate environmental impact analysis.  
12 It really would. So it's a good question. It won't probably  
13 be answered in this one because it's -- we're not there yet.  
14 But if you ask that in a question, we'll try to figure out how  
15 to pull it in somehow. I don't have a good answer for you,  
16 except that it wasn't part of the scope of this particular  
17 document.

18           Does that make sense? Or does that sound like a  
19 whitewashed federal answer?

20           DOREEN LAMPE: Look at Deadhorse.

21           MICHAEL PAYNE: Look at Deadhorse?

22           DOREEN LAMPE: Yeah. I mean, there was an EIS done  
23 that was going to follow the oil spills everywhere now. They're  
24 planning to plug in more wells.

25           MICHAEL PAYNE: Well, that's on land. Well, I don't

1 know what happened at Deadhorse, but I do know that right now  
2 we're not considering that in this document, I'll have to  
3 admit. It's something that maybe we need to consider, but we  
4 haven't until you just brought up the question. So we'll --  
5 you know, as we go forward, we can -- I don't know how we'll  
6 address the transition from exploration into production.

7 That seems to be everybody's -- everybody's fear is  
8 what happens in case of a spill. I mean, there are oil spill  
9 plans out there. You know, prevention is the best way to avoid  
10 them to avoid the effects. But that seems to be the number one  
11 question everybody has, and it's really not something that  
12 we're addressing right now, I admit. Yes.

13 GEORGE EDWARDSON: George Edwards in the Inupiat  
14 Community. We're talking about exploration, and you give us  
15 the impression there is not going to be very much activity  
16 going on. We're hearing from one oil company they're going to  
17 have three, you know, different operations going on in one  
18 season. Now there's more than a half a dozen oil companies  
19 that have picked up leases out there in the ocean.

20 And when you -- if they all decide to go do their  
21 exploration with their limited amount of activity, then you'd  
22 fill up the Chukchi side and the Beaufort Sea side with, you  
23 know, up to six, seven times more activities than you're  
24 showing us right here. You're giving us the impression there's  
25 not going to be very much activity going on.

1           MICHAEL PAYNE: Well, what I'm trying to give you is  
2 what's going on this summer. There's going to be one vessel,  
3 one drill vessel. We know that. There isn't going to be two.  
4 It's going to go back and forth. Potentially three holes.  
5 Excuse me, potentially three sites, maybe five holes. Two at  
6 the Chukchi, each one of them.

7           But that's only if everything goes according to plan.  
8 I don't -- I can't predict right now what an oil company may or  
9 may not choose to do. They won't do more than that because  
10 they haven't applied for more than that. They can't.

11           Now, if they don't hit oil this summer, or if it looks  
12 like they're not going to hit -- you know, if things don't go  
13 well for them, you're not going to see a lot of other oil  
14 companies racing to go out there and drill holes right away.  
15 If Shell Oil hits this summer in the level of activity, then  
16 this document and the analysis becomes more critical to be  
17 honest.

18           Because you have to look at some kind of a cap out  
19 there. You don't want to have a race for oil that will result  
20 in an unlimited amount of activity going on in the area. You  
21 just don't want that to happen.

22           GEORGE EDWARDSON: With the amount of leases you have,  
23 that is what you're looking for, that's where the law of supply  
24 and demand takes over and the hell with the environmental  
25 regulations.

1           MICHAEL PAYNE: Well, I guess I'd disagree with that.  
2 I don't care how many leases are out there. Before they go out  
3 and punch holes in the bottom, they're going to have to have a  
4 permit or two. And at least for the MMPA permit, we only deal  
5 with the applications we've received. And so far I know  
6 exactly how many we've received.

7           Now, if Shell Oil hits -- like I say, if Shell Oil hits  
8 oil and we get 20 applications in the next six months to go out  
9 there next year and do the same thing, I think a different set  
10 of circumstances might take over. And I don't know what those  
11 would be, but I think there would be enough concern about an  
12 increase in activity that the administration would take a  
13 different look, and there would be decisions made at levels  
14 much higher than me. And the oil companies just can't walk  
15 into the Beaufort or Chukchi and start drilling holes.

16           GEORGE EDWARDSON: I more than understand that, but  
17 what you do and -- with the way you're conducting it and the  
18 way you're talking to the communities, this is all we're going  
19 to do, you're not going to see anything else. But when  
20 production starts, you get develop, then the rules totally  
21 change.

22           We understand that. We saw it in Prudhoe Bay. See,  
23 there was no baseline even done in Prudhoe Bay, and without  
24 that baseline, even up to today 40 years later, you still can't  
25 go in there to correct the wrong that's been done, because you

1 don't have a baseline.

2 MICHAEL PAYNE: Okay. Yeah.

3 MAYOR EDWARD ITTA: I'd like to suggest we stay focused  
4 on what this meeting is about. It's scoping for the EIS  
5 programs. And from what I understand, our task today is to  
6 talk and -- about what we see as being needed in the new EIS  
7 that's coming. And I would like to keep to that point. The  
8 specific permits for this coming season are another whole  
9 matter that are related to this, as you say.

10 Depending on how they do, this document will probably  
11 be of more importance or less importance, one or the other.  
12 But I'd like to try to keep focused on what the purpose of your  
13 meeting is tonight, Mike, and that's on the scoping comments  
14 relative to the EIS, the proposal.

15 MICHAEL PAYNE: Okay. Well, thank you. Thank you for  
16 both comments, actually. I'll go through this, and we will  
17 wrap up. Oh, I'm sorry, you have another comment? Yes.

18 JOHNNIE BROWER: Yeah. My name is Johnnie Brower, for  
19 the record. On your EIS program, how far are you into the  
20 seismic material on the contract of injecting the noise to read  
21 your data on the ground, at what activity on the ground, what  
22 numbers are your seismic contractors -- what numbers are they  
23 planning on operating?

24 Last time there was a meeting on one of those  
25 companies, they mentioned something about 190 decibels on the

1 operating noise. Back in the mid 1980s, there was a drill ship  
2 operating out here during our fall whaling season, and when we  
3 went whaling out there, the first whale species we saw was a  
4 gray whale at 13 miles north of the drill ship. And the whale  
5 was barely coming up for air in a vertical position like this,  
6 and he wasn't swimming normally allowing -- he was allowing the  
7 current to drift him away from where the drill ship was.

8           And then we went 17 miles further north, and we  
9 encountered bowhead whales we wanted to harvest, but they were  
10 also in the same condition. They were popping up for air in a  
11 vertical. Normally the whales are comfortable and active  
12 swimming this way. You know, the ones that were popping up and  
13 down for air that way, that drill ship was operating and  
14 emitting 47 decibels continuously when it was drilling. And  
15 that's what that 47 decibels was doing to the whale from 13 to  
16 17 miles north of the drill ship.

17           And from my understanding from some of the meetings  
18 I've already gone through, the past seismic -- the past conduct  
19 of seismic has already used more than 240 decibels already from  
20 the past -- just the past seismic activities themselves. And  
21 now what we were told on our questions when we were inquiring,  
22 they said they would be operating within the range of 190  
23 decibels.

24           And when you inject 190 decibels into the water, what  
25 are the parameters of that 190 decibels before it becomes 185?

1 How many miles does it travel before it becomes 185?

2 MICHAEL PAYNE: Right. Right. Those, they're all good  
3 questions. The sounds.....

4 JOHNNIE BROWER: 190 decibels is like putting 99 of  
5 those (inaudible) bombs right through the whale's eardrums.  
6 Our own activity.

7 MICHAEL PAYNE: Basically you've just described the  
8 problem really well. 190 dB is sort of like at the sound  
9 source, or 200 dB is maybe at the sound source a little more.  
10 We can monitor it pretty well. Especially at the Beaufort.  
11 They've done it already, and they're doing it in the Chukchi.  
12 You can monitor how far out you get before you get to 180, 160  
13 from something, whatever the source is.

14 Usually those really high levels are fairly quick.  
15 They drop off fairly quickly within the visual, and that's  
16 usually what the observers are used for.

17 The bigger question -- or a more difficult question for  
18 us is that when you get in the range of 160 to 120. Things  
19 that don't necessarily result in injury to a whale or any kind  
20 of a long-term thing, it still might affect the subsistence  
21 hunt, as you just mentioned. You see whales behaving  
22 differently. Those are the more difficult questions for us,  
23 because that goes out quite a ways. That can go out many,  
24 many, many miles. And that's the one that's really difficult  
25 to monitor. And that's one of the things that we're having a

1 tough time with in the Chukchi. Because the area is such a  
2 large area, it's difficult to monitor at all for good effects.

3 But what you've said is kind of at the core of this  
4 analysis. What do we need to make sure the whales don't swim  
5 into an area where they're going to be exposed to sound levels  
6 that loud that would do harm? So we're looking into that. And  
7 I think we can actually solve that one pretty well. It's the  
8 levels that are just below that that go down to, like, 120,  
9 which may go out 30 or 40 miles easily. How do you monitor  
10 those type of levels in that great a distance to make sure that  
11 the whales don't behave in such a way that subsistence hunters  
12 can't get to them? That's the tough one.

13 JOHNNIE BROWER: Some of the questions we posed as to  
14 whether they have anything on the actual records that they can  
15 provide us in writing or in charts as to when they're making  
16 those decibel numbers in the water, how far does it travel  
17 before it loses by one number or five numbers?

18 MICHAEL PAYNE: Well, we can do that.

19 JOHNNIE BROWER: Nobody hasn't given us any -- nobody  
20 hasn't given us an example in paper or in writing or a  
21 testimony verbally that they already practiced that and this is  
22 how far we traveled before it became one less number in a  
23 decibel and.....

24 MICHAEL PAYNE: Well, I can almost guarantee you now  
25 that that will be in this document. Those type of models and

1 numbers are easy to obtain, and I'm surprised somebody hasn't  
2 given them to you, to be honest. So at least for the different  
3 sound levels that we will be analyzing here, you'll have those  
4 kind of pictures. You'll have that in diagrams. So you'll  
5 have an idea of how far 185 dB travels from a source that  
6 starts at 210 or 220.

7           JOHNNIE BROWER: Do you know what a hearing gauge would  
8 look like if you have to put it on a bowhead whale?

9           MICHAEL PAYNE: Well, I've often -- actually, I can  
10 imagine. But honestly, I've often wanted to hold a meeting  
11 like this with a background noise at 160 to see how long people  
12 would sit around here and listen to me talk. Just to see what  
13 that effect would be. I don't think I would be allowed to do  
14 it for health reasons. But it would be something to get a  
15 better idea of just what the impact might be to an animal.  
16 And, no, I don't know how big a hearing it would be, but I  
17 don't want to ever find out either. So let me.....

18           SHEYNA WISDOM: Mike, some of that information might be  
19 in your 90-day reports now. After a seismic or activity  
20 happens, they have to do a sound source verification a lot.

21           MICHAEL PAYNE: Let me go through the next couple of  
22 slides, and I'll get back to your question again on where you  
23 can find that information.

24           JOHNNIE BROWER: And maybe my question on some of the  
25 activities have already been conducted and already on your

1 programs and meetings after meetings from since oil was  
2 discovered in Prudhoe Bay. We posed a lot of questions, but  
3 there seems to be 99 ways to dodge it, and then another 25 more  
4 on -- 10 years later they dodged it down to 12 more ways.

5 MICHAEL PAYNE: Well, that question right there  
6 shouldn't be dodged, because we can't issue the permit without  
7 knowing the information that you just asked about. I mean, we  
8 just simply can't do it. So every time we issue a permit, at  
9 least in our documents, we give a pretty good indication of how  
10 far out those -- where those sound levels drop off. So let  
11 me -- I'll come back to that in a minute.

12 JOHNNIE BROWER: Thank you.

13 MICHAEL PAYNE: Okay. So I'm pretty much through with  
14 this for the purposes of tonight when I wrap up. We'll take a  
15 few-minute break; however, can I ask right now, is there  
16 anybody who is prepared to give comment that would like to give  
17 oral comment for the record tonight?

18 Okay. A couple of you. We'll take a couple of  
19 minutes, and all I'm going to say is if you don't want to stick  
20 around for that, you're welcome to leave. But if you stick  
21 around, people have a tendency to mill after I be quiet and  
22 people start talking on the record. Just be respectful of  
23 those people because we are recording, and if you want to stand  
24 up and go to the back and kind of whisper or whatever, that's  
25 fine.

1           But it seems like we always have a little bit of  
2 disturbance toward the end of these discussions. So just -- it  
3 sounds like we have three or four tonight that want to give a  
4 comment, and so just be mindful of that.

5           If you don't want to do that tonight, as I mentioned,  
6 the comment period is open until April 9th. You can fax  
7 comments to me, e-mail comments to me. You can submit comments  
8 to that site right there, and it automatically goes into our  
9 Web site where we're receiving all the comments on this  
10 particular project. If you want to contact me by phone, fax,  
11 or letter, that's me, and that's my address. And this is all  
12 in that little thing you've got right there in front of you,  
13 that brochure. With Sheyna.

14           Also, we are developing a Web site where we're going to  
15 be putting documents in that Web site that people might want to  
16 read that is related to this topic. Some of those reports that  
17 might address the question that gentleman had in the back will  
18 be on this Web site. But we should -- I mean, the information  
19 is out there to determine how -- you know, how sound propagates  
20 in the Beaufort and the Chukchi. That's been well-known for a  
21 lot of years, so it should have been out there.

22           Some of the other concerns you've talked about tonight  
23 we'll just have to address as we get there. The longer term,  
24 what are the effects of a spill, what are the effects of  
25 long-term production? And I don't have those answers. And

1 honestly, I'd be guessing if I tried to give you an answer,  
2 because I don't know if they're going to hit anything. But  
3 that's the game that the oil companies are playing, and that's  
4 what we got to try to analyze, because it's not a game to  
5 people here right now.

6 But anyway, that's kind of what I had to talk on  
7 tonight. I don't know if, before I sit down, if, Jeff, you  
8 have any other comments before we open it up to oral comment?

9 JEFFERY LOMAN: No. Just that we'd like to just let  
10 you know that MMS Alaska is delighted and inspired to be  
11 working with NMFS on this effort. And we're equally delighted  
12 and inspired to work with the North Slope Borough on the ocean  
13 claims initiatives. And Mayor Itta and his folks have  
14 developed eight of them, some which could address some concerns  
15 that have already been mentioned by Vice President Lampe and  
16 President Edwardson in the production and development stage.

17 And we are committed to -- at MMS to ensure that  
18 subsistence will not be disrupted by any one community or any  
19 one season. No matter what. No matter whether or not we do an  
20 EA and achieve a finding of no significant impact or an EIS.  
21 And it's not an experiment for us. The Inupiat people, like  
22 all Native American people, are a national treasure. And we  
23 intend to protect what we understand to be a culturally  
24 self-defining practice, the practice of whaling and other  
25 subsistence hunting and gathering activities.

1           And that's our position, and we want to work with you  
2           and with our colleagues at NMFS and the other federal agencies  
3           to make sure that that happens as we regulate and facilitate  
4           the offshore oil and gas activities in the Outer Continental  
5           Shelf. And thank you very much for coming.

6           MICHAEL PAYNE: Yes.

7           CHARLIE OKAKEK: While you spoke, I notice that you're  
8           talking about harassment and that term take and stuff in these  
9           scoping meetings for -- as I read it here, any act of pursuit,  
10          torment, or annoyance which has the potential to injure a  
11          marine mammal or a marine mammal stock in the wild. Or this  
12          other paragraph says the potential to disturb a marine mammal  
13          or marine mammal stock in the wild by causing disruption of  
14          behavioral patterns.

15          Isn't this what this drilling is doing, is disrupting  
16          the behavioral patterns of the marine mammal migratory animals?

17          MICHAEL PAYNE: It certainly has the potential. And  
18          what.....

19          CHARLIE OKAKEK: And I'm not saying the potential. It  
20          has done that.

21          MICHAEL PAYNE: Okay. It has done that, you're  
22          correct. So what that is saying is that the Marine Mammal  
23          Protection Act prohibits any activity that would result in that  
24          type of a harassment or disturbance. Except where permitted.  
25          And that's what the.....

1 CHARLIE OKAKEK: There's no except here.

2 MICHAEL PAYNE: No, I know there isn't there, because  
3 that's the definition of what harassment is. But the MMPA  
4 prohibits any type of harassment with exceptions. That's what  
5 it says, with exceptions. Subsistence hunting is the biggest  
6 exception. Alaskan Natives have the right to hunt marine  
7 mammals without going through a permit process. All other  
8 activities that may harass marine mammals like what you just  
9 described have to go through this process that we're describing  
10 right here to get a permit.

11 We evaluate how much harassment is going to happen, how  
12 much is this activity going to disturb a beluga whale or a  
13 bowhead. If we can minimize that effect such that the effect  
14 is negligible and won't affect survival and it won't affect  
15 subsistence, we'll allow the activity to go forward, and we'll  
16 give them a permit which allows, in this case, the oil  
17 companies to harass mammals up to a certain point. Without  
18 that permit they can't do it. And so that's the -- that's kind  
19 of where the rub is here. Yeah.

20 CHARLIE OKAKEK: Yes. Then do you have baseline  
21 information for the marine mammals that are out here, or is it  
22 just a guess, guesstimate?

23 MICHAEL PAYNE: No, actually, the Arctic -- Arctic  
24 marine mammals, with one exception, and I don't study them,  
25 walrus, there seems to be a problem with walrus numbers. But

1 in terms of beluga and bowhead, there are very good numbers.  
2 And we can actually probably demonstrate whether there's a  
3 decline due to something. There's less good numbers. We have  
4 less good numbers on ice seals, ring seals, spotted seals. At  
5 one time there were so many it was impossible to count them  
6 all. We're trying to get better information on that.

7 I can tell you that at the moment there doesn't appear  
8 to be any activity that has resulted in a downward trend for  
9 those particular stocks, except possibly global environmental  
10 effects.

11 CHARLIE OKAKEK: Like global warming?

12 MICHAEL PAYNE: Yeah, perhaps, yeah.

13 CHARLIE OKAKEK: And then you add more when you start  
14 drilling up here.

15 MICHAEL PAYNE: Well, maybe. One thing that.....

16 CHARLIE OKAKEK: (Indiscernible - simultaneous speech)

17 MICHAEL PAYNE: No. No. I mean, environmental -- we  
18 won't -- you don't know that for sure, though. That's what the  
19 thing of it is. And you can't blame a drill ship on global  
20 warming. One thing that we have been asked a lot about, and  
21 it's a difficult question, if you have an environment like the  
22 Arctic that's already being.....

23 CHARLIE OKAKEK: Excuse me. I didn't say anything  
24 about, you know, drilling causing global warming.

25 MICHAEL PAYNE: I know. I know. But the.....

1 CHARLIE OKAKEK: I'm talking about global warming.  
2 There is drilling that affects it.

3 MICHAEL PAYNE: That's right. That is.....

4 CHARLIE OKAKEK: And that's what I said.

5 MICHAEL PAYNE: Oh, okay. I misunderstood you. Sorry.

6 CHARLIE OKAKEK: I'm sorry if I said it wrong.

7 MICHAEL PAYNE: No, you probably didn't. I've had a  
8 long day. But the thing of it is a lot of people are concerned  
9 that you've already got -- the Arctic environment is in stress  
10 already because of global warming, and maybe these activities  
11 might be something else that you don't want to do right now.  
12 That's a decision somebody might make. After we look at the  
13 environmental analysis, somebody in the administration might  
14 say we're going to not do.

15 But if they did that, that would really change the  
16 energy policy. I mean, I don't want to sound like I'm an  
17 advocate for the White House, because I'm not, but these type  
18 of decisions -- you know, a decision between an environmental  
19 policy and an energy policy is a very real thing right now.  
20 And so we always end up walking a very thin line between  
21 allowing these permits to go forward -- because we know they  
22 have an effect. It may be minor, but we know they do have an  
23 effect.

24 But is that effect worth what you're going to gain in  
25 the energy policy? And that's kind of where the MMPA -- if the

1 MMPA allows both activities to go forward, it allows oil and  
2 gas to go forward, it allows subsistence to go forward, but  
3 certain -- I mean, it allows all these things to go forward,  
4 but at the same time, we have to monitor the effect to make  
5 sure they don't go forward in such a way that it harms the  
6 populations. That's the tough part.

7 CHARLIE OKAKEK: You mentioned the walrus being a part  
8 of the spectrum with this global warming and stuff, and you  
9 don't have any numbers for them and you're giving out permits.

10 MICHAEL PAYNE: No.

11 CHARLIE OKAKEK: And you don't.....

12 MICHAEL PAYNE: No, that's not.....

13 CHARLIE OKAKEK: .....have any numbers.

14 MICHAEL PAYNE: The reason I don't know walrus that  
15 well be Fish and -- I'm not Fish and Wildlife Service. I don't  
16 study walrus. And I haven't looked at the walrus studies  
17 enough to know whether or not they have a good estimate.  
18 That's what I meant. When we do this, though, we will be  
19 working with Fish and Wildlife Service to get that information.

20 CHARLIE OKAKEK: The comment before that said something  
21 about baseline information, and there had not been any done  
22 over here at the oil fields out here over at Prudhoe Bay.....

23 MICHAEL PAYNE: An earlier comment, yes.

24 CHARLIE OKAKEK: .....and then if you don't have a  
25 baseline numbers, what's going to happen 40 years after, like

1 what this -- Prudhoe Bay has done?

2 MICHAEL PAYNE: Well, I.....

3 CHARLIE OKAKEK: You know, the base -- you didn't have  
4 baseline numbers then, and now you still don't have them and  
5 don't know what happens.

6 MICHAEL PAYNE: Well, I don't know what happened in  
7 Prudhoe Bay. But I do believe our baseline information today  
8 is much, much better than anything they had prior to  
9 Prudhoe Bay. And I do believe that we have enough information  
10 on the marine mammal populations. I'm going to say it one more  
11 time, I don't know much about walrus yet, but I'll find out.

12 But on the mammal species that we monitor, I think we  
13 have enough information to go forward in a precautionary manner  
14 with this type of activity. If it doesn't affect subsistence.  
15 That's still my big question. I'm not as concerned in issuing  
16 a permit today because I don't think it's going to have a  
17 long-term effect on the marine mammal species out there. These  
18 type of activities that we're permitting today.

19 Now, if you go to this gentleman's question over here,  
20 what about production and the long term, that's kind of a  
21 different question. And that's beyond the scope of what we're  
22 trying to do tonight or in the next couple of years, because we  
23 aren't going to get there in the next couple years.

24 If they hit oil this summer, I'll be back here next  
25 year, and we'll be talking more about the issues that he talked

1 about. It will be a whole different game at that point. But  
2 right now we're not there. Yes.

3 JASON HERREMAN: Jason Herreman, North Slope Borough  
4 Wildlife Department. I guess I would raise some objections to  
5 your statement that we have good baseline information for  
6 marine mammals out there. We don't have good baseline  
7 information, and your own agency will actually agree with that  
8 point. For ice seals, our population estimates are more than  
9 15 to 20 years old for every single species. Polar bears, we  
10 have no population estimate for the Chukchi Sea. Walrus, we're  
11 talking a confidence interval of more than 50,000 animals.

12 That's just population numbers. When you start talking  
13 baseline information on breeding areas, on habitat use, on  
14 feeding, we don't have any of that information out there that's  
15 current. And that's something we would definitely like to see  
16 before more permits are issued. And these issues need to be  
17 addressed going forward here in the future.

18 MICHAEL PAYNE: Well, actually, you didn't disagree  
19 with me too much. I said I didn't know about walrus. That was  
20 the big if. And I don't know about the Fish and Wildlife  
21 Service and how they're doing it. Polar bears, I actually do  
22 think there's enough information. The idea of how much a polar  
23 bear from Chekok meanders over here is different. But total  
24 numbers, I think, is known.

25 And ice seals is kind of always funny because I

1 disagree with NMML. I don't disagree with NMML, our own  
2 scientists. When we need to have the right information, we  
3 seem to have it. When we are not concerned about an activity  
4 to go forward, we don't seem to have it. So it's one of those  
5 things that when we wanted to calculate PBR, we could do it  
6 backwards. And we know there's at least so many animals out  
7 there so that this level of activity is okay.

8 I think that can still hold for oil and gas activity.  
9 We'd have to -- without knowing the exact number, at this point  
10 in time there's still enough out there that I don't think we're  
11 going to have an impact that's greater than negligible. And  
12 that's the same way we back-calculated PBR, if you will. Yeah.

13 CHARLIE OKAKEK: If you talk of the baseline numbers  
14 for the seals, the Arctic seals and stuff, that numbers that  
15 your scientists have counted is not right. But I've seen the  
16 way they count. You know, they'll count the seal over here,  
17 and then that seal will dive and then come back up over here  
18 and they'll count it again is what their numbers are, your  
19 scientist numbers are.

20 MICHAEL PAYNE: Okay. That could be true. I'm not  
21 going to question that. I mean, surveying marine mammals is  
22 difficult. I know a little bit about it, but I'm not going to  
23 argue whether we do it well or not. It's certainly worth a  
24 comment.

25 One thing that you might take into account when you do

1 your comments is that the impact of certain activities --  
2 seismic is a little different because that's a moving target,  
3 but something like a drill platform, even a temporary one, you  
4 know, the ice seal population in that area would be most likely  
5 impacted, for example, if it's in the Chukchi rather than  
6 Kaktovik.

7 And so not even knowing the entire worldwide population  
8 of some of these species, we might know enough about the area  
9 that we're impacting to be able to determine whether or not  
10 we're going to have a negative impact. Now, if we don't, I  
11 think we'll find that out pretty quick in this process. I do.  
12 But anyway, your comment is valid. Counting animals is not  
13 easy, and if there's better ways to do it, I'll certainly pass  
14 that along.

15 CHARLIE OKAKEK: As the miscounts.

16 MICHAEL PAYNE: Okay. Well, yeah. Yeah.

17 TODD SFORMO: I was wondering about the cumulative  
18 impact of some of the seismic activity. I mean, you said you  
19 were able to help them and know what level sound would travel  
20 through here, but I mean, what is the cumulative -- or standing  
21 here in 160 decibels that, you know, nobody is going to stand  
22 here too much, but maybe 90 over three or four days, an hour.

23 MICHAEL PAYNE: Yeah.

24 TODD SFORMO: I mean, I don't understand how you would  
25 know the cumulative impact on marine mammals at different

1 levels.

2           MICHAEL PAYNE: It's tough. One of the things -- and  
3 in addition to not knowing -- I mean, you know, it's easy to  
4 say at what level something is going to have harm. That's the  
5 easy part. The more difficult part is if you have a noise  
6 level that isn't causing anybody great harm today, but you sit  
7 there and listen to it day after day after day after day, after  
8 awhile you do have a shift in your ability to hear. That's one  
9 thing that will be -- it will be difficult to address, but  
10 we're actually trying to contact some people that are  
11 specialized in that kind of thing to do it.

12           The other thing that we have never had to look at, and  
13 this year is a -- you have a seismic thing out there and you  
14 got sound propagating from seismic and you overlay a different  
15 type of sound source from a drill platform. Now, what does  
16 that -- the interaction of the two is certainly going to  
17 magnify the effect. And we're hoping -- actually, I'm hoping  
18 that we can get some of that done even for this year, not wait  
19 until 2011, because there are questions out there that we need  
20 to address in our permitting actions for 2010, not just 2011.

21           So those are very good questions. I'm definitely not  
22 the one to debate anything about acoustics in that regard, but  
23 I do know those are problems that will be raised and will need  
24 to be addressed. I do know that.

25           TODD SFORMO: And do you think they'll be addressed in

1 time, then, or.....

2 MICHAEL PAYNE: I think we're going.....

3 TODD SFORMO: .....I mean, what if they're not?

4 MICHAEL PAYNE: I think we're going to take a shot at  
5 it. I don't know if they'll ever be addressed to everybody's  
6 satisfaction, even by 2011, to be honest. But I don't think we  
7 can not address them. I think that's the bigger question. You  
8 know, that gets back to this cap, how much activity is enough.  
9 Yeah. Yes, sir.

10 BEN GREENE: As long as we're on the topic of  
11 cumulative impacts, I'll speak up now. My name is Ben Greene.  
12 I'm with the North Slope Borough Planning Department. Along  
13 the lines of cumulative impacts I want to point out that the  
14 true cumulative impact study, studies the cumulative effects of  
15 not only multiple activities dispensing acoustic pollution into  
16 the marine environment at different locations at different  
17 times, but also those effects on top of the potential adverse  
18 effects from marine discharge of chemicals, discharge into the  
19 air, all of the different activities together.

20 And in your earlier study, I'm concerned about some  
21 inconsistencies from your overview. You talked about the  
22 different types of effects that will be studied and looked at,  
23 and going down the list, you noted air pollution, and you said,  
24 well, that one's not our bailiwick, that's EPA. And you went  
25 down to the next one on the list. You didn't actually mention

1 in that portion of your presentation water discharges, but had  
2 you, I think you would have, again, said, well, that's not our  
3 bailiwick, that's EPA.

4 And yet at a later slide, you brought up human health  
5 impacts, and you said most definitely that potential adverse  
6 impacts to human health, that will be looked at. And my  
7 question is by whom? And it seems like, especially in doing  
8 the cumulative impact analyses, EPA needs to be part of your  
9 team. As far as I'm aware, EPA has not received an invitation  
10 to be the cooperating agency, and so I thought I'd take this  
11 opportunity to ask.

12 MICHAEL PAYNE: Ask why?

13 JEFFERY LOMAN: EPA has a nondiscretionary obligation  
14 to review all Environmental Impact Statements by every federal  
15 agency to ensure that they comply with NEPA. And part of  
16 compliance with NEPA would include the analysis of the effects  
17 on human health. So regardless who did the human health  
18 assessment in this EIS, EPA has a role, and it's  
19 nondiscretionary.

20 MICHAEL PAYNE: So yeah. Well, okay. So that's the  
21 prelude to what I was going to say. They'll be receiving a  
22 document. We were not planning on working with them initially.  
23 We asked Fish and Wildlife if they wanted to be a cooperating  
24 agency. Haven't heard back yet for sure. MMS will be. But  
25 the EPA, we just assumed that when we get to the parts that we

1 know they need to look at, we'll just give them sections, and  
2 they can -- they'll work with us and provide whatever they can.

3 But the earlier part of your comment was about -- and I  
4 probably overstated it. All three of those things will be  
5 addressed in this document. The effects analysis is beyond the  
6 scope of our agency's work, and so we'll have to be pulling in  
7 information from other stuff. We won't be doing a separate  
8 analysis on those things. Does that -- that makes a little  
9 difference. Yeah. But we will be doing an analysis within the  
10 document on things like the effect of noise and things we can  
11 control through these permits.

12 BEN GREEN: Right. But given the overall breadth of  
13 this EIS, which is incredibly broad, not only all seismic  
14 activities and site clearance activities, but exploratory  
15 drilling as well. And one component of exploratory drilling  
16 that is of a very profound concern to the North Slope Borough  
17 are the discharges that are typically associated with that type  
18 of activity, including muds, cuttings, et cetera, et cetera,  
19 that Arctic General NPS might break the discharge streams down  
20 into 14 broad categories. So I, again, will suggest that the  
21 overall magnitude of activities, in my mind, warrants the  
22 inclusion of EPA as potentially a cooperating agency.

23 MICHAEL PAYNE: Okay. That's a good comment. But  
24 yeah, we talked about it, we hadn't offered -- we haven't  
25 extended the invitation, and maybe we'll rethink that. Yeah.

1       Okay. Thank you. Yes, sir.

2               JOHNNIE BROWER: Keeping records that 12,500 years ago  
3       the ocean was 130 miles down that way. And to present, it's  
4       right where it's at. And these records of some of the seismic  
5       surveys, your analysis printout, it have -- and particularly  
6       the -- if they located a whole community dwelling on the sea  
7       floor, but how will it affect the lease sales after you leave  
8       the drilling location areas if there was a whole community  
9       setting that is part of my ancestral history from going back?

10              Human records shows that the Inupiat began in North  
11       Slope, the Point Barrow region, according to outside records,  
12       anywhere from five to eight thousand years. But in the course  
13       of 12,500 years ago, the ocean would be 130 miles down that way  
14       and right where it's at. In between here and there, some of  
15       your seismic activity could relocated a complete community  
16       dwelling that's still intact. How would that affect the resale  
17       in the drilling industry?

18              MICHAEL PAYNE: That's a good question. I don't know  
19       how it would affect the lease sales. Honestly, I've never run  
20       into that situation, but I -- so I don't know exactly how it  
21       would affect whether or not drilling would go forward at that  
22       specific site.

23              JOHNNIE BROWER: That would give me and my people on  
24       our language, history and culture enough jurisdictions to aid  
25       our ancestors from going back. They lived and endured through

1 X numbers of global warming until the present.

2 MICHAEL PAYNE: Have ever run into anything like that?

3 JEFFERY LOMAN: Oh, yeah. It's a component that -- for  
4 example, in both exploration plans that MMS evaluated for this  
5 upcoming drilling season in the Beaufort and Chukchi Sea, we  
6 consulted with the state historic preservation office. There  
7 is a document that I'd be happy to share with you, if you let  
8 me know how to get it to you, that describes the conclusion  
9 that was made. Essentially it's because of ice scouring and  
10 the massive amounts of ice and other rock formations that would  
11 have traveled over the area that these companies are proposing  
12 to drill in.

13 The historic preservation officer concluded that it  
14 would be very unlikely that such a site would be present and be  
15 disturbed by the drilling. But it's one of the elements that  
16 we look at before we're going to approve a permit, or a lease  
17 sale or any other activity.

18 MICHAEL PAYNE: If something like that happened, I  
19 think it would probably be of enough interest to warrant.  
20 Yeah, people would take a further look at it. I've never heard  
21 of it happening, but it's a good point. Yeah.

22 TODD SFORMO: This is Todd again from the Department of  
23 Wildlife. I was just wondering the mitigation questions you  
24 were asking. I mean, why not have the zero discharge? But, I  
25 mean, that seems like a good mitigator. It just doesn't

1       require anything.

2               MICHAEL PAYNE: Well, okay. Up until this point we  
3 haven't had to deal with it. And zero discharge means  
4 different things to different people. In the exploratory  
5 phase, I know -- and everybody compares this to Norway. Zero  
6 harmful discharge is a standard. That doesn't mean zero total  
7 discharge. Everybody knows that.

8               I don't know if it is possible. I'll look into it, and  
9 we'll try to find out by going to the experts. I have not  
10 found where it's possible to have zero total discharge in the  
11 exploratory phase. Because you have caps out there that can't  
12 be covered. In the production phase, like they do in Norway,  
13 zero total discharge is very doable, because they actually seal  
14 the well, and they actually put stuff back down into the  
15 sediment.

16              But in the exploratory phase, I haven't found anyplace  
17 that has had a zero total discharge standard. I've found a lot  
18 of places that have had zero harmful discharge. And so we'll  
19 probably compare the two in this document and we'll address  
20 them. And between now and the final, I think we'll have more  
21 information on that. And it's an issue that the oil companies  
22 continually get asked.

23              And to be honest, I rely a little bit on some of their  
24 expertise, either here or in Europe on how they've addressed  
25 that. It's a good question, and it's one of the two or three

1 most common questions we get, what about discharge, along with  
2 what are you going to do if a spill happens. So hang on for  
3 one second. Did you have a question?

4 DEBBIE EDWARDSON: Yeah. My name is Debbie Edwardson.  
5 I'm special project coordinator for Ilisagvik College, and also  
6 president of the school board. Ilisagvik is the only tribal  
7 college in the state or sanctioned by the Inupiaq Community of  
8 the Arctic Slope. And I've had a question or comment. I  
9 wanted to know where you were at in the process of drafting the  
10 regulations that governs the Marine Mammal Observer program?

11 MICHAEL PAYNE: Okay. The observer program, I'm not  
12 directly involved with those, but I have kind of kept track of  
13 them, because they're key to this area up here. It's had a  
14 couple of starts and stops. The person who is drafting the  
15 original Marine Mammal Observer criteria or requirements, not  
16 regulations, but -- actually left -- was based out of  
17 Anchorage. He left a year ago and went to Fish and Wildlife.  
18 And so we had to kind of stop for a second. And it was picked  
19 up again by somebody in my office and somebody who was working  
20 in the Gulf of Mexico.

21 Those criteria have been pretty finalized, but I don't  
22 think they've been expanded to Alaska yet. Yeah, Kim?

23 KIMBERLY SKRUPKY: Yeah, I've been working on them with  
24 MMS. And the report is in the draft phase. It's being  
25 reviewed at the moment internally at NOAA and at MMS.

1           DEBBIE EDWARDSON: Okay. So it's still in the draft  
2 phase?

3           KIMBERLY SKRUPKY: It is.

4           DEBBIE EDWARDSON: Okay. I just wanted to share with  
5 you, and you may be aware of this. We, the college, has been  
6 working in training marine -- locals for people to work as  
7 marine mammal observers for several years now. We have looked  
8 at your draft regulations. And we have been -- as of this  
9 year, in October, at the Alaska Native -- Federation of Natives  
10 Convention, they endorsed Ilisagvik as the recognized trainer  
11 for marine mammal observers in state. I've got a copy of that  
12 resolution I'd like to give to you.

13           But our concern, and Charlie over here is one of our  
14 observers, Charlie Okakek. And we have worked with our local  
15 people, especially our experienced local hunters in helping  
16 them put them out there on those vessels. And when it comes to  
17 monitoring what you're doing out there and looking at the  
18 effects, they are the true experts. And we are -- we recognize  
19 that, and we're working with the different industry to try to  
20 make sure that they're out there and that they're recognized  
21 and that their reports are recognized.

22           But the concern that I have with the draft regulations  
23 is that it puts precedence of people that have B.A. degrees in  
24 biology over the top of our hunters who have a lifetime of  
25 experience out there.

1           MICHAEL PAYNE: That's a.....

2           DEBBIE EDWARDSON: And I -- let me finish.

3           MICHAEL PAYNE: Okay.

4           DEBBIE EDWARDSON: I want to finish what I'm saying

5 here. I've been collecting the comments from our students in

6 this program of what they're seeing out there and what is

7 happening to the observations that they are making, and it's

8 not a real pretty picture. Because they have biologists

9 working over them who sometimes have absolutely no experience

10 in the Arctic. And sometimes they're not even marine

11 biologists. Some of them are ornithol- -- you know, bird

12 watchers.

13           And the reports that we're hearing about what our folks

14 are seeing and how it's being perceived and recorded by those

15 people who are over the top of them, they see things that are

16 happening and it's denied. And that's kind of miti- -- I mean,

17 that takes what you're trying to do and undermines it. And I

18 think it's crucial that you have those people out there, that

19 you have them observing, that you have them looking at these

20 issues that you are mentioning in this report, and that there's

21 a system in place that recognizes and documents what they're

22 seeing.

23           MICHAEL PAYNE: Okay. Actually, it's nice to meet you.

24 I had heard about the college, but I wasn't that familiar with

25 it. What I will say, and maybe Kim's going to -- those

1 draft -- that draft document has been changed considerably to  
2 address that problem that you've had about B.A. versus local  
3 knowledge.

4 DEBBIE EDWARDSON: Yeah, I think -- I mean, I would  
5 just recommend that every one of your vessels be required to  
6 have somebody with that local expertise on board and that they  
7 do have the authority, not just be there as figureheads,  
8 because that's how a lot of our people have been feeling.

9 MICHAEL PAYNE: Okay. Do you want to address that  
10 quickly?

11 KIMBERLY SKRUPKY: Oh, yeah. Just real quick. You  
12 know, the subsistence observers, Native observers are  
13 definitely addressed in this report, and, you know, there are  
14 separate guidelines for that similar to other agencies'  
15 reports. Of course, it's nationwide, it's not just this area  
16 or just the Gulf of Mexico. So exactly what you're saying,  
17 that's why this report is pretty important to make sure that  
18 people are respected in what they do and that everything gets  
19 reported properly.

20 MICHAEL PAYNE: Yes, sir.

21 CHARLIE OKAKEK: Yeah, I'd like to add to what she had  
22 said. You know, I'd like to back her up on what she had said.  
23 We've been out there for quite a while, for about four or five  
24 years, some of us. Some of us eight years out there in the  
25 ocean as marine mammal observers, and to see these snake people

1 and the bird people and all them other scientists that you  
2 have, the marine mammal scientists that you have for the Arctic  
3 are snake people and bird people and all the other people not  
4 associated with marine mammals out here.

5 And if you tell them that this is this type of seal and  
6 they go looking through their books and they say, no, it's not,  
7 no, it's not. I mean, here we are, we've been seeing this ever  
8 since we could remember. And we know what it is, and here  
9 these -- this snake person is telling us it's not this kind of  
10 seal. I mean, gosh.

11 And I want to tell that lady over there, also, if she's  
12 making evaluations and stuff, to -- you know, there's a  
13 difference between the Gulf of Mexico and the Arctic Ocean,  
14 okay.

15 MICHAEL PAYNE: Yeah, that's -- back to your question  
16 about the draft. I forgot. That's one of the reasons it's  
17 taking longer. It went from a regional thing to a national  
18 thing, and that's -- yeah.

19 CHARLIE OKAKEK: And also I think she needs to get  
20 together with Ilisagvik College to help put this marine mammal  
21 observer program together with them, the college part.

22 MICHAEL PAYNE: Actually, I'd like to talk to you maybe  
23 afterwards. I don't know how it works, but I'd like to know  
24 that. Yes, sir.

25 JOHNNIE BROWER: Well, the last -- you know, the last

1 question -- Johnnie Brower for the record. In the course of  
2 hearing the drilling, when they're drilling, what would happen  
3 if our roadway didn't -- didn't totally demolish the operation?

4 MICHAEL PAYNE: I don't know. I mean, I -- I mean,  
5 you're asking me questions that people -- I mean, I -- well, I  
6 don't know how to answer that really with -- except that saying  
7 that I know that in the process of oil exploration, people take  
8 those things into account, engineers who are much more  
9 qualified to respond to that question that I am.

10 And of all the things that I am worried about, that  
11 probably won't be one of them, to be honest to you. I'll let  
12 the engineers and the oil companies conduct their activities in  
13 such a way that they can take that into account. If they don't  
14 take that into account, they're liable for certain, yeah. And  
15 I don't know what would happen is the response, yeah.

16 CHARLIE OKAKEK: And you said -- Charlie Okakek again.  
17 You mentioned the best practice for oil spills and prevention  
18 of oil spills.

19 MICHAEL PAYNE: Yeah.

20 CHARLIE OKAKEK: And I believe that oil companies have  
21 that pretty much covered, but if there is an oil spill,  
22 according to the 2008 -- what was it, the climate change  
23 commission they had for the Arctic, they said they're not ready  
24 for an oil spill up here if there was to be one. And that  
25 thing is I believe before any type of activity or at the

1 production is -- before it goes into it, I think that you need  
2 to put out some people for -- you can have an oil spill  
3 response team or something, you know. Get it started now  
4 before it's too late.

5 MICHAEL PAYNE: Yeah. I agree with you, actually. I  
6 think there is an oil spill response team. I don't know if  
7 it's adequate. But before anything goes to production, I think  
8 that would have to be tied down much tighter than it is now. I  
9 agree with that completely. I do. You wouldn't want to go to  
10 production without having a damn good response plan in place.  
11 It's just -- one mistake is too many, and everybody knows that.

12 JOHNNIE BROWER: One comment on this part.

13 MICHAEL PAYNE: Yeah.

14 JOHNNIE BROWER: Even when -- even if there was a spill  
15 or a blow up, how long would it take before a cleanup facility  
16 group reaches the site?

17 MICHAEL PAYNE: Right now?

18 JOHNNIE BROWER: Yeah.

19 MICHAEL PAYNE: I think probably too long. As I  
20 understand it, the closest cleanup facilities, I don't -- I'm  
21 not sure where.....

22 CHARLIE OKAKEK: 280 miles away.

23 MICHAEL PAYNE: Yeah, it's way south. It's too far  
24 south. And I know that's something that -- I mean, I'm --  
25 again, I'm not -- that's something that will have to be nailed

1 down before anybody should allow this to go to production. I  
2 know I've heard discussions about this a lot. I don't know how  
3 far they've gotten and.....

4 JEFFERY LOMAN: Well, if you're talking about today,  
5 there is nothing out in the OCS and the Arctic today. Should  
6 Shell, for example, conduct exploratory drilling in the  
7 Beaufort or the Chukchi, the spill response equipment, vessels,  
8 and personnel, their capability has been scrutinized very  
9 carefully. As everybody knows, oil spills are within the  
10 authority of the U.S. Coast Guard.

11 Both the outgoing admiral and the incoming admiral for  
12 the Alaska District has this to say about Shell's spill  
13 response plan. It was superior and unlike no other anywhere on  
14 earth. And so I'm just going to leave it at that.

15 CHARLIE OKAKEK: On paper.

16 JEFFERY LOMAN: When we -- no. Physically. I'm  
17 talking about the metal and the men that will be deployed  
18 should they drill.

19 CHARLIE OKAKEK: I doubt if they have enough people up  
20 here to cover what you're talking about.

21 JEFFERY LOMAN: And that's an on-site spill response  
22 right there at the site. They're not hundreds of miles away.  
23 Right there at the site with the capability to clean up in a  
24 blowout scenario, and to consume a substantial blowout. We  
25 don't want any of that to happen. But that's the kind of spill

1 response.

2 CHARLIE OKAKEK: That's a current that is moving?

3 JEFFERY LOMAN: I'm sorry?

4 CHARLIE OKAKEK: That's a moving current?

5 JEFFERY LOMAN: Yes, sir.

6 CHARLIE OKAKEK: Are they.....

7 JEFFERY LOMAN: Yes, sir. And, you know, in the worst  
8 conditions in the Arctic, will it be a struggle? Yes. And  
9 I'll just leave it at that.

10 JOHNNIE BROWER: On paper, how much actual for Arctic  
11 water experience cleanup? Resume is there under their verbal  
12 word that you just mentioned?

13 JEFFERY LOMAN: There is no activity in the Alaska  
14 Arctic OCS.

15 CHARLIE OKAKEK: That's my point of interest.

16 JEFFERY LOMAN: They're people which, by the way, many  
17 of which are Inupiat people working for the corporations in the  
18 oil service business today. So.....

19 MICHAEL PAYNE: Before.....

20 CHARLIE OKAKEK: I know exactly how many there are.

21 JEFFERY LOMAN: Pardon?

22 CHARLIE OKAKEK: Because we are a part of the  
23 corporation that you're talking about now. And I want to know  
24 how much -- about the number you're talking, and that's not  
25 enough.

1           MICHAEL PAYNE: Before we go much further, there were  
2           some people that did want to provide some comment. I'd like to  
3           take a little break from the round robin we have right now  
4           and -- yeah.

5           EDGAR SKIN: You know, the currents that go all over  
6           and the fish that go, they migrate, many animals, the currents,  
7           they come from south, and then they go back down south. And  
8           then, you know, how is it going to affect it if there is an oil  
9           spill? You know, it's not just going to be affecting Americans  
10          in the Arctic, but also all the way down to Argentina and  
11          everywhere. You know, the birds that migrate, the fish, the  
12          whales. We seen an increase of different animals coming up  
13          from the south, different whales, bing (ph) whales or moot gill  
14          (ph) or whatever. And there's seals from down in Savoonga  
15          coming up, you know, fur seals. And, you know, the currents  
16          they're so strong.

17          And the ice. What will happen if there is oil down  
18          there? I mean, what's going to happen if the ice comes in  
19          here? What if it all goes out?

20          MICHAEL PAYNE: Well, that's pretty much the same type  
21          of question that he asked. And.....

22          EDGAR SKIN: And then also then if there is oil, then  
23          how are you going to get it out? Doreen had asked the  
24          question, and it seemed like you just ran her over.

25          MICHAEL PAYNE: Which one?

1           EDGAR SKIN: Doreen.

2           MICHAEL PAYNE: No, no, which question?

3           EDGAR SKIN: About how will they get the oil out.

4           MICHAEL PAYNE: No, the question she asked is whether  
5 or not what we're doing here would address that, how -- what  
6 happens if they would have an oil -- if they hit oil.

7           EDGAR SKIN: Yeah, if they get oil, how would they  
8 export it out of the.....

9           MICHAEL PAYNE: I don't know what the plan is right  
10 now. But.....

11          EDGAR SKIN: Another oil pipeline.

12          MICHAEL PAYNE: Yeah, pipelines through Wainwright.

13          EDGAR SKIN: But how would that affect the caribou  
14 migration? You know, I've seen pictures of a road and a great  
15 big herd of caribou traveling through. And then they just --  
16 it totally diverted their route. Now they're following the  
17 road instead of the thousands of years of the same route  
18 they've been using.

19          MICHAEL PAYNE: Well, I mean, I appreciate the  
20 concerns. A lot of these questions I can't answer right now,  
21 because actually I came here to talk about marine mammals and  
22 the effect on them, not caribou. But I do understand what  
23 you're talking about. The long-term effects of discovering  
24 oil, building a pipeline to Wainwright, and then from  
25 Wainwright to connect up with the main lines someplace in

1 Central Alaska, I'm not sure where, will have a great effect on  
2 whatever it crosses. There's no doubt about that, if that  
3 happens.

4 I'm not at a point yet to say that it's going to  
5 happen. What I have run into at all these discussions is that  
6 people are more afraid of things they don't -- I mean, it's  
7 true of everybody, not just people here. I'm afraid of what I  
8 don't know. And the unknown, whether there's going to be a  
9 spill, what's going to happen if they hit oil, there's no  
10 spill, but they got to get it out of the bottom, all of those  
11 are very legitimate questions.

12 What I did say to Doreen was that they're a ways away.  
13 I don't have answers, but if they hit oil tomorrow, it would  
14 still be five years before they build that pipeline you're  
15 talking about, and I don't know how to address that right now.  
16 Yes, sir.

17 JOHNNIE BROWER: Looking at it from the Inupiat  
18 mother's point of view with children, even when you have a oil  
19 blowout or a spill occurs on some offshore drill rig and it  
20 devastates a lot of the location where it's at, from an Inupiat  
21 mother's point of view, you cannot mitigate to -- how would you  
22 compensate a woman and her family?

23 MICHAEL PAYNE: Yeah, I don't think you can.

24 JOHNNIE BROWER: What kind of compensations and things  
25 would you replace or think that they lived on for centuries

1 past -- centuries, and suddenly there's nothing left to hunt or  
2 eat? What kind of compensation would there be for the Inupiat  
3 people out here located way up high?

4 MICHAEL PAYNE: Well, I don't think you could  
5 compensate for that loss. I don't. And I don't know what else  
6 to say. It's something that no one wants to see happen.

7 JEFFERY LOMAN: The law does provide for compensation;  
8 however, as a result of the Resolution Act of 1990, which, of  
9 course, gained primarily as a result of the Exxon Valdez spill,  
10 those kinds of claims would be calculated and made and  
11 compensation according to the law can be made. Now, like Mike  
12 said, are you going to compensate appropriately? That's -- you  
13 know.....

14 CHARLIE OKAKEK: Excuse me, but I think Exxon also show  
15 you that the people who were supposed to get so many billions  
16 only ended up with less than a million or something.

17 JEFFERY LOMAN: I didn't personally -- I'm not a  
18 fisherman or I couldn't make a claim, so I'm not even going to  
19 go there. Because it would be disrespectful to those who were.  
20 The law that's in place today allows for those claims. And we  
21 have made a case and worked with the Coast Guard to convince  
22 even claims for loss of governance using the Arctic communities  
23 as an example.

24 Using the fact that the leaders here are whaling  
25 captains and that those who govern the communities here are

1 recognized as leaders, and that transfers into the governments  
2 of the communities here, and so they agree, the Coast Guard and  
3 the people at the National Pollution Fund Center agreed that  
4 that would be a compensable claim should an oil spill occur.  
5 Loss of governance. In addition to loss of subsistence, loss  
6 of all of these other activities that are traditionally allowed  
7 for under federal law.

8 MICHAEL PAYNE: I don't think that -- well, yeah,  
9 that's all correct. I mean, it -- I don't think that's quite  
10 what you were getting at. There is no way to compensate for  
11 that, but -- okay. I'm going to -- I'll take one more  
12 question, then I want to get to the oral comments. I want  
13 people to be able to do that. Then we'll be here all night if  
14 you want to be. Yeah.

15 SHAWNA LARSON: It's not really a question, but more a  
16 follow-up comment. And I actually am a survivor of the Exxon  
17 Valdez oil spill. But it's interesting to hear people talking  
18 about laws and making an assumption that those are viewed as  
19 either positive or negative. Because just because there's a  
20 law in place doesn't necessarily make it good, I think, in my  
21 personal opinion. I mean, at one point we all know slavery was  
22 legal. That doesn't make -- that doesn't mean it's good. But  
23 that was a law at one point. And so I think it's interesting  
24 to think about the laws that are in place.

25 But I also wonder just in general on the socio- and

1 economic impacts that were displayed in the PowerPoint  
2 presentation. Do you take into consideration in this process,  
3 you know, for example, there is some Marine Mammal Protection  
4 Act, and I don't ever hear anybody talking about an Alaska  
5 Native protection act or a culture act that protects indigenous  
6 people. And I just wonder if you take that into consideration.

7 A lot of people who are here tonight, some people are  
8 here for their jobs to take comments and they get paid for  
9 coming to meetings like this. But others who are going to have  
10 to suffer the impacts don't necessarily get paid for coming to  
11 meetings like this.

12 And I wonder if all of the times that there are  
13 meetings like this and all of the hours that are spent where  
14 hunters and mothers and grandmas and aunties and uncles have to  
15 take time away from their families and their children to come  
16 here and try to figure out how to protect their way of life and  
17 the future generations. I just wonder if you think about that  
18 in terms of a socio- and economic cultural impact. Because  
19 that is the impact on the community.

20 Or the communities are being told that they need to  
21 comment and being encouraged to comment. They're not being  
22 compensated like people who work for the government are, for  
23 example, and they're having to take time away from their  
24 families teaching their culture and heritage and those things  
25 to be at meetings like this, and it's my understanding that

1 meetings like this happen quite a lot up here. So I just  
2 wonder if you take those impacts into consideration.

3 MICHAEL PAYNE: To some extent. Certainly the cost of  
4 running a process like this is very real to everybody. If -- I  
5 wouldn't know exactly how to go about doing that in an overall  
6 analysis, the cost of doing this kind of thing on the people  
7 that are going to be affected as well as the government, which  
8 isn't really taken into account. The cost of the activity on  
9 the people is, and this is the start of that process. So  
10 indirectly, yes.

11 However, the cost -- I guess I will take a little  
12 exception, the cost of running this meeting tonight is nothing  
13 compared to the cost of an oil spill or something like that.  
14 And so there are magnitudes of impacts that we look at. And  
15 the ones that you definitely don't want to have happen take  
16 priority.

17 We appreciate people coming out tonight, and I know it  
18 takes time. It takes everybody's time. I mean, I'm not  
19 getting paid for tonight, and I work for the government. I  
20 know this is my job, but I didn't have to come up here. And so  
21 I -- you know, it works both ways. And I'm not saying I'm a  
22 great guy or anything like that.

23 But I do care about what we're doing right now. And I  
24 do care about the North Slope of Alaska. And I lived up here.  
25 And I do care about Eskimos and their way of life, the

1 Inupiat -- all of them, Inupiat. I want to do it right.

2 And we make mistakes along the way. We have in the  
3 past. We've made a lot more mistakes in the past than I think  
4 we do now. I still think there's a lot of worries because we  
5 haven't challenged the Arctic in terms of drilling. It's never  
6 happened up here. At least not in the last 30 years. And  
7 there's a lot of challenges to overcome.

8 And I'm looking for help. I'm hoping you provide input  
9 because you want to do it right, too. And, you know, if we  
10 screw up, it's going to affect us all. And I don't want to see  
11 that happen.

12 COURT REPORTER: Mike?

13 MICHAEL PAYNE: Yeah.

14 COURT REPORTER: I need her name, please.

15 MICHAEL PAYNE: Could you state your name for the  
16 record, please.

17 SHAWNA LARSON: Shawna Larson.

18 MICHAEL PAYNE: Shawna. Thank you. Let's take a  
19 break. Do people still want to provide oral comments? I don't  
20 know who is left and who is still here. I'm sorry. Okay. We  
21 still have a couple. Those of you who would, why don't you  
22 just move up a table or so, so that they can hear here. We'll  
23 get back together in a minute, state your name, and we'll take  
24 oral comments. Thank you.

25 JEFFERY LOMAN: How many minutes, Mike?

1           MICHAEL PAYNE: I don't -- well, try to be concise.  
2     Let's do it that way.

3           JEFFERY LOMAN: Okay.

4           (Off record)

5           (On record)

6           MICHAEL PAYNE: For the record, just state your name,  
7     and then provide your comment, please.

8           GEORGE EDWARDSON: Okay. Are we ready?

9           MICHAEL PAYNE: We're ready.

10          COURT REPORTER: Yes. If you'd state your name,  
11     please.

12          GEORGE EDWARDSON: My name is George Edwardson,  
13     E-d-w-a-r-d-s-o-n.

14          MICHAEL PAYNE: With ICAS.

15          GEORGE EDWARDSON: I'm Inupiat Community of the Arctic  
16     Slope president. A regional tribal government of the eight  
17     North Slope communities. And my comments I wanted to make is,  
18     you know, there are laws that are in place that do -- that are  
19     supposed to protect us. Like the Marine Mammal Protection Act,  
20     the Endangered Species Act, the Migratory Bird Treaties,  
21     International Treaties between the Arctic countries, especially  
22     Russia, the U.S., and Canada.

23                 And when you read those acts, it states, before you  
24     even start talking about any oil leases, before any leases can  
25     be conducted, baselines have to be made. The lease sale 193

1 was sold before even the first baseline was made -- was not  
2 made. And when you look back in time, they had a lease sale  
3 123 in the past. And right there in that lease sale, the  
4 federal government told us, oh, we're going to have one and a  
5 half major spill within the life of our production. They  
6 guaranteed us in that lease sale 123. Another federal OCS in  
7 the same area, a little bit closer to the shore than where it's  
8 at.

9 And the problem -- what we're afraid of as a people is,  
10 you know, we live off the ocean. We've been on that ocean --  
11 this is our, what, fourth ice age we're coming out of living  
12 here. We have stories when the Arctic Ocean used to be a  
13 freshwater lake. As a people we were living on the coastline  
14 then. And having been here, we have -- you know, we're -- we  
15 have a historical -- you know, historically speaking,  
16 culturally speaking, the ocean and us people have had a  
17 relationship that goes back in time so far when the Arctic  
18 Ocean used to be a freshwater, before it became saltwater.  
19 Before the tectonic base moved apart and brought the saltwater  
20 in.

21 So historically this is my home. Culturally, this is  
22 where I feed myself. So just because it's not in your Western  
23 papers or your European papers that, you know, I have lived  
24 here, I am here, and I will remain here doesn't mean it didn't  
25 happen. This is my home. And you're talking about coming up

1 here and doing your drilling.

2 The lease sale, to start off with, you violated a  
3 minimum of three environmental treaties when the lease sale was  
4 conducted because of no baseline. And when you look at  
5 baseline, look at Prudhoe Bay, discovered back in '68. Even up  
6 to today when they have an accident or make a mess, this agency  
7 you're with or any federal agency do not go in there to correct  
8 the wrong that have been done. You don't even fine the  
9 industry because there is no baseline. That's a given.

10 And when you talk about there's laws that are there to  
11 protect us, well, we know one of the laws in this country of  
12 ours is thou shall not kill. We know that. That's a basic of  
13 us living as a people.

14 1961 -- 1959, my mom was used as a guinea pig for  
15 radiation experiment. She died at the age of 74. Congress  
16 finally decided to admit they were wrong for killing my mother.  
17 So I received a U.S. Treasury check for a sum total of \$2,800  
18 with the apology by Congress for killing my mother. That's how  
19 good the law is that you're trying to enforce. That's the  
20 limit of how law -- you know, the U.S. law can protect me as a  
21 people. And that does not say very much.

22 There were 164 of us that were used as guinea pigs for  
23 that radiation experiment. You know how many of us are left  
24 today? There's three of us left. And the other two older ones  
25 are dying of cancer. I'll be in their shoes in a few years.

1           And no baseline. The Arctic Ocean is going through  
2 what the world calls a global warming. The ecosystem the  
3 Arctic Ocean have been under the ice for the last 30,000 years,  
4 plus. Been covered by ice. It's been dark, and it's been very  
5 cold. Just in the last 30, 40 years the ocean has all -- you  
6 know, it started warming up. So when you look at the  
7 ecosystem, the Arctic Ocean, the ecosystem is in a cultural  
8 shock because of the heat coming on the ocean.

9           I can call it cultural shock so I could try to make you  
10 understand what I'm trying to say about the ocean, the  
11 planktons and the animals on it. So the ocean is going through  
12 a cultural shock, and what do you want to do? Right on top of  
13 it you want to conduct a lease sale. You want them to go do  
14 exploration.

15           Oil and gas exploration, development, production, I've  
16 been in that -- I've been in the oil field and studying it for  
17 the last -- over half of my life. I'm 63. I'm a geologist,  
18 I'm a mining and petroleum technician, I'm a certified -- I'm  
19 one of the two certified gas fuel operators in this state. And  
20 I was one of the two people that set up the design criteria for  
21 the Alyeska Pipeline for ARCO.

22           1968, I was in charge of the only oil cleanup boat in  
23 the state in 1968. And I had to change it to make it work.  
24 And by the time Exxon Valdez came, spill came, you know who  
25 owned that cleanup system? The Russians brought it over. It

1 used to belong to an American oil company. But it was sold to  
2 them.

3 And when you look at -- you know, under the law of  
4 supply and demand, rules change. Right now you're talking  
5 about exploration. Not very much is going to happen to the  
6 environment. And, you know, it's -- what you're talking about  
7 is right. But the moment there's a major discovery, all the  
8 rules change. Then the laws of supply and demand take over.  
9 That means there are no environmental regulations that's going  
10 to protect the ocean.

11 Look at the Gulf of Mexico. There's not much  
12 protection down there. Look at Prudhoe Bay. That's going to  
13 be -- it's becoming a dead zone. My dad grew up over there,  
14 and when he was a little kid, they used to catch halibut there.  
15 You know, there were fish that no longer exist over there. And  
16 what fish there are are far and few. I mean, this is not  
17 guessing at it, this is what, as a family, we have encountered  
18 in that area. And you want to go out there.

19 And I heard somebody mention about new Arctic ecosystem  
20 science, new technology. When you say new science and new  
21 technology, that means you don't know anything about it, you're  
22 just learning. You know, it's first time around. That's  
23 understood.

24 And the Coast Guard. I hear somebody mention the  
25 Coast Guard. I have government-to-government meetings with

1       them, with the U.S. Coast Guard as a Inupiat community where  
2       they contact us where they want to come and talk to us. As of  
3       today the U.S. Coast Guard receives no federal dollars. They  
4       don't have any mechanism to clean up with, they don't have  
5       it -- their ships leave in the fall time, beginning of winter.  
6       Their two ice breakers leave and don't come back till spring.

7                So you're not going to tell me you have ships that  
8       could clean up. You're not going to tell me you have  
9       technology that could clean up, because the Coast Guard leaves,  
10      and they -- those are the bravest boys we have in our -- in any  
11      of our services. They go out and risk their lives every day to  
12      save people. They leave the Arctic every winter. They don't  
13      come back till spring.

14              They want to open an office here in Barrow. And the  
15      only boat they have is a small boat, if it's here yet, if it  
16      has made it here. You know, the same kind of boats we go out  
17      hunting seals with. And I could just go -- you know, I could  
18      just go on and on like that.

19              It's not ready, the United States is not ready. You  
20      have laws that you say you can use to protect me. Those laws  
21      that were supposed to protect me killed my mother, and the  
22      United States only gave me \$2,800 and said okay, that's it, I'm  
23      sorry. My mom is gone. She should have been here. She should  
24      be here listening to me. My grandparents, too. Half my aunts  
25      and uncles. Those are the laws that are going to protect us.

1 They're not there.

2 And if you want to really -- I could go on all night  
3 like this. But you hear -- you understand what I'm saying.  
4 And under historical, you know, information, the Greeks called  
5 us as a people, the ancient type of orientals. They said we live  
6 in the Arctic Ocean, this is our home, this is ours. Just 50  
7 years ago, a little over 60 years ago, the United States says,  
8 oh, no, it's not yours anymore, it's mine. And that created  
9 the state of Alaska.

10 I didn't get compensated. I didn't get nothing. But I  
11 lost over 99 percent of my population in the process. So you  
12 are not going to convince us what you're doing is safe, because  
13 it isn't. I went to your schools, I got educated in your  
14 system. I'm a geologist. I'm one of the five that remade the  
15 geological map for the state of Alaska. So I know the  
16 resources here. I know the rules you're going to enforce, and  
17 it's not there.

18 And if you want more, I could go on. But I'll let --  
19 give you time for the others.

20 MICHAEL PAYNE: Thank you.

21 PRICE LEAVITT: Hi. I'm Price Leavitt. I work with  
22 the Inupiat Community of the Arctic Slope. And I have some  
23 comments on the proposed seismic and exploration activities  
24 that might, you know, happen this summer.

25 On the precautionary approach, there are still many

1 unanswerd questions regarding the environmental baseline and  
2 the direct and cumulative impacts to marine mammals, costs by  
3 oil and gas activities. The National Marine Fisheries Service  
4 should be taking a precautionary approach and authorizing  
5 activity only when the science clearly demonstrates that those  
6 activities will not harm marine mammals or interference with  
7 subsistence activities.

8           Number two, limits on activities and exclusion zones.  
9 The National Marine Fisheries Service must consider limits on  
10 activities to protect key habitat and subsistence use area  
11 because this is the first attempt at five-year regulations.  
12 The limit should be precautionary in protecting the resources  
13 and subsistence lifestyle and be based on the best available  
14 science. The burden must be on industry to demonstrate that  
15 proposed activities will not harm marine mammals and interfere  
16 with subsistence.

17           Annual review. Implementation of five-year regulations  
18 should not obviate the need to involve the local community in a  
19 meaningful annual review of industry activities. The National  
20 Marine Fisheries Service must continue to consult with ICAS on  
21 a government-to-government basis. Must continue to consult  
22 with AEWC pursuant to the cooperative agreement, and must  
23 continue to take meaningful input from the local villages each  
24 and every year.

25           Number four, health impact assessment. The National

1 Marine Fisheries Service must include an assessment of the  
2 impacts to public health resultant from potential offshore  
3 activities, and must recognize the Inupiaq role that  
4 subsistence plays in the physical, mental, and spiritual health  
5 of the Inupiaq.

6 Number five, mitigation measures. Vessel-based MMOs  
7 cannot effectively monitor for impacts given the zone  
8 deflections for marine mammals that are collected by MMOs is  
9 suspect, and operations must be accompanied by aerial and other  
10 forms of monitoring. Moreover, the National Marine Fisheries  
11 Service should run the MMO program as it does on fishing  
12 vessels to ensure that the data is unbiased and accurate.

13 And number six, enforcement. The National Marine  
14 Fisheries Service must clarify for the community its commitment  
15 to the on-ground enforcement in the field if it intends to  
16 issue five-year regulations. We want to know how many  
17 resources the National Marine Fisheries Service is going to  
18 dedicate to enforcement, and how the enforcement is going to be  
19 carried out. Thank you.

20 MICHAEL PAYNE: Thank you. Is it possible to -- Price,  
21 is it possible to keep those? Or do you want to keep those for  
22 yourself?

23 PRICE LEAVITT: I'll have -- put it in a letterhead and  
24 I'll give it to you tomorrow.

25 MICHAEL PAYNE: Okay. Thank you. Anyone else right

1 now? Thank you very much. It's been a long night. It's been  
2 a good discussion. A lot of things to think about. We'll be  
3 around here if you would like to continue to talk for a while.  
4 I don't know if the museum will kick us out or whatever, but  
5 we're here for a while. Otherwise, thank you for coming, and  
6 have a good night. Thank you very, very much. And I think  
7 we're through officially. You can shut that off.

8 (Off record)

9 (END OF PROCEEDINGS)

10 \* \* \* \*

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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

UNITED STATES OF AMERICA )  
 ) ss.  
STATE OF ALASKA )

I, Crystal D. Scotti, Notary Public in and for the State of Alaska, residing at Fairbanks, Alaska, and court reporter for Liz D'Amour & Associates, Inc., do hereby certify:

That the annexed and foregoing National Oceanic and Atmospheric Administration: Effects of Oil and Gas Activities in the Arctic Ocean, Environmental Impact Statement Scoping Meeting was taken before me on the 10th day of March, 2010, at Barrow, Alaska;

That this hearing, as heretofore annexed, is a true and correct transcription of the testimony of participants, taken by me electronically and thereafter transcribed by me;

That the hearing has been retained by me for the purpose of filing the same with URS, 560 East 34th Avenue, Suite 100, Anchorage, Alaska 99503, as required by URS.

That I am not a relative or employee or attorney or counsel of any of the parties, nor am I financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 13th day of April, 2010.

\_\_\_\_\_  
Crystal D. Scotti  
Notary Public in and for Alaska  
My commission expires: 09/15/2010

S E A L