

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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

PUBLIC SCOPING MEETING AND COMMENT PERIOD  
NUIQSUT, ALASKA  
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APPEARANCES BY AGENCY STAFF AND CONSULTANTS:

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

(On record)

(Invocation)

(Presentation)

AUDIENCE MEMBER: Yeah. Does the National Marine Fisheries Service have the authority to protect hunting activities through this or any impacts to the species or marine mammals on this?

MICHAEL PAYNE: The question is do we have the authority to shut down the activity if there's a negative impact. If there's a violation -- if we issue a permit that allows them to go out there and do their activities, those permits are usually conditioned with mitigation measures that will try to prevent anything from happening. If, however, something goes wrong and there is a violation, the company is kind of required to shut down, at least until that's reviewed.

I don't think the National Marine Fisheries Service has ever had a patrol boat out here and shut a company down. But we usually try to work closely, but at least for a while they will stop their operation to review what happened and why it happened. We've never shut anybody down for a season or anything like that, but there have been closures or they've ceased operations for a couple of days at a time. I know that's happened, but not for longer periods of time. Not to my knowledge.

1           And I don't really know -- I didn't really answer your  
2 question. I don't really know if we have the authority once we  
3 issue the permit. But I do know that if they violate the  
4 permit, we can certainly not issue another one. I do know  
5 that. So -- okay.

6           ISAAC NUKAPIGAK: Sir, I think there should be a  
7 mandate since -- under the Marine Mammal Protection Act, you  
8 know, I think there should be a mandate that you're one of the  
9 mediators (indiscernible) for it, I would say. And I think it  
10 should be appropriate to have a representation out there from  
11 your agencies to overview and make sure that the -- that the  
12 leaseholders are in compliance with the act because, you know,  
13 everything is all white papers the way they make their report  
14 to your department.

15           Now, I -- oh, yes, I -- the industry will make their  
16 own case, make it look very good on paper. But I do believe we  
17 need to have an observation from your division to monitor and  
18 make sure that no impact, adverse impact to our -- to the  
19 marine mammals that the community depend on. This is our  
20 Garden of Eden that we're dealing with. These are the  
21 resources that we depend on. And high unemployment is a big  
22 issue here. You need to be -- have a representation.

23           MICHAEL PAYNE: That's actually very.....

24           ISAAC NUKAPIGAK: Especially when you're out there --  
25 when you're there, you're one of the authorized to issue a

1 permit.

2 MICHAEL PAYNE: Yeah. Well, let me come back to your  
3 question. There is -- as I mentioned, there are a couple of  
4 things we have to do. Monitoring is a big part of that. And I  
5 admit that there has been a lot of criticism about whether or  
6 not we are monitoring accurately, and whether self-monitoring  
7 works. And so far there's a lot of concern that it doesn't.  
8 So let me come back to that in a minute, and then I'll explain  
9 why.

10 (Presentation continued)

11 ARCHIE AHKIVIANA: Yeah, there's three -- there's also  
12 a discharge that was happening in Camden Bay area one year we  
13 had a problem with. Not only noise or the seismic will divert  
14 to any marine mammals. They were discharging a lot of mud out  
15 to the ocean, and then they were getting right into the drill  
16 rig itself. Once they off and go into a current, they were  
17 diverted out 30 miles from Cross Island. That's where I lost a  
18 whale that year.

19 It wasn't that noise that was doing it, it was a  
20 deflection from the drilling mud, or whatever they had that got  
21 into a current and somehow they were -- just got way out, 30  
22 miles out of their route. When there's no activities, we see  
23 them just a mile -- less than a mile sometimes out at Cross  
24 Island. So that's another thing we kind of heard about,  
25 especially in that Camden Bay area on the east side of Prudhoe.

1           MICHAEL PAYNE: The drilling muds -- the effect of  
2 drilling muds and how they can be contained or not is something  
3 else that we will be looking at. A lot of people have.....

4           ARCHIE AHKIVIANA: Well, it wasn't regulated at that  
5 time.

6           MICHAEL PAYNE: Right. That's been a.....

7           ARCHIE AHKIVIANA: We -- on that year. When I first  
8 got that whale, it was all right, we doing it and we got in a  
9 rough water and then we had to let it go, but.....

10          MICHAEL PAYNE: At that time I don't know if what they  
11 released into the water was regulated. Right now I know that  
12 drilling muds -- there are several regulations and several  
13 standards, and people refer to them differently. There's this  
14 no harmful effect release, and then there's no effect at all --  
15 I mean, no drilling mud released at all.

16          And a lot of people have been looking to Norway and how  
17 they do things as opposed to here. And right now, we will be  
18 looking at both of those. The technology has come a long ways.  
19 I don't have a good answer for you now, but I know at the time  
20 you're talking about, there was probably less regulations  
21 regarding the release of muds than there are now.

22          There is some difference between exploratory and  
23 production, and we need to look at that. They can contain  
24 things much better when you have a well that's permanent like  
25 in Norway. Exploratory with a drill ship has a tendency not to

1 be able to have zero discharge sometimes. But it is something  
2 that we will be looking at. And it's a comment that we  
3 received here, Point Hope, and Point Lay. They're all  
4 concerned about that. It's a very good comment.

5 ISAAC NUKAPIGAK: I think that's a good model there,  
6 you know, that -- the Norway regions, their policy that's been  
7 mandated by the Norwegian government of zero tolerance  
8 discharge. And I think our federal government needs to adopt  
9 that type of policy in place by our legislators of the federal  
10 government through -- you know, do a mandate.

11 MICHAEL PAYNE: Do you know if the policy is for  
12 exploratory or drilling?

13 ISAAC NUKAPIGAK: Both.

14 MICHAEL PAYNE: Production?

15 ISAAC NUKAPIGAK: Both. For exploration and for  
16 production.

17 MICHAEL PAYNE: Okay.

18 ISAAC NUKAPIGAK: They've got that mandate by the  
19 Norwegian out in the Arctic of the Norwegian waters that any  
20 company that acquire leases is mandated to dispose their waste  
21 Class A disposal well.

22 ED NUKAPIGAK: Zero discharge, right?

23 ISAAC NUKAPIGAK: Zero tolerance discharge.

24 ED NUKAPIGAK: Zero tolerance discharge. Not only  
25 whales or marine mammals, but also the fish that migrates from

1 MacKenzie over to our river that same time, in the fall time.

2 MICHAEL PAYNE: From MacKenzie -- oh, from Canada?

3 ED NUKAPIGAK: Yeah, from Canada to our rivers, those  
4 Arctic cisco.

5 ARCHIE AHKIVIANA: Earlier when they commented on the  
6 drilling muds, I've experienced drilling mud on an iceberg  
7 north of Northstar at that time when Northstar was in a stage  
8 of being developed. So there were quite a few drilling muds  
9 being caught at -- on Northstar on a real calm, calm day. Not  
10 even one marine mammal was inside it. And you could hear that  
11 Northstar drill rig pounding away. Not one marine mammal, not  
12 even one waterfowl was sighted. And the only thing we  
13 encountered was an iceberg totally covered with drilling mud.  
14 It's not a natural mud.

15 So those are the kind of discharge that's being done in  
16 the past. But I don't know how they are being regulated today.  
17 Are they being more strict regulations or -- or the  
18 regulations hasn't been changed. So those are the things that  
19 the hunters are experiencing out there, is, where are these  
20 coming from? From what drilling island and why have they been  
21 discharged to the ocean? And being encountered by other marine  
22 mammals as well as the icebergs. So those are the things that  
23 we encounter while we're out scouting for seals, bearded seals  
24 or even bowhead whales.

25 MICHAEL PAYNE: Thank you.

1           ISAAC NUKAPIGAK: I've got a question. How much does  
2 National Marine Fisheries Service protect this area? You know,  
3 I know you guys are going to be the leading agency preparing  
4 for the Environmental Impact Statement, and in coinciding with  
5 working with MMS that has the jurisdiction to -- on the Outer  
6 Continental Shelf. When -- because right now, you know, the  
7 permits that the industry had applied have been obtained or  
8 approved by MMS.

9           MICHAEL PAYNE: Right.

10          ISAAC NUKAPIGAK: And there's issues that I know that  
11 were ignored by MMS under the Marine Mammal Protection Act,  
12 which violates the act by your -- by the leading agencies like  
13 MMS. I mean, these are issues that are out there that haven't  
14 been -- that's been identified. Why the Alaska Eskimo Whaling  
15 Commission in coincide with the Inupiaq Community of the Arctic  
16 Slope had filed with the Ninth Circuit because of MMS being  
17 ignored to their issues that was raised? And now you're the  
18 leading agency that has the strength under the Marine Mammal  
19 Protection Act to protect our subsistence. And, you know.....

20          MICHAEL PAYNE: Isn't that intricate and that  
21 interesting?

22          ISAAC NUKAPIGAK: Yeah.

23          MICHAEL PAYNE: Well, it's a very interesting point.

24          ISAAC NUKAPIGAK: You know.....

25          MICHAEL PAYNE: In the last lawsuit that where -- I

1 don't know if it's AEWC or who was the plaintiff, but when the  
2 district court shut down, it kind of threw the environmental  
3 assessment back at MMS two years ago. They basically said they  
4 did not -- they were relying too heavily on National Marine  
5 Fisheries Service, the IHA and the CAA, in the development of  
6 the policies for the MMPA.

7 They didn't address the MMPA in their document. What  
8 they said was that whatever the CAA says and the IHA says,  
9 we'll live with that. And the court said that wasn't adequate.  
10 You have to make your own findings.

11 ISAAC NUKAPIGAK: Well, it doesn't work that way.

12 MICHAEL PAYNE: Well, I know. And the court agrees  
13 with you.

14 ISAAC NUKAPIGAK: Because I -- when the industry has a  
15 lease, I mean, let me tell you, Shell has been playing hardball  
16 with the Alaska Eskimo Whaling Commission for the last two  
17 years. They want their way. They're saying to the  
18 organization that we're trying to protect the whales. We're  
19 not signing on the Conflict Avoidance Agreement because the  
20 conditions are too -- they can't meet. Even the whalers been  
21 back to try to convince that it's -- to sign on. They came to  
22 my village and met with the Nuiqsut Whaling Captain Association  
23 in 2007 and tried to influence my fellow whalers and saying  
24 trust us, we'll take care of you.

25 They gave us a vague picture and tried to criticize us

1 not to get it all the way up to the federal level authority  
2 like NMFS. I mean, that's how these oil companies play. I  
3 mean, they didn't tell us that they were going to -- that the  
4 activities for the Sivulliq Prospect would be barge vessels.  
5 They didn't tell us that they were going to dump all their  
6 waste, their cuttings, the mud. And they didn't tell us that  
7 they were going to pump half a million gallons of water per day  
8 to cool that old rig that they purchased, that platform sit rig  
9 that's been sitting in the Canadian Beaufort for two decades.  
10 It's old machinery. And when you have a company like that trying  
11 to tell us trust us, how can we trust them, these guys?

12 MICHAEL PAYNE: Is that question to me or to Shell?

13 ISAAC NUKAPIGAK: I mean, hey, you're the leading --  
14 you're one of the leading agencies.

15 MICHAEL PAYNE: Yeah. Yeah. But we aren't the leading  
16 agency in the -- the way.....

17 ISAAC NUKAPIGAK: Well, right now.....

18 MICHAEL PAYNE: No, no, no, no, no. No, we are now,  
19 but.....

20 ISAAC NUKAPIGAK: .....won't you be affected in the oil  
21 and gas activity in the Beaufort? You're the leading.....

22 MICHAEL PAYNE: No, I was going to say we're not the  
23 leading agency in the CAA. But that.....

24 ISAAC NUKAPIGAK: Yeah, I know. But I'm just giving  
25 you what we encounter.

1           MICHAEL PAYNE: I know. I've heard -- I have heard  
2           that.

3           ISAAC NUKAPIGAK: I'm just trying to give you what has  
4           happened in the past.

5           MICHAEL PAYNE: Yeah, it's been interesting. And we  
6           have had discussions like that, too, from listening to.....

7           ISAAC NUKAPIGAK: Especially when you're now the  
8           leading agency in the preparation for this document, the EIS  
9           process and cooperating with the federal -- with MMS that has  
10          the scope of authority.....

11          MICHAEL PAYNE: Right.

12          ISAAC NUKAPIGAK: .....to issue leases in the out in  
13          the continental shelf.

14          MICHAEL PAYNE: Well, we're not the leading agency for  
15          the leases; however, we wanted to be the leading agency to  
16          authorize the permits under the MMPA. We wanted the oil  
17          companies to have to work with us on the conditions for these  
18          permits. And so we worked it out with MMS that at least for  
19          this particular -- excuse me, MMS, that for this document, we  
20          would take the lead and they would be a cooperating agency.  
21          And a lot of the lawsuit against MMS in the past had to do with  
22          the fact that they were relying on us anyway in their issuance  
23          of their permits and not doing it themselves.

24          ISAAC NUKAPIGAK: Yeah, but.....

25          MICHAEL PAYNE: And I think that.....

1           ISAAC NUKAPIGAK:   .....that's ignored, the issues  
2   that's been raised.

3           MICHAEL PAYNE:   MMS or.....

4           ISAAC NUKAPIGAK:   Yes, MMS.   And what NMFS said is just  
5   let it slide.

6           MICHAEL PAYNE:   Well, yeah.

7           ISAAC NUKAPIGAK:   It violates the Marine Mammal  
8   Protection Act.

9           MICHAEL PAYNE:   Well, the court didn't let it slide.   I  
10   don't know if we let it slide or not, because we're kind  
11   of.....

12          ISAAC NUKAPIGAK:   Well, it happened.

13          MICHAEL PAYNE:   Well, I'm not sure exactly.....

14          ISAAC NUKAPIGAK:   That's why, you know, we -- that's  
15   why, you know, the Alaska Eskimo Whaling Commission took that  
16   step to actually go appeal to the Ninth Circuit at the federal  
17   level.

18          MICHAEL PAYNE:   Yeah.

19          ISAAC NUKAPIGAK:   To look into the issue that has been  
20   raised and was ignored by -- by the federal government.

21          MICHAEL PAYNE:   Well, there were discussions on this  
22   very topic, and there have been for a couple of years, and MMS  
23   kind of did things their way, and we have the lead on this one.  
24   So, I mean, I'm not -- I don't know exactly what MMS -- you  
25   know, I don't work for them, so I don't -- I can't control how

1 they make their determinations, but clearly the court disagreed  
2 with their -- the one two years ago, and they might disagree  
3 this year.

4 We're trying to work this out such that we can go  
5 forward. And at least under the MMPA, we know that we're  
6 trying to do the right thing. So I can't really address why  
7 MMS does what they want to -- how they handle things. That's  
8 really at a director level. I don't think anybody in this room  
9 can do that.

10 I'm not sure exactly if there's even a question there.  
11 I understand the comment, but I don't think I am the one that  
12 could probably best address it. Sorry. But I do understand  
13 your comments, and it's been a discussion between the two  
14 agencies for a couple years.

15 You really want to take that one, Kim? Okay.

16 KIM SKRUPKY: Well, no, I just -- I'm with MMS. My  
17 name is Kim Skrupky. I'm at headquarters in Washington, D.C.,  
18 and we are working very closely trying to fix the issues. We  
19 do recognize it as a problem and we're trying to make it better  
20 now.

21 ISAAC NUKAPIGAK: Even though MMS has recognized it,  
22 though, they -- you can ignore us to deal with the issue that's  
23 been raised, the concerns to try to work to minimize the  
24 adverse affects of our subsistence.....

25 KIM SKRUPKY: We're trying to fix it now, though.

1           ISAAC NUKAPIGAK:   .....marine mammals that we depend  
2    on.

3           KIM SKRUPKY:   And we're trying to fix that.

4           ISAAC NUKAPIGAK:   Well, it's something that we've  
5    been -- it's something that (indiscernible - simultaneous  
6    speech) that put a flag up there -- put a red flag and say,  
7    hey, come on, you guys, let's get doing it here.

8           KIM SKRUPKY:   Yeah, we're trying to fix it now.  We're  
9    working very closely.

10          ISAAC NUKAPIGAK:   Now, I hope you guys are trying to  
11   find a solution to these problems.

12          KIM SKRUPKY:   Absolutely.

13          ISAAC NUKAPIGAK:   Go tell your guys to recognize it.  
14   He's got the (inaudible).

15          MICHAEL PAYNE:   I'm trying to think if there's anything  
16   else I can comment on that right now, but what I would like to  
17   do is I don't have that much more to present.  Because we do  
18   have a lot of comments, and I understand that these issues are  
19   not new.  And when they are not new, the discussions that  
20   you're having and the comments you made we've had with MMS  
21   ourselves, between the two agencies.  And agencies go their  
22   different ways sometimes.  That's all I can say.

23          One of the -- yeah.  Yes, sir.

24          THOMAS NAPAGEAK:   Thomas Napageak, whaling captain.  I  
25   got a question for you.  Does NMFS have the power to put a

1 buffer zone in their permits?

2 MICHAEL PAYNE: Yeah, we have the power to put them in,  
3 but I don't know if we have the power to enforce it.  
4 Therefore, it wouldn't be any use. I think we had this  
5 discussion this afternoon. We can go back and look at how we  
6 would consider doing that.

7 The problem is the permits go to the oil companies, and  
8 especially -- what I heard this afternoon, there's a lot of  
9 people that aren't part of the CAA, there's a lot of companies  
10 that are -- have these barges that go back and forth that  
11 aren't part.....

12 ISAAC NUKAPIGAK: I'm glad my fellow whaling captain  
13 bring this up.

14 ED NUKAPIGAK: Most of the people here are whaling  
15 captains.

16 MICHAEL PAYNE: Yeah, I figured either whaling captains  
17 or whaling crew.

18 ISAAC NUKAPIGAK: After all these years that we've been  
19 asking for it, a buffer at the Cross Island. It would --  
20 during the early places starting with lease sale 197, 195, been  
21 asking for the buffer to protect our subsistence whales, and so  
22 far up today nothing ever happened by the agency. And now  
23 we've got fear.

24 On the Chukchi we have a big wide buffer, a 25-mile  
25 wide buffer zone that goes way down -- all the way down near

1 Point Hope. That's there for us. That's -- we're the ones  
2 that's taking the impact.

3 I mean all these years we've been asking, ever since  
4 the lease sales start occurring, to protect our subsistence  
5 whales. And so far up today that we haven't received a buffer.

6 MICHAEL PAYNE: Well, what I was going to say is this  
7 came up this afternoon, and this was -- we had a good  
8 discussion this afternoon. This is the first time. I'm kind  
9 of new to the process, although I know it. That was actually  
10 one of the more interesting suggestions that I have heard. And  
11 I know that it's been ongoing for a while.

12 ISAAC NUKAPIGAK: It's frustrating to us as the  
13 captains that.....

14 MICHAEL PAYNE: Oh, I can hear that.

15 ISAAC NUKAPIGAK: We have to go 93 miles from here to  
16 go hunt, do our subsistence fall hunt and be out there until we  
17 meet our -- until we meet our quota. That's taking away from  
18 our families and very costly. It's a burden to the captain  
19 just to try and provide the needs of what we depend on; a  
20 subsistence lifestyle.

21 It's not cheap being a captain. I would travel ninety-  
22 some miles and having to go through various dangers. I mean,  
23 ice -- we come -- some years there, there was a loss because of  
24 a tragedy. The same time we have to shut down because --  
25 because so much activity going on.

1           Right now (inaudible) there's some outdated -- there's  
2           outdated permits out there for two exploratory drilling and  
3           you'll save four proposed.....

4           MICHAEL PAYNE: Well, the applications are out there.

5           ISAAC NUKAPIGAK: The application.

6           MICHAEL PAYNE: Yes, that's true.

7           ISAAC NUKAPIGAK: You have multi -- so much multi-  
8           activity that can have an adverse affect to the marine mammals  
9           that we depend on. I'm not just talking about whaling. I mean  
10          we're talking about other species that we depend on.  
11          Especially when we have a very short winter to try and harvest  
12          our need to survive through the winter.

13          MICHAEL PAYNE: So on that, and on the question of the  
14          buffer, I mentioned this -- what I said this afternoon was,  
15          okay, we have the applications. We review the applications, we  
16          come up with alternatives and ways to mitigate the effect of  
17          those applications on subsistence hunting. One of the things  
18          we'll look at is a buffer.

19          Now, I don't know if we can implement it. I'll be  
20          honest with you. If we can, it won't be right away, but it's  
21          something that possibly could be done through regulations. And  
22          they take a year or two. But that -- given that you're in this  
23          for the long haul, that really isn't that long of a time,  
24          especially since you've been waiting for 20 years. But it's  
25          something we will look at. I think that's very worthwhile to

1 look at that. And it may solve a lot of your problems if it's  
2 doable. So I -- I'll leave it at that right now, but I -- I  
3 thought that was an excellent suggestion, at least for us to  
4 look at.

5 ISAAC NUKAPIGAK: Yeah, because -- because -- I mean,  
6 we know as the whalers. You know, the Camden Bay is heavily  
7 utilized by the whale for resting and feeding there.

8 MICHAEL PAYNE: Let me go to something else for one  
9 second.

10 (Presentation continued)

11 BERNICE KAIGELAK: Question.

12 MICHAEL PAYNE: Yes.

13 BERNICE KAIGELAK: But I don't want to be recorded. If  
14 she can turn that off, I don't want my.....

15 MICHAEL PAYNE: Well, we're recording you up here, too.

16 BERNICE KAIGELAK: I know, but I don't want that one to  
17 record me. Can she turn hers off?

18 MICHAEL PAYNE: Well, that's -- well.....

19 BERNICE KAIGELAK: Rosemary, I don't want my comments  
20 to be.....

21 MICHAEL PAYNE: You don't want the camera or  
22 comments -- oh, that's you guys. That's not me.

23 BERNICE KAIGELAK: I don't want my comments to be.....

24 AUDIENCE MEMBER: All your comments?

25 BERNICE KAIGELAK: I understand. I have my right to

1 say do I want recorded or not.

2 MICHAEL PAYNE: That's okay.

3 COURT REPORTER: Can you state your name for me.

4 BERNICE KAIGELAK: My name is Bernice Kaigelak.

5 COURT REPORTER: Thank you.

6 BERNICE KAIGELAK: I'm a resident of Nuiqsut, and my  
7 concern is that you are the leading agency for this EIS.

8 MICHAEL PAYNE: Correct.

9 BERNICE KAIGELAK: But, therefore, you have no  
10 enforceable rights. Is that what I understand? Enforceable  
11 rights, like if they should violate any permits?

12 MICHAEL PAYNE: No.

13 BERNICE KAIGELAK: Well, help me to understand this  
14 because we've seen this pattern over and over and over.  
15 Agencies approving permits, whether it's MMS, NMFS, or anybody,  
16 any agency that approve permits. They approve permits, and  
17 when those stipulations are violated, there's no consequences.  
18 Nothing. You put them there to appease us and you do nothing  
19 about them. So if you're going to do this EIS, you need to  
20 have some enforceable backbone to say you violated this, you  
21 need to do something about it and you better fix it. That's  
22 cut and dry, black and white.

23 And who's going to be your eyes and ears out there?  
24 Who's going to be out there making sure that they're doing what  
25 they're supposed to do and not dumping mud and what have you

1 out there? Who's going to do that? Are we going to be stuck  
2 with that, paying for it on our own to make sure they're taking  
3 care of our way of life out in the ocean?

4 These are real things you need to address. These are  
5 concerns we see broken over and over. Permits are issued,  
6 violations are done, and they just keep going and going.  
7 Sometimes they just turn and look away and -- no, you can't do  
8 that out in the ocean. So you need to put that on the EIS.  
9 Any violation, someone needs to pay for it, someone needs to  
10 fix it. Any stipulations that's in there, they better take  
11 care of it.

12 And as for the buffer zone, it should be the same. And  
13 obviously it's not because of where the oil is. But we need a  
14 buffer zone near our island where we hunt whales. And you go a  
15 certain many miles out, there's currents out there. Are you  
16 doing any studies on those currents and how they will affect --  
17 if an oil rig should go out there?

18 I mean, these are real dangers that nobody seems to  
19 address or say anything about, and they think it will be okay  
20 and safe to drill out there. I mean, there's one current, you  
21 go out so many miles, it's so strong, it will take you way out.  
22 Do you guys know enough information about this area?

23 MICHAEL PAYNE: We know enough. I don't know if you  
24 ever know enough. But I have to admit, the Beaufort -- the  
25 currents and the oceanography of this area is probably better

1 understood than the Chukchi. I think we do know quite a bit  
2 about the currents.

3 Back to your first point, though. That kind of follows  
4 his comment. Monitoring and enforcement are something that we  
5 have been criticized on for the last couple of years that I've  
6 been involved. People.....

7 BERNICE KAIGELAK: And then -- and then they don't  
8 approve stuff we know that works for us in our community. It  
9 don't make sense. Who's in charge?

10 MICHAEL PAYNE: Who doesn't -- I'm sorry. I didn't  
11 follow that one. Who doesn't approve stuff?

12 BERNICE KAIGELAK: I mean, like, for instance, the  
13 bridge and what kind of impact it would make in our community.  
14 I mean, it's all in the same organization, right, MMS?

15 MICHAEL PAYNE: Well, not me. I don't know, but I --  
16 that one, I -- I heard about that for the first time today.  
17 That's kind of an interesting dilemma, but that's not me.

18 BERNICE KAIGELAK: It behooves me that they send you  
19 who have no idea about what's going on to be the leading  
20 agency. Okay?

21 MICHAEL PAYNE: Well, I disagree with that comment. I  
22 think we have a pretty good idea about what's going on. I also  
23 understand the problems. And trying to overcome those  
24 problems, at least in the time that I've been doing this, it's  
25 going to be very difficult to do. It doesn't mean we're not

1 going to try it. I don't know the best way to monitor.

2 BERNICE KAIGELAK: You know, we've asked for these  
3 studies a long time ago; that studies need to be done in this  
4 ocean before any activities start, because that's where the  
5 mistake was in Valdez or in that oil spill down there. And  
6 they paid the people nickels and dimes of what kind of effect  
7 it made on their whole livelihood because they didn't have no  
8 baseline studies. Nothing. Zero. So are we going to do that  
9 for here?

10 MICHAEL PAYNE: So you're convinced that there are no  
11 baseline studies here? I'll look into that, but I.....

12 BERNICE KAIGELAK: But how can you put a dollar amount  
13 on that out there?

14 MICHAEL PAYNE: That's the -- I can't. I wouldn't try.

15 BERNICE KAIGELAK: You know, it's not only whales that  
16 we depend on. We depend on the fish. We have many different  
17 species that we depend on, and we're -- we're subsistence  
18 hunters year-round. And we hunt for different species  
19 throughout the year. And they come from the ocean, the fish.  
20 And, you know, the one kind that has a certain taste to it  
21 comes from here. And many people from all over Alaska crave  
22 that fish and are constantly asking, do you have qaaqtaq? Do  
23 you have qaaqtaq? It's not only whales.

24 And I want to -- if you are the leading agency for this  
25 EIS, someone better have a backbone to enforce these violations

1 if there should be any. And if there should be any, put it in  
2 here. And as for the buffer zone, the buffer zone should be  
3 placed at Cross Island in the whaling area. And as for that  
4 current, you say you know a lot about that current, I don't see  
5 that information here.

6 MICHAEL PAYNE: Well, no, I wasn't going to talk  
7 about -- I'm not the oceanographer that would talk about that.  
8 However, I believe as we -- as this process goes forward, we  
9 will have information on that. If we don't, then we should be  
10 called about it.

11 BERNICE KAIGELAK: Well, part of this EIS, you were  
12 supposed to have all this information.....

13 MICHAEL PAYNE: We are, that's right.

14 BERNICE KAIGELAK: .....so you got a lot of work ahead  
15 of you and.....

16 MICHAEL PAYNE: That I agree with you completely, yes.

17 BERNICE KAIGELAK: It needs to be in there.

18 MICHAEL PAYNE: I think your comments are excellent. I  
19 do. I don't know how to address all of them right now.  
20 Actually, I don't disagree with most of them, but the ability  
21 to do that, to put in that buffer and to do those kind of  
22 things may take a little work, but I'm not sure exactly how to  
23 address that. It doesn't mean it can't be done. It doesn't  
24 mean I don't know how to do it, but it -- I don't know whether  
25 I'm the one that can make it happen, but I certainly can bring

1 it forward.

2 I mean, there's -- back to his comment, this whole  
3 discussion about MMS and NMFS, who's the lead, who's not, who's  
4 doing what, those things, everybody in this room knows, happens  
5 at pretty high levels. And we're having the same discussions  
6 within NOAA, our current agency.

7 BERNICE KAIGELAK: And the other.....

8 MICHAEL PAYNE: There's some -- there's some.....

9 BERNICE KAIGELAK: .....and the other concern is to why  
10 the oxygenation of the sea water in the northwestern area is  
11 getting low. Does anybody know why? Is that going to happen  
12 up here?

13 MICHAEL PAYNE: In the northwest area?

14 BERNICE KAIGELAK: Uh-huh. Southeast Alaska,  
15 Washington, Oregon area. I read an article they're saying that  
16 the ocean there, that the oxygen level has gone so way down  
17 that there was no marine animals around for some reason. And,  
18 you know, that's a concern. Is that going to happen up here?  
19 Is that part of global warming? And if they should drill and  
20 all the heat that comes from the bottom comes up, are they  
21 going to elevate the temperature up here and create a havoc?

22 AUDIENCE MEMBER: It's already happening.

23 MICHAEL PAYNE: Yeah, I mean, things are changing up  
24 here quickly. I don't -- I'm sorry, yes, sir.

25 JIMMY OYAGAK: Okay. My name is Jimmy Oyagak. I'm a

1 subsistence user. With that -- when there was a rig on the  
2 east side of Barrow, Point Barrow, in the fall, and I was  
3 there, and as a whaler for the community of Barrow. And when  
4 the rig was there, there was no whales within that area, so we  
5 had to go further out because the whales had been diverted to  
6 further out. The same thing is going to happen within our  
7 waters in the Chukchi Sea because they are experiencing that  
8 before here. They have to go further out.

9 The migration of the whales is going to be -- you know,  
10 they're going to have -- you're going to divert all the whales  
11 further out. That seems to be going on within our  
12 Beaufort Sea. But I've been living on a (indiscernible) about  
13 global warming. We're in an Arctic time bomb.

14 MICHAEL PAYNE: I'm sorry?

15 JIMMY OYAGAK: We're in an Arctic time bomb, as we know  
16 it, you know.

17 MICHAEL PAYNE: Okay.

18 JIMMY OYAGAK: Well, within the next century we are  
19 really (indiscernible) from the methane from the bottom of the  
20 sea floor, it's happened. Like right now they're looking at  
21 between Canada and Greenland (indiscernible) one in California,  
22 that never happened. Well, since the global warming is  
23 happening because the permafrost on it, you know. So it looks  
24 like we might have to remove all the natural resources out in  
25 the ocean before it happen within our area.

1           But, you know, all we fish for Arctic cisco that  
2 migrate from MacKenzie River from MacKenzie in Canada. They go  
3 up to our rivers, and we depend on those fishes. Plus all the  
4 marine mammals we have. So whatever you're going to accept the  
5 application from these oil companies, so it's -- you know,  
6 you've got work to protect our subsistence and marine and what  
7 other resources we have. So think about that.

8           MICHAEL PAYNE: We are trying to do that.

9           BERNICE KAIGELAK: All the questions we ask, is that  
10 going to be part of what you're going to look into to put into  
11 our EIS?

12          MICHAEL PAYNE: Actually, your questions are making  
13 sure they get in the EIS, yes.

14          BERNICE KAIGELAK: Okay.

15          (Interpretation given)

16          ISAAC NUKAPIGAK: Is it going to be acknowledged? In  
17 reference to this oil and gas activities and permitting by the  
18 impact statement, the federal government needs to live up to  
19 its obligation that mandates -- it's a mandate of the spills --  
20 Oil Spill Contingent Plan that has been funded by the federal  
21 government. It's their obligation to fund to a federal level,  
22 but the federal government hasn't been living up to its own  
23 mandated obligation.

24          There was an article on the paper, the Anchorage Daily  
25 News, I do believe a few days ago that, you know -- that the

1 feds hadn't lived up to the obligation of fully funding the Oil  
2 Spill Contingency Plan. I don't know if you've seen that  
3 paper, but it's out there. It's been acknowledgeable. And  
4 here you're trying to prepare a Environmental Impact Statement  
5 affecting oil and gas activity in -- whether it's the Beaufort  
6 or Chukchi Sea.

7 MMS needs to live up to its obligations between the  
8 mandate, that program that is there for all.

9 MICHAEL PAYNE: I'm not going to disagree with that  
10 either. In the last couple of days, there have been several  
11 recurring themes that actually have helped me a lot. And these  
12 comments are actually helping me a lot, whether you think  
13 I'm -- I'm not avoiding them.

14 The concern about an oil spill, and an oil spill plan  
15 is one of the -- is probably the most common things that people  
16 are concerned about. There's a fear about that. You know,  
17 what happens if a spill occurred. The currents will affect the  
18 spill big time.

19 The other thing is about whether or not these  
20 activities, how they affect your life, your livelihood. And  
21 that, to me, is -- those two things and monitoring, which is a  
22 difficult issue are kind of at the core of this environmental  
23 assessment. Can we issue these permits? Can we monitor what  
24 we say we're going to monitor? Can we -- you call it the  
25 backbone, but can we enforce what our permits say are required?

1 And if a spill would happen, everybody says the best thing to  
2 prevent a spill -- the best way to address an oil spill is to  
3 prevent it. Well, yeah, that's common sense. But if one  
4 happens, what will happen?

5 And those are -- the oil spill plan isn't something  
6 that's directly related to this thing that we're doing here  
7 tonight. But it certainly needs to be looked at in a way that  
8 we can at least say this is what we believe will happen. If I  
9 were living in Nuiqsut, I would have the same concerns you do.  
10 I would. And so I'm -- over the next six months to a year when  
11 we're doing this development of this environmental assessment,  
12 you'll have plenty of time to comment on whether or not we're  
13 doing the right job, or whether we're addressing the right  
14 things.

15 So I imagine I'll be back here again. You'll see my  
16 face several times if you have to. But we will try to get it  
17 right. That's all I can tell you. There have been mistakes  
18 made, and I'm not trying to run from them. I wasn't part of  
19 them, but I know they're out there, so we're trying to do what  
20 we can do.

21 And things that I think are most important are  
22 actually -- are the impacts on the people. I mean, what we are  
23 really trying to look at, we don't want what we're doing to  
24 affect coastal communities negatively. That thing you talked  
25 about was back in the eighties, that was the late eighties, and

1 it was when they put a damn rig too close to the shore and it  
2 kept everything away. Somebody should have learned a lesson  
3 then.

4 The subsistence is the number one thing that the  
5 National Marine Fisheries Service is focused on. We don't want  
6 to issue permits if it adversely affects subsistence. We  
7 believe in subsistence. We do. At least I do. Our office  
8 does.

9 Somebody mentioned -- I mean, in Inupiat way of life,  
10 health is a huge issue. And somebody else mentioned something  
11 about areas of special interest. If there's a way to -- this  
12 afternoon the discussion was sanctuaries. I don't -- I don't  
13 get involved in sanctuaries, but more importantly what you  
14 really want to do -- whether you have a sanctuary or an area  
15 that's closed off for a while, you want to make sure that your  
16 ability to live your life isn't impacted by whatever goes on  
17 out there, and that's kind of what this document is supposed to  
18 do, assess different alternatives to try to make that happen.

19 And so that's kind of where we are. Now, you -- like I  
20 said, a lot of this is heard, but.....

21 JON ISAACS: Hey, Mike.

22 MICHAEL PAYNE: Oh, I'm sorry. Go ahead.

23 ED NUKAPIGAK: When you said earlier today you met with  
24 the Native Village and KSOP, what were the topics of those  
25 meetings that you had? And what -- can KSOP and Native Village

1 give us a feedback prior to your afternoon meeting?

2 THOMAS NAPAGEAK: It was a consultation of --  
3 government-to-government consultation. We have that right  
4 to -- they have that -- they -- we've got to know, so we have  
5 what information they're giving exactly to you right now. The  
6 same information. We asked the same questions. It's the same  
7 thing.

8 ED NUKAPIGAK: Because, you know, when he mentioned  
9 about having meetings with you folks before a public meeting,  
10 what was really -- what was the real topic?

11 MICHAEL PAYNE: The topic was the same. The mayor is  
12 right. However, we try to have a government -- where we can,  
13 we try to have a government-to-government discussion as well as  
14 a public discussion. And in Nuiqsut.....

15 ISAAC NUKAPIGAK: It's a mandate.

16 ED NAPAGEAK: I know. I know that, Isaac.

17 MICHAEL PAYNE: And the discussion so far has actually  
18 paralleled each other very well. I mean, the same topics, the  
19 same concerns, and we -- it lasted a little over an hour before  
20 the mayor and others had to go to another meeting. It was a  
21 good discussion that we said we would probably continue  
22 tonight, which we are. All right.

23 (Presentation continued)

24 ISAAC NUKAPIGAK: You know, I think some of these  
25 crucial things are wrong. I mean, who are -- when Alaska

1 Eskimo Whaling Commission has a convention in Barrow, I mean,  
2 the permits have been issued already for the Sivulliq Prospect  
3 out in the Beaufort Sea by Alaska and by EPA for air quality  
4 permits. They have already put exclusive zone protection of a  
5 project to restrict anybody, a local hunter, not going near the  
6 permit.

7 ED NUKAPIGAK: See, that's the reason why.....

8 ISAAC NUKAPIGAK: We're saying.....

9 ED NUKAPIGAK: .....this is incomplete. I'm going to  
10 tell you, Isaac.

11 ISAAC NUKAPIGAK: No.

12 ED NUKAPIGAK: There's something that MMS hasn't  
13 inserted on a.....

14 ISAAC NUKAPIGAK: The same. The same. They  
15 already.....

16 ED NUKAPIGAK: .....(indiscernible - simultaneous  
17 speech) this report.

18 ISAAC NUKAPIGAK: No, this is -- this is EPA.

19 ED NUKAPIGAK: It's the same thing.

20 ISAAC NUKAPIGAK: This is not -- it's not reflected in  
21 this report.

22 ED NUKAPIGAK: I mean, with this.....

23 ISAAC NUKAPIGAK: Okay. Just listen to me.

24 ED NAPAGEAK: What you're talking about is the same  
25 thing, the same thing.....

1           ISAAC NUKAPIGAK: This is what it is -- what it is.  
2       Okay.

3           ED NAPAGEAK:       .....that has been said on draft report.  
4           ISAAC NUKAPIGAK:   Okay.

5           ED NAPAGEAK:   I assure you, I assure you 100 percent.  
6           ISAAC NUKAPIGAK:   This is -- this is what they tell us  
7       at their mini convention. They already say MMS and EPA are  
8       issuing the permit for the Sivulliq Prospect. It's clear how  
9       it's been permitted, approved. And the Coast Guard is going to  
10      be out there being -- to protect this rig. And they're telling  
11      us an exclusive zone to protect. Anybody that gets near, we  
12      will save this permitter, are in the violation and will be  
13      prosecuted for trespass.

14          MICHAEL PAYNE:   This is around the drill site? Is that  
15      what it is?

16          ISAAC NUKAPIGAK:   Yep, on the rig.

17          MICHAEL PAYNE:   Okay.

18          ISAAC NUKAPIGAK:   On the drill site. It's exclusive  
19      zone already by -- mandated by MMS and EPA.

20          BERNICE KAIGELAK:   More protection for them than for  
21      the people that live here.

22          ISAAC NUKAPIGAK:   Right. It was brought up when we had  
23      that mini convention. The Coast Guard is going to be out  
24      there. There will be two Coast Guard ice breakers.

25          ED NAPAGEAK:   Well, he better send the Sea Shepherd.

1 You better set for Sea Shepherd. Let Sea Shepherd take care of  
2 the Coast Guard. International water, right?

3 BERNICE KAIGELAK: They protect whales.

4 MICHAEL PAYNE: Actually, if the Coast Guard is there,  
5 that would actually help us. You were talking about  
6 enforcement, we usually rely on the Coast Guard to help us  
7 enforce our regs.

8 BERNICE KAIGELAK: Well, it sounds to me the Coast  
9 Guard is going to protect them that -- the people that are  
10 trying to keep that from being disturbed.

11 CARL BROWER: That's my understanding.

12 MICHAEL PAYNE: Well, that sounds like -- that sounds  
13 exactly like what they're doing.

14 BERNICE KAIGELAK: The government has failed us time  
15 and time again. Whether it's MMS, Corps of Engineers, you name  
16 it. They issue permits, they don't -- they don't supply the  
17 money, they don't supply anyone to monitor, there's nobody here  
18 to monitor, and there's nobody here in this area to enforce  
19 whatever the permits are being violated. Whether it be on  
20 land, sea, anywhere. Anywhere. The only ones that are around  
21 is North Slope Borough that I see that's up here.

22 MICHAEL PAYNE: If.....

23 BERNICE KAIGELAK: And they are taking care of their  
24 permits for this area, but do we see MMS? Do we see the Corps?  
25 Do we see EPA? No. Nothing. Zero. It's a practice on land,

1 and it will probably be the same out in the ocean. You're  
2 doing your job to appease us and say this is what we're going  
3 to put on the permits, just your requests. Now what's going to  
4 happen after it?

5 MICHAEL PAYNE: Let me ask a question. If there were a  
6 way to have good monitoring, good enforcement during the  
7 time -- well, actually I was just thinking of the bowhead hunt  
8 here because I know that's only a two- or three-week period,  
9 usually, not -- and I know you hunt other things other times of  
10 the year, but.....

11 ISAAC NUKAPIGAK: Well, it depends on the Mother  
12 Nature. At the times where.....

13 MICHAEL PAYNE: Okay. But apart from that.....

14 ISAAC NUKAPIGAK: .....most times from -- about two  
15 weeks, and it goes -- it can go as long as eight weeks.

16 MICHAEL PAYNE: Okay.

17 ISAAC NUKAPIGAK: I've been out there for eight weeks.  
18 Stuck in Cross Island.

19 MICHAEL PAYNE: Yeah, I heard some bad stories about  
20 that. But my question was not -- okay. So my question was, if  
21 there were increased monitoring during those periods.....

22 BERNICE KAIGELAK: Who's going to pay for it?

23 MICHAEL PAYNE: Well, I'm just asking now because we're  
24 trying to -- this process -- I mean, I understand your -- this  
25 process is actually looking for ways to make things better.

1 And if monitoring and enforce -- well, it would be something  
2 that we'd probably have to do. If we put in our -- if we put  
3 it in our permits and our conditions, either NMFS, the federal  
4 government that I work for -- the federal agency that I work  
5 for, or it would be a condition of the oil companies to do it  
6 and we would pass that on to them, too.....

7 ISAAC NUKAPIGAK: Well.....

8 MICHAEL PAYNE: .....that somehow that's run through  
9 us. Now, hang on. I don't mean the oil companies are going to  
10 do their own monitoring.

11 BERNICE KAIGELAK: I think we'd be done for.

12 MICHAEL PAYNE: There are ways to do that.

13 DORA LEAVITT: It sounds like you need a compliance  
14 officer. The North Slope Borough has compliance officers that  
15 oversees the permits.

16 MICHAEL PAYNE: But they're not out there either.

17 ISAAC NUKAPIGAK: They have their own -- their own  
18 borough permits.

19 DORA LEAVITT: You know, but here on land, you need  
20 that, you need one, too, to enforce your permits you're  
21 issuing.

22 THOMAS NUKAPIGAK: The borough, they -- the borough  
23 wildlife officers do go out into the oil fields.

24 MICHAEL PAYNE: Do they?

25 DORA LEAVITT: Yeah, they do, and they give these

1 fines.

2 THOMAS NUKAPIGAK: That it complies with their permits.

3 DORA LEAVITT: That's something you need to do. Spend  
4 that money that that's going to you from the leases.

5 MICHAEL PAYNE: Okay. Let me.....

6 THOMAS NUKAPIGAK: For instance, Alpine had over -- a  
7 few extra wells, and the compliance officers went over there  
8 and noticed that, and that Conoco got -- I believe Conoco got  
9 fined for that. So they do travel around the North Slope to  
10 make sure that the oil companies do follow the regulations or  
11 the stipulations on the -- their.....

12 DORA LEAVITT: And it's not just for their season.  
13 It's all the time.

14 ROSEMARY AHTUANGARUAK: The North Slope Borough was  
15 able to identify a problem with that process, but industry's  
16 response was to restrict their access to other sites, so there  
17 wasn't a complete assessment in some of these issues and  
18 concerns that were brought out because industry turned around  
19 and restricted their access.

20 MICHAEL PAYNE: When.....

21 ROSEMARY AHTUANGARUAK: There are restrictions.

22 MICHAEL PAYNE: When was that? How long ago?

23 ISAAC NUKAPIGAK: I think we've been.....

24 ED NAPAGEAK: Why don't you put a canoe in and go  
25 monitor yourself out there and see how it is.

1           ROSEMARY AHTUANGARUAK: They were talking when  
2 Susan Harvey came in as a consultant for the North Slope  
3 Borough, she went with the borough and they had an  
4 identification process. And in that process there were some  
5 real serious issues that were identified, but there's  
6 additional wells that were drilled that were not permitted,  
7 some additional restrictive factors of containment issues, not  
8 adequate secondary containment necessary to cover the sides of  
9 the tanks.

10           There was a whole bunch of issues that were raised in  
11 that. But after we got that process, ask Ms. Harvey how much  
12 continuation of that process occurred. A lot of red flags, a  
13 lot of restrictions, a lot of conflict to try to continue that  
14 process.

15           MICHAEL PAYNE: Okay. So.....

16           ISAAC NUKAPIGAK: I think you'll need to integrate  
17 traditional knowledge on this EIS process.

18           MICHAEL PAYNE: How are we going to do that? I'm  
19 sorry. I missed that.

20           ISAAC NUKAPIGAK: Are you going to integrate the  
21 traditional knowledge?

22           MICHAEL PAYNE: We plan to. Actually we plan to.....

23           ISAAC NUKAPIGAK: It's better than -- I mean, you've  
24 got a lot of smart folks out there, you know, that may not have  
25 their paper say you are, you know.

1           MICHAEL PAYNE: Here, let me do two of these things.

2           ISAAC NUKAPIGAK: You guys, the federal government or  
3 any industry depend on too much on the white pages, like  
4 college folks that don't know the Arctic environment. They do  
5 their own little thing, write their own little thing, and pass  
6 it forward.

7           MICHAEL PAYNE: Let me just comment on that one thing.  
8 The only reason I'm here and not somebody else is because I  
9 want traditional knowledge incorporated in these regulations  
10 that I'm involved in probably more than anybody else in my  
11 office. I have worked with Native Alaskans, different groups,  
12 for over a decade. Not up here, mostly in the Southeast and  
13 the Inland South Coast. But we, as a group, URS and us, are  
14 trying to pull together everything that has been stated on this  
15 area in the last several decades.

16           Even the discussion that we had earlier with that  
17 gentleman was very informative in ways -- down to a level of  
18 detail that you won't get in scientific papers. So I guess I  
19 agree with you, and I want you to understand that at least for  
20 the next 6 to 12 months when we pull this draft document  
21 together, we will incorporate whatever -- to the best of our  
22 ability, we'll try to make this based in large part on  
23 subsistence. Now, that may be something you've heard before.  
24 And traditional knowledge. But I think.....

25           ISAAC NUKAPIGAK: Well, you know, that's something that

1 we've been asking for since.....

2 MICHAEL PAYNE: Well, I can't.....

3 ISAAC NUKAPIGAK: Since MMS started drilling out in the  
4 out in the continental shelf.

5 MICHAEL PAYNE: Well, I can't fix what you've asked for  
6 before. I mean, I just can't. But what I can do, as we go  
7 forward, I can try to bring that into it.

8 ISAAC NUKAPIGAK: We've been pushing and pushing, but  
9 MMS has been ignore us to -- what we've been trying to raise.

10 MICHAEL PAYNE: I mean, that's why.....

11 ISAAC NUKAPIGAK: I'm glad you finally -- the agencies  
12 of the federal government finally realized that and finally has  
13 wake up, wake up.

14 MICHAEL PAYNE: Yeah, Jon.

15 JON ISAACS: Yeah. We have talked quite a bit, and I  
16 think we've sent some letters out, you know, looking for what  
17 are some of the best ways that we can incorporate traditional  
18 knowledge. And I think one of the things that we would like  
19 some additional conversations with all the communities is what,  
20 in your view, whether it's working with whaling captains,  
21 working with elders, what's the best way to focus some  
22 traditional knowledge on this project? And how do we focus on  
23 potential mitigation, potential monitoring? What are the  
24 important areas used by marine mammals? What are the important  
25 areas used by subsistence hunters? And how can we focus that

1 traditional knowledge to make a better decision here? We need  
2 some ideas on that.

3 We know some of the traditional knowledge is out there,  
4 but we really need some ideas on how we can best focus it. And  
5 that's something we'd really like you to think about, think  
6 about how we can work with you and focus that traditional  
7 knowledge.

8 ISAAC NUKAPIGAK: Maybe by establishing a working group  
9 is a good example.

10 JON ISAACS: Okay.

11 ISAAC NUKAPIGAK: From whalers to fishermen to hunters,  
12 and.....

13 BERNICE KAIGELAK: If all the agencies can come at once  
14 and get it once instead of coming one by one and saying this is  
15 what we got, because you're not going to get everybody all in  
16 one place. I mean, we have to work, and we have to hunt. And  
17 we have so many meeting after meeting after meeting, and when  
18 one company like MMS comes and then EPA comes and NMFS, my  
19 gosh, why don't you guys save money and come all at once one  
20 time and get everyone here and get your information. Gee whiz.  
21 We have to live.....

22 ED NUKAPIGAK: I guess what they need is to set up some  
23 sort of a workshop in this community, you know, having a  
24 workshop in a group.

25 ISAAC NUKAPIGAK: You know, by having working groups

1 that work -- set up workshops, you know, gather information,  
2 and implement and working to implement some of these conditions  
3 or stipulations like that is workable.

4 ED NUKAPIGAK: We can have a workshop in the community  
5 where -- where we can have.....

6 BERNICE KAIGELAK: And make sure agencies bring people  
7 that has.....

8 ED NUKAPIGAK: Hold on a second, Bernice. Do you mind?  
9 We need a workshop in this community. I think we have so much  
10 issues going on right now. I think before we go any further,  
11 before this EIS is put into a white paper, the community needs  
12 to come together in order to form this traditional knowledge  
13 that you guys are talking about. Needs to put it on the table.  
14 Have a workshop with different groups and gather that  
15 traditional knowledge and put it in one piece. That's about  
16 the only way that it can work is to hold a workshop with these  
17 folks, EPA, with the National Marine Fisheries Service, MMS,  
18 you name it. Any agency.

19 BERNICE KAIGELAK: But the agencies that come up here  
20 need to be the ones that make the decisions. Not the lower  
21 level folks that will go back and go back and forth and say we  
22 need more, oh, we'll have to get with our superiors.

23 ED NUKAPIGAK: Yeah, well, what I'm trying to say is  
24 that, you know, before they draft this EIS, it needs to -- a  
25 group needs to sit down and -- with the groups and gather this

1 traditional knowledge from you folks and take it back to them.  
2 This is what the community wants on that traditional knowledge  
3 on part of your EIS. And we need to make this to -- in  
4 regulation to post some restriction. Some buffer zones we talk  
5 about.

6           Tonight I don't see -- we're not getting anywhere  
7 because we're all talking, concern, questions, comments.  
8 They're all people together while this is running. We're ahead  
9 of this right here. Way ahead of it.

10           MICHAEL PAYNE: Well, thank you for your comment.  
11 Actually, tonight's discussion has been very helpful. It has  
12 been. Each discussion in each community has been a little bit  
13 different. But even in the back and forth that you guys are  
14 having and maybe some disagreement, it makes it -- it's pretty  
15 clear what the issues are for Nuiqsut.

16           And so even though you may think it hasn't been  
17 helpful, for me it has been. It has been very much so. I  
18 don't mind the discussion. I mean, the concerns and the  
19 complaints I expected when I came up here. And to have that  
20 reinforced is not a bad thing. It really isn't. I mean, I may  
21 sound a little crazy, but it's not a bad thing.

22           But what I want to mention right now is that that part  
23 right there is one of the few things that we really want to do  
24 in this document. And I've been trying to figure out how to  
25 write the entire EIS based on traditional knowledge. I don't

1 think I would get -- I don't think that would get very far in  
2 my agency, but that would be something that would be very  
3 useful from a decision-making tool. Somehow your idea about  
4 maybe a workshop, we have time to do that kind of thing.

5 ISAAC NUKAPIGAK: I mean, setting up some sort of a  
6 working group that could work with your.....

7 MICHAEL PAYNE: Well, a working group. Yeah, not a  
8 workshop, a working group.

9 ISAAC NUKAPIGAK: With your needing -- you know, URS is  
10 going to be working to prepare the document, right?

11 JON ISAACS: Yep.

12 ISAAC NUKAPIGAK: And, you know, maybe setting up a  
13 working group can.....

14 MICHAEL PAYNE: That's a good idea. Actually.....

15 ISAAC NUKAPIGAK: .....you know, start identifying  
16 use -- using the traditional knowledge, you know, to integrate  
17 what should be put on the EIS.

18 MICHAEL PAYNE: I mean, there have been three or four  
19 pretty good points -- I mean, excellent points tonight that we  
20 still need to work on before we put this thing into a draft  
21 stage. So the discussion has been good, just so you know. I  
22 think it's been good. Yeah.

23 CARL BROWER: Yeah, I had a question.

24 COURT REPORTER: State your name, please.

25 CARL BROWER: Carl Brower, whaling captain. What do

1 you have in your policy to mitigate a whale?

2 MICHAEL PAYNE: To mitigate a whale?

3 CARL BROWER: Yeah. Because you've been hearing all  
4 night our fellow whalers with a statement earlier, I'll say  
5 fall, that we were impacted, us whalers were impacted out  
6 there, but in -- within the last 10 years, I observed, I was  
7 impacted along with all our whalers here, impacted by vessels  
8 that were out there. And it costs us to not harvest our whale.

9 MICHAEL PAYNE: Yeah.

10 CARL BROWER: And last year was a good example. We  
11 had -- we were harassed by how many vessels and let us catch  
12 half our quota. And last year was a -- we barely saw whales.  
13 Most of the whales were up north, and we -- the whales we saw  
14 that were close to the island, we saw one, two a day, where we  
15 usually see, in one day, each boat chasing their own whale. So  
16 that's my question, what do you have to mitigate a whale?

17 MICHAEL PAYNE: A lost whale. This was.....

18 BERNICE KAIGELAK: Deterrence.

19 MICHAEL PAYNE: Pardon me?

20 BERNICE KAIGELAK: Deterrence of whales.

21 MICHAEL PAYNE: Yeah. This issue came up today, too,  
22 just so you know, in the government-to-government, the issue of  
23 what happened last year. And it was the first time that I kind  
24 of understood. The CAA is signed between the oil companies and  
25 the AEWC and the whaling captain; however, the vessels, I

1 think, given what I understood this afternoon, the barge  
2 traffic back and forth that disturbed your hunts this past  
3 season weren't oil company vessels. I mean, they weren't  
4 Shell's, they weren't Exxon's, they were typical barge traffic  
5 back and forth that kind of -- it kind of has gone under the  
6 radar a little bit, except for people that are out there. I  
7 mean, I.....

8 CARL BROWER: It's not just last year. It happened  
9 within.....

10 MICHAEL PAYNE: Okay. A number.....

11 CARL BROWER: It happened how many times?

12 MICHAEL PAYNE: Well, given that -- I'll get right to  
13 you in a second. Given that there's barge traffic between  
14 communities all along the North Slope, it's probably been going  
15 on for quite a while, like you say. And how you regulate or  
16 how you keep those out of an area where whaling activities are  
17 occurring is something that I didn't even think about until  
18 this afternoon. So, yeah, that's one of those things that  
19 we've learned.

20 CARL BROWER: Because my other concern is because you  
21 are getting all of these oil companies that are going out  
22 there, and they're going to have more and more and more and  
23 more vessels, and before you even can finish the draft. I'd  
24 like to see something in the policies to mitigate a whale.

25 MICHAEL PAYNE: To mitigate deflection. Okay.

1           CARL BROWER: For each community.

2           MICHAEL PAYNE: Well, that's kind of something that we  
3 will work at.

4           CARL BROWER: Because us whaling captains are here to  
5 support and feed our community. And when we don't do that,  
6 then what is our community going to eat for the rest of the  
7 year, is my question.

8           MICHAEL PAYNE: Okay. Good question. There was a  
9 comment or -- yes.

10          DORA LEAVITT: My name is Dora Leavitt. I worked for  
11 many years as the Inupiaq communicator for the whalers that go  
12 out to Cross Island, and I keep track of industry vessels. And  
13 that place that's in Deadhorse, we have radio communications  
14 24/7, along with the MMOs calling our communication center with  
15 the whereabouts of each vessel is. And a lot of times we  
16 get -- you know, for years I've observed and I've listened, and  
17 there was a lot of impacts.

18          We have Badami right there that they have fuel runs,  
19 barge runs that are hauling fuel or hauling material when its  
20 barging season is open. And I've seen a lot of deflection, you  
21 know, because I'm tracking with GPS, their GPS when they're  
22 giving me coordinates. And I keep -- I get coordinates every  
23 six hours from industry, and sometimes we say, no, don't go, we  
24 have activity there. But still they go because it's their time  
25 and money that they're talking about when they have to have

1 these resupply runs to their vessels out there.

2 That causes impact, and it's recorded. You know, we  
3 have a recorder. We record these. 24/7 the recorder is  
4 running. We keep track logs, and for years. Even when we had  
5 seismic activity before we had the CAA in place when they were  
6 doing it on their own, there was a lot of times when they had  
7 to go 30 miles before they could spot a whale. And that really  
8 caused a -- you know, that was really dangerous for the whalers  
9 out there when they're towing a whale and the weather  
10 conditions are unpredictable out there.

11 We have these activities that go on. We -- and the  
12 Coast Guard, the Canadian cruise ships, ice breakers, and.....

13 MICHAEL PAYNE: Could I ask what -- the information  
14 that you have, what do you do with it at the end of the season?

15 DORA LEAVITT: It's given to AEWG, a copy, and whoever  
16 we're contracted through, and the industry.

17 ISAAC NUKAPIGAK: It's part of the Conflict.....

18 ED NUKAPIGAK: Part -- part of it is documented on  
19 Galginaitis' report.

20 DORA LEAVITT: Not our report. It's not incorporated  
21 with their -- in his report. But it's our communications  
22 with.....

23 ISAAC NUKAPIGAK: It's part of the -- part of the  
24 Conflict Avoidance Agreement processed out.....

25 THOMAS NAPAGEAK: This is the first year of.....

1           ISAAC NUKAPIGAK:   .....the comm center.

2           DORA LEAVITT:   The first year of having them.  It has  
3 never been with MMS.

4           ISAAC NUKAPIGAK:   Under the Conflict.....

5           BERNICE KAIGELAK:   Ask MMS.  They have MMS at Cross  
6 Island.  They got information.

7           ISAAC NUKAPIGAK:   With -- avoiding conflicts with  
8 subsistence whalers and industry participant of activities.

9           MICHAEL PAYNE:   Okay.

10          DORA LEAVITT:   I've seen it.  And I've observed for  
11 like -- I've worked there since '84, every season.  I finally  
12 took a break last year, you know.  But I observe and we  
13 document and I -- and I -- you know, I feel like I'm in a  
14 position because I work with industry and the whalers.

15          There was an incident one time when our -- the boss --  
16 you know, we had a BP representative have to oversee our  
17 communications center.  We had an incident where -- it might  
18 have been a resupply vessel, industry vessel.  It happened to  
19 run into whalers that were going to strike a whale.  And it  
20 pissed me off that the.....

21          MICHAEL PAYNE:   Yeah.

22          DORA LEAVITT:   The -- my boss took over the radio and  
23 told our whalers to get out of their way.  And that was wrong,  
24 because that -- you know, our whalers spend at least \$30,000 a  
25 year with -- you know, and it's a family crew.  He's got his

1 crew. They have to supply their own -- we feed the community.  
2 And it's not cheap to go out there and then get impacted like  
3 that. It's frustrating for the whole community when we have  
4 these impacts.

5 We have seal hunters that go out there that they happen  
6 to be doing seismic. And they're still whaling. They were  
7 doing seismic in the Thetis Island area, Spy Island area just  
8 years ago, inside. But still we have seal hunters that were  
9 heavily impacted, no protection, no mitigation, nothing. And  
10 this is something we face all the time, and we have faced it  
11 for many, many years. And we're tired of it.

12 You know, when is the federal government going to hear  
13 us out? You guys come and give us these time line, we're going  
14 to have an EIS, and we're going to get it done in six months,  
15 you got two weeks to comment and to try to study what you're  
16 going to put in our lives. This is our livelihood. And you  
17 give us just a little space of time to study these technical  
18 words. And for 30 years, that -- we've really smartened up,  
19 and we've had to. You know, we had to put a lot of time out of  
20 our family life, our subsistence, to study your whatever -- you  
21 know, whatever industry brings, whatever they're going to put  
22 out.

23 MICHAEL PAYNE: Yeah.

24 DORA LEAVITT: So I hope we get heard this time.

25 MICHAEL PAYNE: You know what I would like -- I'm going

1 to make a request now of the mayor and the mayor's office. We  
2 talked about a couple of things this afternoon that would be  
3 very helpful for us to get in the form of a comment. What -- I  
4 mean, Nuiqsut more so than any other community we've met with  
5 so far -- I don't know about Kaktovik, I haven't been there,  
6 but is kind of in -- I'll call it ground zero when it comes to  
7 whaling activity on top of oil and gas activity. You guys are  
8 kind of immersed in it all the time.

9 It would be very helpful for us, as we go forward, to  
10 know how to interact with this community. You want to review  
11 document -- well, I guess what I'm asking you to do, and  
12 however you want to do it, is kind of develop your own time  
13 line for what you want us to do to keep you informed on how we  
14 can go forward over the next 12 months or so. But we've got a  
15 schedule that's just -- it's pretty standard. Okay. It takes  
16 this long to do certain things. And we have a schedule where  
17 we're trying to get this done by, not this summer, but next  
18 summer. If that has to slip in order to allow for whatever, to  
19 make it a better document, to make it a much better process,  
20 then we may have to do that.

21 So, I mean, I -- there's about -- you know, when I  
22 listen to people in this room talk, I sometimes wonder if this  
23 is even possible to have oil and gas and subsistence at the  
24 same place, same time. And I have to believe that it is. I  
25 have to believe somehow we can make this work. But in order to

1 make it work, I actually -- I think we're going to need help  
2 from here to do that in this area.

3 DORA LEAVITT: A lot of information is out. It's not  
4 in your permits. You know, if it's not in the CAA, they don't  
5 have to comply. They don't.

6 MICHAEL PAYNE: Well, you're right. If it -- well, no,  
7 that's not -- if it's not -- the stuff that's in the CAA is an  
8 agreement between whaling captains, the AEWC, and the industry.  
9 That really has nothing to do with our permits, except that if  
10 they've already agreed to it, we'll pick up some of that stuff  
11 and put it in our permits because they've agreed to it.

12 But those conditions and those permits don't cover  
13 everything that we have to cover under the MMPA. And so we  
14 actually usually put more conditions in the permits than what  
15 you find in the CAA. So how -- I guess what I'm -- I want to  
16 make sure that what we come up with at the end of this thing  
17 works for you guys. If it doesn't work for you, then I've  
18 wasted my time, and I've wasted your time, much like this lady  
19 has said over and over again. I don't want to do that. I'm  
20 kind of tired of that myself. And so either we make it work  
21 this time or it isn't going to work. I mean, that's the bottom  
22 line.

23 So if there's a way to get from you how you want us to  
24 interact with you, whether we come up here every four months,  
25 every three months, we sit down for a couple days and tell you

1     what we're doing, I don't care what it is, I would like to have  
2     some kind of guidance from Nuiqsut on how to move forward with  
3     this document, with this process, so that it works for you.  
4     And if -- I think I'm going to be in this process for a long  
5     time. And instead of coming back in a year with a document  
6     that you can't live with, I would rather work with you, spend  
7     the time and the money, we'll come up here for a couple of days  
8     at a time if we have to; we'll sit down and talk about it.

9             It doesn't have to be a big public meeting like this.  
10     It could be a working group of whaling captains and  
11     municipal -- the mayor's office. Whatever you want. Yeah.

12             ELI NAPAGEAK: Yeah, do what it takes to wake up oil  
13     interests and the federal government.

14             MICHAEL PAYNE: I'm sorry?

15             ELI NAPAGEAK: What will happen if the Nuiqsut whalers  
16     push back and say we're tired of being pushed around? No more.  
17     It's time to do something. What will happen if we sink a ship  
18     out there, if we try to protect our subsistence way of life?  
19     How would -- how would we (indiscernible) for trying to put  
20     food on the table?

21             MICHAEL PAYNE: I don't know what would happen.

22             AUDIENCE MEMBER: Greenpeace.

23             MICHAEL PAYNE: I hope you don't do that. I would  
24     rather work with you before you get that far, but what I got  
25     to.....

1           ELI NAPAGEAK: I'm serious.

2           MICHAEL PAYNE: I know you're serious. We had this  
3 discussion a little bit this afternoon. And what I get from  
4 that is how frustrated you are, and how much you are tired of  
5 what's been going on. And that's kind of what I'm getting at.  
6 First of all, don't sink a ship. It doesn't -- it won't help  
7 you. But I -- but, you know, there are other things that maybe  
8 we can do. Yes. Somebody had another comment. This gentleman  
9 had a comment.

10          JIMMY OYAGAK: I had a question on your using our  
11 comments. What's your -- so you're just new to this -- what  
12 did you say, two years?

13          MICHAEL PAYNE: Well, no, I've been in -- I've been  
14 doing these permits for five years.

15          JIMMY OYAGAK: Yeah, so we give our comments for so  
16 many years, what are you looking at the time pass?

17          MICHAEL PAYNE: How far back?

18          JIMMY OYAGAK: Yeah. What are you.....

19          MICHAEL PAYNE: Certainly back through Northstar.  
20 And.....

21          JON ISAACS: Folks, what we're trying to do is, again,  
22 because you say the same things to many of the agencies, and  
23 part of your frustration is saying the same things to many of  
24 the agencies, there are a number of databases where people have  
25 looked at what have you said to MMS, what have you said to BP

1 for Northstar, what have you said to Conoco Phillips. And I  
2 think we have been putting together sort of a summary of that  
3 so we understand some of the things that we said in the past  
4 and look at making sure that we're not missing any of those  
5 messages so that when we look at how we have to analyze in this  
6 EIS, what we have to address for traditional knowledge going  
7 back.....

8 JIMMY OYAGAK: So you're looking at, like, two decades  
9 ago?

10 JON ISAACS: Yeah, I'd say about two decades.

11 JIMMY OYAGAK: Using our comments?

12 MICHAEL PAYNE: Roughly.

13 JON ISAACS: Yeah, two decades is about right. Yeah.

14 MICHAEL PAYNE: Yeah, roughly. You had a comment, yes.

15 DORA LEAVITT: I'm just kind of making a suggestion  
16 that to get to know our community, come and celebrate our  
17 whaling festivities. We have those in June.

18 MICHAEL PAYNE: In June.

19 DORA LEAVITT: You know, this whaling thing is not just  
20 a one-time thing. We do this year around. It's -- we have to  
21 process the whales, we have three festivities through the year,  
22 distributing the whale. And it's something that you guys don't  
23 see.

24 MICHAEL PAYNE: I agree.

25 DORA LEAVITT: And feel. And taste.

1           MICHAEL PAYNE: I have tasted whale.

2           DORA LEAVITT: You know, and we encourage you.

3           MICHAEL PAYNE: Thank you.

4           DORA LEAVITT: We invite industry, they come. We toss  
5 them up, we don't break their legs. But.....

6           MICHAEL PAYNE: No, but he's going to sink their ship.  
7 You don't break their legs, but he wants to sink a ship.

8           DORA LEAVITT: We are. You know, you get  
9 (indiscernible - multiple voices).

10          ED NUKAPIGAK: That's why we brought the Sea Shepherd  
11 out there.

12          MICHAEL PAYNE: Let me wrap up and I'll come to you for  
13 a final comment. Okay. I'm about done here.

14          (Presentation continued)

15          ISAAC NUKAPIGAK: I think having a working group, I  
16 think that's a good way to go. I mean, having various  
17 organizations being involved. Whether it's from federal,  
18 state, industry. Organization under whalers that can work to  
19 identify these issues set out there.

20          ED NUKAPIGAK: That's what I told you earlier.

21          ISAAC NUKAPIGAK: So, I mean, by having a work -- not a  
22 workshop, a working group that works and find solution to.....

23          ED NUKAPIGAK: Yeah, that's what I told you earlier  
24 about doing a workshop.

25          ISAAC NUKAPIGAK: .....to mitigate those impacts.

1 ED NUKAPIGAK: A working group-shop.

2 ISAAC NUKAPIGAK: So I mean, I see various.....

3 ED NUKAPIGAK: About the only way you can identify your  
4 traditional knowledge.

5 ISAAC NUKAPIGAK: Yeah. I mean, by having these type  
6 of working groups can identify some of these categories like  
7 what is there that need to be fixed.

8 MICHAEL PAYNE: Yeah, some of the -- true. That's  
9 correct. Some of the communities don't have nearly as many  
10 concerns as Nuiqsut because of where you're located. But this  
11 one right here is the one that -- this community, the activity  
12 around this community and your whaling and hunting, generally,  
13 probably is -- you're in the area where you could be impacted  
14 potentially the greatest so far, without a doubt. And that --  
15 we know that. I mean, we've known that for quite a while.

16 ISAAC NUKAPIGAK: I mean, we know that.

17 MICHAEL PAYNE: I know you know that. But.....

18 ISAAC NUKAPIGAK: I mean, oil and gas will continue  
19 regardless of what -- regardless if we say no.

20 MICHAEL PAYNE: Well, that's possible.....

21 ISAAC NUKAPIGAK: These conditions, and that's what's  
22 scaring me.

23 MICHAEL PAYNE: Yeah, that's possible, too, but if  
24 it -- I mean, you got an energy policy and you've got an  
25 environmental policy and you try to make them work. And under

1 the environmental part of this policy you've got the MMPA and  
2 you've got subsistence. So you don't want one to run over the  
3 other one. That's what we're trying to avoid.

4 (Presentation continued)

5 BERNICE KAIGELAK: There's another traditional  
6 knowledge that has been passed down for many, many, many years.  
7 The old folks from Barrow say one day Barrow is going to be  
8 swallowed by the waves. And I think water went through Barrow  
9 back in early sixties there, the big wave.

10 ARCHIE AHKIVIANA: '63. I was there. I rode on a  
11 two-story building that was along the beach.

12 BERNICE KAIGELAK: And usually from whatever the  
13 elders -- from experience, the traditional knowledge that they  
14 pass to us and they say, they heard, or know that's going to  
15 happen usually happens. So whether it's going to happen now or  
16 sooner or sometimes in the future, it will happen. And whether  
17 the offshore rig, I don't think will be able to sustain such a  
18 wave, if that wave was as big as it was from what I heard.

19 So -- and I -- you know, I just don't know how they could plug  
20 it if a disaster should happen like that.

21 And, you know, we've had earthquakes throughout the  
22 world, and I know -- I am a U.S. citizen. I am a U.S. citizen  
23 and I have the right, you know, just like you do. But I live  
24 here. The government has failed to recognize us and give us  
25 direct impact funds for resources that are taken right out of

1 our backyard. We have to fight tooth and nail for what we get  
2 in order to live the lifestyle that we were taught by Western  
3 society.

4           And we've learned from the Western way of living, how  
5 you do business, and we've learned from the industry that's  
6 been here for many years. We've seen many broken promises,  
7 we've seen things that happen that we don't like, and -- but  
8 we've also benefitted from it as well. There's good and bad  
9 that goes with it. I mean, we -- in just my 44 years of  
10 lifetime from learning my surroundings in a sod house to  
11 running water, flush toilet, Internet, TV, telephone, in the  
12 span of 40 years and here the Western society has been playing  
13 with -- and are masters at what you do.

14           And every agency has been to this village because we  
15 are, as far as I could tell, in the whole state of Alaska the  
16 only directly impacted community. So we do have concerns that  
17 are legitimate, and I hope you take it seriously. And there is  
18 no direct impact funds that come to this village. We have to  
19 compete. The only monies we get from NPRA is we have to  
20 compete with some other villages that don't see a rig within  
21 any miles of their -- we have to share it.

22           So that's also another thing to consider. I mean, it's  
23 going to come out right out of our backyard, right out of where  
24 we get our resources. And I hope that you will enforce to the  
25 oil industry that they use the best technology and not a

1 two-decade old rig that makes probably noise that goes 100-some  
2 miles when there is new technology where there could be a  
3 quieter rig. I don't know.

4 I know that U.S. needs the oil. Whether we say yes or  
5 no, it probably will happen. I don't know. But I hope they  
6 use the best technology out there. And that's not a 20-year-  
7 old rig out there.

8 ED NUKAPIGAK: And they'll be out there anyway.  
9 They're already out there. I know what (indiscernible) drill  
10 ship looks like and I've seen back in the eighties. That's the  
11 same (indiscernible) drill ship is going back to Sivulliq  
12 Prospect, the same drill ship that Eli have encountered in the  
13 past. The same ice breakers, the same support vessels.

14 BERNICE KAIGELAK: And I'd like to see all the agencies  
15 that you report to, all the agencies that do permits in their  
16 portion, in their job, that they have the backbone and the  
17 resources and the monies to back up whatever they have. Amen.

18 I mean, Native Village is a recognized tribe by the  
19 U.S. government. We are a federally recognized tribe. We are  
20 a government. And we run on what little money the government  
21 gives to us. We don't have the resources to read your 250-page  
22 EIS. We're not really highly educated, but we know enough to  
23 know when there's something wrong.

24 And I know that you're imposing upon us the -- I get  
25 these e-mails. This is the procedure now, if you want a

1 government-to-government you have to follow this procedure. It  
2 seems like they're creating more work than what needs to be  
3 done.

4 MICHAEL PAYNE: Well, I don't know if you're done.  
5 What you've received so far got us going. I mean, it was, it  
6 was pretty standard. I think if this is going to work, it's  
7 going to require a lot of work. And not along, necessarily,  
8 the time lines we've outlined. But it's obvious that in order  
9 to make this process work here, in order to go forward and try  
10 to make this work, I -- it's going to take a lot more work than  
11 what we outlined, I think. And that work will be in this  
12 community, if it happens. And so come up with another outline,  
13 come up with another schedule that might work better. And once  
14 that.....

15 BERNICE KAIGELAK: And I want to apologize for missing  
16 today's meeting. I am the president of the Native Village and  
17 I had another meeting.

18 MICHAEL PAYNE: We heard that.

19 BERNICE KAIGELAK: But I'm glad Thomas was there.

20 MICHAEL PAYNE: We had a good meeting. We did have a  
21 good meeting.

22 BERNICE KAIGELAK: And that's the other thing, I get  
23 these e-mails from different agencies always requesting a  
24 meeting, meeting, meeting. I must get, like, 10 e-mails -- 10,  
25 12, 20 e-mails in a week from different agencies about this and

1 that. And I don't mean out in the ocean, but that's a  
2 full-time job just trying to read all that stuff. And the time  
3 line that you give us to comment, it's, you know.....

4 MICHAEL PAYNE: We can work on that.

5 BERNICE KAIGELAK: If you don't -- you need to give me  
6 the money so I could hire someone to do that for us.

7 MICHAEL PAYNE: But if we work -- if there's a way to  
8 work together in this process like we described, you won't have  
9 to read the final document, because you'll know what's in it  
10 before you get there, if you can do that. Yes.

11 DORA LEAVITT: Also, when you -- I mean, we're never a  
12 part of your decision-making when you're doing alternatives.

13 MICHAEL PAYNE: Well, that's what we're -- okay.

14 DORA LEAVITT: You know, we need to sit down and --  
15 because sometimes you take off a buffer zone on one alternative  
16 and it's not on another buffer zone, you know, some other  
17 place. It's always something that.....

18 MICHAEL PAYNE: One thing -- along that line, one thing  
19 you can do, you can actually get back to us -- I keep -- I hate  
20 to keep saying send it to me, but in that comment thing that's  
21 going to come out, you can send us an alternative that you want  
22 for us to consider. I mean, if it's -- I'll be honest, if it's  
23 completely undoable, I'll tell you. But if it's something that  
24 looks like we might be able to work it, we can -- under this  
25 process here, we can address almost any alternative and do the

1 environmental assessment of that alternative.

2 Now, if you send us an alternative that keeps the oil  
3 companies out of the area from Cross Island all the way to  
4 Camden Bay for a real long period of time, it might be an  
5 alternative that has a pretty high impact. But, again, we'll  
6 look at it. And if you don't like just sending us comments  
7 saying don't do this, don't do this, send it to us in the form  
8 of an alternative. This is what we would like to see happen in  
9 our area that we could live with.

10 BERNICE KAIGELAK: And also make sure you get it from  
11 the community.

12 MICHAEL PAYNE: Well, yeah.

13 BERNICE KAIGELAK: Yeah.

14 MICHAEL PAYNE: Yeah. Yeah.

15 BERNICE KAIGELAK: Because, you know, there's other  
16 environmental.....

17 MICHAEL PAYNE: I don't want to do it.

18 BERNICE KAIGELAK: .....groups that come here, and, you  
19 know, try to -- you know, with lots of money and say this is  
20 what we should do and whatever, and sometimes it way out in the  
21 left field. So make sure.....

22 MICHAEL PAYNE: I feel that way about a lot of  
23 environmental groups.

24 BERNICE KAIGELAK: You know, they go to  
25 Washington, D.C. and all that, and whatever, this is what

1 Nuiqsut wants. No, you come to Nuiqsut and you find out what  
2 they need.

3 MICHAEL PAYNE: Okay.

4 ISAAC NUKAPIGAK: Because they don't represent Nuiqsut.  
5 The environmentalists doesn't represent Nuiqsut at all.

6 MICHAEL PAYNE: They don't represent anybody but  
7 themselves. I know that. I've worked with.....

8 DORA LEAVITT: So don't take their alternatives  
9 whatsoever.

10 MICHAEL PAYNE: I would like -- with your indulgence, I  
11 would like to close the part where I'm actually standing up  
12 here, because I'm just.....

13 ED NUKAPIGAK: Hey, Mike, do you want to take a break  
14 before you take your comments?

15 MICHAEL PAYNE: What I would like to do -- how  
16 many.....

17 JIMMY OYAGAK: I got one more question.

18 MICHAEL PAYNE: Yeah, okay. Okay.

19 JIMMY OYAGAK: So is this permit -- if this permit  
20 don't go through, so you're going to have to go ask Congress to  
21 go open up ANWR and stay away from our water.

22 MICHAEL PAYNE: Oh, that's not me. I won't even  
23 comment on that. What I would like to do -- are there still --  
24 let me ask a question before people start milling around. Are  
25 there still people who would like to provide an individual

1 comment tonight? An oral comment? There are. How many.....

2 ARCHIE AHKIVIANA: Yeah. We reported before the boats  
3 that goes in the -- around our waters.

4 MICHAEL PAYNE: Is that a question?

5 ARCHIE AHKIVIANA: That one time we had one, that Dutch  
6 sailboat that came out of nowhere. Landed down at our Cross  
7 Island.

8 MICHAEL PAYNE: Okay. That might have been.....

9 ISAAC NUKAPIGAK: It was explorers that came -- sailed  
10 from Poland.

11 ARCHIE AHKIVIANA: Poland, yeah.

12 ISAAC NUKAPIGAK: With the boats that (indiscernible -  
13 simultaneous speech).

14 MICHAEL PAYNE: They should have sunk that boat.

15 (General laughter)

16 MICHAEL PAYNE: Okay. What I would like to do, I would  
17 like to take a five-minute break. If you want to have a  
18 comment, please come up and we'll ask you to sit here so that  
19 you can speak into the microphone. And for others, you're  
20 welcome to stay, just respect the people that are giving their  
21 comment. Try to keep it kind of down in the back of the room.  
22 And thank you very much for coming tonight. Thank you.

23 (Off record)

24 (On record)

25 COURT REPORTER: Okay. I know your name, but state

1 your name first, and then give me your comment.

2 THOMAS NAPAGEAK, JR.: My name is Thomas Napageak, Jr.  
3 I am a whaling captain, as well as the tribal vice president.  
4 And I am currently the mayor of Nuiqsut. I am here to make a  
5 comment on the Beaufort Sea lease sales and the activity that  
6 will be going on. Our community, Cross Island, doesn't have a  
7 buffer zone. And all the communities from the northwest side  
8 and the other four or five communities have a 25-mile buffer  
9 zone from onshore, 25 miles out.

10 And one thing I'm definitely opposed of is drilling  
11 muds being disbursed into the Camden Bay. Due to the fact that  
12 I've seen all of this, I've seen -- like, I haven't seen  
13 drilling muds, but it's happened in the past, and I've seen  
14 barge activity that's over the past 15 years diverted bowhead  
15 whales. As a whaler, I've seen it all my life.

16 And this is the first year that MMS has actually put  
17 that on their report, and it will show, and it hasn't shown in  
18 the past. And that's something that's definitely going to  
19 be -- should be noticed from NMFS. So I just want to say that  
20 I'm against offshore drilling at this time. It's something  
21 that needs to be a little bit more carefully looked into. It  
22 just seems too dangerous.

23 Valdez was a different story for me. You know, it was  
24 a ship, right, so -- I mean, it wasn't a drilling rig. But  
25 then again, Shell tells me whale sharks go ahead and bump into

1 drilling rigs, but they're not bowhead whales. Bowhead whales  
2 have a different view of how they interact with things. For  
3 instance, I want to say, again, I've met with you guys, and I  
4 explained when I was a whaling captain in '05 was my first  
5 year, I saw 100 -- over 100 whales diverted from one barge, and  
6 there was no other whales beyond that for the next 15 miles.  
7 So I've seen the activity and the diversion of bowhead whales  
8 from industry. So I'm against it. Thank you again for coming.

9 MICHAEL PAYNE: Thank you.

10 COURT REPORTER: Go ahead and state your name again,  
11 please.

12 DORA LEAVITT: I'm Dora Leavitt. I am a family member  
13 of a whaling community. My family has had a whaling crew since  
14 1957. And we've seen a lot of changes with our environment.  
15 And this is kind of something we've really never stopped  
16 commenting about. We comment a lot on a lot of issues: our  
17 land with Alpine Industry, with the Meltwater, and now the  
18 offshore.

19 I've worked as an Inupiaq communicator for almost --  
20 jeez, it's been over 20 years. And I've worked at -- in  
21 Deadhorse. I communicate with the whalers from August -- or  
22 from the time they go out. But I have, like, a -- lately when  
23 they've had a lot of activity, I've gone to work from June -- I  
24 mean, July 1st to about October 25. And there, I -- for the  
25 first two months I monitor whaling vessels and their

1 activities. And we've had encounters with our subsistence seal  
2 hunters at that time. There's no really protection for them  
3 at -- over around Thetis Island.

4 We go far, we go far, we -- it's not a -- it's not just  
5 a day trip. It's a weekend trip, and we go when the weather is  
6 nice, so -- and try to catch that nice weather. And it's  
7 frustrating when we get impacted by an industry vessel. You  
8 know, all the gas that we buy. It's not 10 gallons, it's,  
9 like, 50, 55, 60 gallons every time we go out. Because our  
10 ocean is far, we have to go out to the Nigliq Channel and then  
11 go out. And it's -- with the short frame of window we have  
12 with the nice weather, we try to go out there and catch,  
13 harvest, come back.

14 And for years now we've had a lot of impacts. We've  
15 run into a lot of vessels sometimes. Our boats are small,  
16 we're in the ice pack, and we have an ice breaker coming at us,  
17 we've had those incidents where we -- you know, we couldn't get  
18 to them on the radio. And it's -- when they have -- I know  
19 that they -- and they now use marine mammal observers, but they  
20 don't have them in each vessel. They have them in the -- maybe  
21 the main supply or whatever vessel. And then you have all  
22 these runners, the resupply runners that go on their own with  
23 no observers. So, you know, they need more marine mammal  
24 observers.

25 With the time I've worked as an Inupiaq communicator

1       there was several incidents where they were doing seismic  
2       activity and drilling at Sivulliq when it was Hammerhead. I've  
3       worked when -- you know, there. Our whalers went 30 miles out.  
4       They spotted one whale and on the way home, you know, it  
5       took -- takes hours to tow one whale, let alone our community  
6       whalers, they have to go 97 miles, and we -- we have an island  
7       that we go to. And it's Cross Island.

8               Cross Island right now is not protected. It's not in  
9       the buffer zone. We've asked for years to get a buffer zone.  
10      And because of oil and gas within its vicinity, it's not  
11      protected. So we don't have that assurance that when industry  
12      is gone that we're going to be able to harvest. So what  
13      assurances are the agencies that permit are going to give us  
14      when we have these impacts? When the oil is pumped out, what  
15      are we going to have? Where are we going to go?

16             These are protections that the agencies should be  
17      giving us. They're the ones permitting our backyard. You  
18      know, that's our garden. We don't have -- you know, we live  
19      out in the cold, and this is our food that we bring home for  
20      the community for Nuiqsut, for Anaktuvuk, for Kivalina, and  
21      other villages that we share with. We share -- also, I don't  
22      see any protection or any studies of our Arctic cisco that  
23      migrate from the MacKenzie River to the Colville. They're  
24      going to have to go through that prospect, the Sivulliq  
25      Prospect. And what studies are they going to do?

1           We've had causeways built from Endicott all the way to  
2 Oliktok that had affected the migration when the construction  
3 was being done with these causeways for it. You know, that  
4 whole season we had -- we never catch. So it's important that  
5 we have our whale to harvest or our caribou. And it's  
6 something that we have to try to, you know, provide.

7           And it's not easy when you're a whaling family. You  
8 spend 30 -- at least twenty, thirty thousand every year that  
9 one month. The gear, you know, everything. And I don't see  
10 any -- you know, with this exclusion -- or with this ex- --  
11 what do you call it? The exclusion zone, the protection for  
12 the whale. I think that's wrong. That is wrong.

13           This -- because we -- when we hunt, we don't just go to  
14 certain places. We go far. We go -- you know, if we're not  
15 going to -- if we don't spot whales, Sivulliq is like 24 miles  
16 to the west of us. Last year my son and my husband was out  
17 there 24 miles right around that area because of -- they didn't  
18 spot any whales. They just keep scouting. And Sivulliq is  
19 right there.

20           Our whalers go out 5:00 o'clock in the morning when the  
21 weather is good. They try to go early, you know. And we  
22 scout. We don't go fast. It's -- when you're scouting for  
23 whales, you're going like trolling for halibut or salmon. And  
24 it's frustrating when -- you know, when you finally see a whale  
25 and you're getting ready to strike it and here comes an

1 industry vessel. It's frustrating.

2 Northstar has these runs every day. They have to  
3 because, you know, they're moving people taking off from West  
4 Dock, and sometimes our whalers go to the west. When we don't  
5 spot, they go towards Liberty, towards Northstar, and those  
6 islands. It's unpredictable where we going to be from one day  
7 to the next. So it's something that you guys, permitting  
8 agencies, need to understand.

9 And for years we've commented over and over. It's not  
10 the first time I've said this. My mother, who has passed on,  
11 commented, you know, about these very issues -- same concerns  
12 that we have. I have a 10-year-old and a 13-year-old who  
13 just -- my 10-year-old is going to go the first year. He's  
14 learning how to hunt. My 13-year-old loves Cross Island.  
15 Every year he's excited to go.

16 And we teach our boys at a very young age. And it's  
17 something that we pass on. And it's not something that we do  
18 for fun. It's something to sustain us, and I hope the industry  
19 and the regulators have stiffer stipulations that will protect  
20 us, protect our resources, our food. Those are our resources.  
21 You know, it's something that we have to try to balance, is the  
22 industry, the Western world, and our lives.

23 And I can't go back 50 years from now and try to live a  
24 life. You know, that's past. I've lived that and we've moved  
25 up and education and -- and it was really fast. We had to

1 learn fast. Especially with industry. With 20 years we had to  
2 learn fast. I mean, technology and your EIS, your whatever,  
3 and we're not given time to really comment adequately. We're  
4 missing some fine prints when we're reading some of these  
5 things.

6 And you guys have people that work for you that do that  
7 stuff. We don't. We have to try to live our lives and do  
8 this. And a lot of times I'm missing precious time with my  
9 kids because we're doing this, and it's doing this to protect  
10 them. And that's frustrating, and it's something that the  
11 agencies need to understand and come and be a part of us.

12 I invite you guys to our whaling festivities. Come and  
13 learn. That's what the industry had to do. They come and  
14 they've learned our culture, you know, and they try to work  
15 with us. Conoco is trying to work with us, and we've told them  
16 we need subsistence hunt -- I mean, observers, subsistence reps  
17 out there to observe their activities and people that will  
18 clean up, you know, because they -- they're not going to clean  
19 up after themselves really good. And we've had to get ahead of  
20 them and say, okay, we're going to -- we need this; if you're  
21 going to open this, this is our -- you know, we told Kuukpik we  
22 need these. You got to protect us so we -- you know, we have  
23 to -- there was nobody observing, but when people were going  
24 out hunting, they're seeing oil drops and just debris.

25 So we got with Kuukpik and we said we -- you don't have

1 observers, you know, you're giving this -- leasing this land.  
2 And they heard us, and industry participated. They fund --  
3 they now fund subreps to observe their activities to lessen the  
4 impacts to our resources, to our fish. And I hope that you  
5 guys are out there, or send somebody out there to observe  
6 because the industry can say black and white, Shell can say  
7 okay, we're going to do it this way. And they have contractors  
8 and subcontractors that they don't know this -- the real  
9 permit. And that's -- you know, they're not educating their  
10 contractors and whatever -- their, you know, people that are  
11 doing other jobs for them. And there's a communication lacking  
12 of how you guys want our protection. I mean, you know how  
13 we're supposed to be protected.

14 So I'm asking you guys, you know, utilize the  
15 community, put it in your permits that these are in place when  
16 their activities are taking place, and a lot more marine mammal  
17 observers. And I just hope you guys hear us because it's -- it  
18 is something that is dear to us. And thank you. Thanks for  
19 coming. Thank you.

20 (Off record)

21 (On record)

22 COURT REPORTER: Okay. Go ahead and state your name,  
23 please.

24 EDWARD NUKAPIGAK: Good evening.

25 COURT REPORTER: Hi. Just state your name, please.

1           EDWARD NUKAPIGAK: My name is Edward Nukapigak. I'm  
2 a -- one of the whaling captains. It's N-u-k-a-p-i-g-a-k. I'm  
3 here to comment on some of the issues that has been dealt in  
4 the past, and the comments I'm going to make is based on the  
5 observer we have at Cross Island during whaling seasons. And  
6 he's the one that documents the assessment during whaling.

7           I would have to say that we need more scientific study  
8 before any exploration or development should occur in Beaufort  
9 Sea, especially in our Cross Island area and Thetis Island, are  
10 the two most important islands that we depend on for  
11 subsistence. With the industry and MMS are doing their lease  
12 sales, it is something that hasn't been mentioned, or may have  
13 been mentioned but hasn't really been addressed by the  
14 observers and by the whalers, so I would have to disagree with  
15 MMS' observer at the Cross Island, because his report is  
16 incomplete; and, therefore, MMS should recognize the importance  
17 of the reports. The data information that we give to the  
18 observer have not been documented in this format.

19           This report is for MMS and the Department of Interior.  
20 We are being studied based on quantity measurement by MMS as to  
21 how far we travel, how far do we go out scouting for whales,  
22 and how close do we get to Sivulliq Prospect. Those have not  
23 been documented and those are the most important issues that we  
24 need to address to MMS, and it should be documented as part of  
25 the EIS process.

1           And there are other alternatives that we spoke earlier.  
2           The deferral line was addressed after Barter Island and Barrow  
3           had their deferral line. And Nuiqsut was late in issuing their  
4           deferral line, but it was addressed in the final EIS. The  
5           deferral line is not the first time we've mentioned to  
6           different agencies. That is one thing that needs to be  
7           addressed. We know that the deferral line is right in the  
8           center of Prospect -- of Sivulliq and Corona. It is known as  
9           Torpedo, and Matar (ph) and then you have Galahad and those are  
10          the prospects that Shell has interest east of Cross Island.

11          And not only we are talking about Cross Island, we are  
12          talking about Thetis Island is one of the most important areas  
13          for seal hunt during -- when you have access to go out to the  
14          ocean or you have access closer to the shore. Once that ice  
15          goes out, it goes out, it doesn't come back. And we depend on  
16          these islands for subsistence. And now that we have more  
17          activities over at the Thetis Island area because of ENI,  
18          another offshore oil company, have already staged their manmade  
19          island.

20          So that is another issue that's going to be disrupting,  
21          displacing our seal hunt, which make us to travel further to  
22          Thetis. Same as to the whales that we have -- that we have  
23          been scouting. Thetis Island is one of the areas that Shell  
24          has -- also has interest in doing seismic, possible oil  
25          exploration. So Shell is not only looking at the Camden Bay

1 area, they're looking at further west in Beaufort Sea.

2 So those are the issues that's a real concern to the  
3 community, and it should be inserted on EIS as to how can this  
4 be addressed, and how can you well document these most  
5 important islands that we depend on. So we have to travel  
6 further in order to harvest our seal, our bearded seals, before  
7 fall whaling season starts.

8 So I'm going to say that Michael Galginaitis, the MMS  
9 observer who has a contract with MMS and the Department of  
10 Interior has an incomplete document report that's going to be  
11 submitted to Minerals Management Service and Department of  
12 Interior as to how the whalers are being assessed during the --  
13 each falling whaling seasons. And with all the interference,  
14 with all these vessels we have, it's difficult for us to  
15 harvest our quota because all those whales are being spooked,  
16 skittish, and hard to approach because they have been harassed  
17 from the east by these vessels that are traveling from east to  
18 west going to West Dock, maybe possibly further west. But it  
19 is something that has to be addressed thoroughly and, in order  
20 to put your EIS together, these are the most important islands  
21 that has to be well documented.

22 And I urge URS to come back to the community and have  
23 an adult meeting, at the same time have a workshop so we can  
24 address all these traditional knowledge that needs to be  
25 inserted, well documented from this community.

1           And as a whaling captain, I oppose to the offshore  
2 seismic exploration. The reason I oppose to it is because we  
3 are -- have been impact from day one when Northstar was under  
4 development. Those were the days that we've been impacted, and  
5 up to date we are impacted by offshore. So Northstar is  
6 basically the first offshore manmade island.

7           And in order for the whalers and the oil industry to  
8 work together is for us to form an oil/whalers agreement in the  
9 early eighties. And that worked to where it's been changed  
10 today by AEWC. It's called a CAA now. The original  
11 oil/whalers agreement was a well-documented, well written to  
12 where the oil industries were complying to it.

13           Now, with Shell being one of the key players in  
14 offshore is the problem we're having with Shell because Shell  
15 wants to do it their way, not the EIS way. They want to change  
16 the EIS to where they want to satisfy the Nuiqsut Whaling  
17 Captains Association. And we, as a community, turned down  
18 Shell's document that was presented to us, and not having  
19 original CAA with them.

20           So we turned Shell down, and since then we've been  
21 fighting Shell and so has the federal and state government.  
22 Because we -- our people have been there long before us [sic].  
23 Cross Island is the main whaling camp that goes back to the  
24 1920s by the Captain James Tokpuk (ph). Those are the people  
25 that depended on the island. And they didn't have no

1 interference back then. But today we have interference to  
2 where it's making us difficult to harvest our quota.

3 In order for EIS to work is that they need to work with  
4 us, and in order for it to work is we need to have this EIS  
5 well documented from this community. And I want you folks to  
6 understand that it's very important for us that we have been  
7 impact, and the impact is continuing and it's not going to be a  
8 nonstop once MMS and Department of Interior go forward with  
9 offshore development. That is one thing that's going to really  
10 impact this community.

11 If you put a drill ship there at Sivulliq Prospect, the  
12 whales are going to start migrating further north. I guarantee  
13 you that. They're not going to come in inside the islands.  
14 They're going to go up north and go around the drill ship.  
15 Then we have to travel thirty-plus miles out to try and scout  
16 and harvest a whale. Just like one of our elders, one of our  
17 whaling elders mentioned earlier, that due to interference,  
18 they had travel thirty-plus miles out. By the time the whale  
19 was harvested, the wind has already picked up. You have no ice  
20 out there to protect the swells.

21 So these are the most important issues about  
22 subsistence use in Thetis Island, on to Cross Island and beyond  
23 Cross Island to Camden Bay. Those are our very important areas  
24 for feeding, resting for the bowhead whales while they're  
25 migrating west during fall time. And I just want to give my

1        comments to MMS, and I want that Draft EIS not to be so much  
2        complicated. I don't want to see that EIS so thick that -- to  
3        a point where I didn't read the whole packet before any public  
4        meetings or public hearings.

5                By the time public hearing came around, I didn't get a  
6        chance to read that whole Draft EIS. So we don't want to see a  
7        Draft EIS, a combination with repeated chapters. It's  
8        something that I had read and I wasn't satisfied with. Our  
9        elders didn't understand what was the purpose of this public  
10       hearing. They have no knowledge. It's very difficult to try  
11       and get an elder to understand what is the topic of this public  
12       hearing because they have not read nor understand English, what  
13       is written. So you have to translate to a point where they'll  
14       start understanding. Then when they start understanding,  
15       they're going to start giving comments and concerns as to what  
16       they have when they were growing up here in this area. So  
17       those are the real observers, the real scientists.

18               The pictures you see on the wall are those that have  
19       left us. Those are the real traditional knowledge that have  
20       knowledgeable to Colville Delta area, and beyond Colville  
21       Delta.

22               MICHAEL PAYNE: Could I -- thank you for your comments.  
23       I want to make sure that other people have time, too. I don't  
24       want to cut you off too fast, but I think you've made your  
25       comments very well, and we'll take them in serious

1 consideration.

2 EDWARD NUKAPIGAK: Okay. I just want to make sure that  
3 that issue is well documented and that you see that we -- I  
4 don't want to see any slang words. And I don't want to see any  
5 repeated chapters.

6 MICHAEL PAYNE: I hope not.

7 EDWARD NUKAPIGAK: Like MMS have and their authors have  
8 done. Thank you, Mike, for coming to Nuiqsut.

9 MICHAEL PAYNE: Thank you for your help. I'll see you  
10 again, I'm sure.

11 EDWARD NUKAPIGAK: And I'll be looking forward to  
12 seeing you again and work with you again.

13 MICHAEL PAYNE: I hope so. Thank you.

14 EDWARD NUKAPIGAK: And I thank you for coming to  
15 Nuiqsut, too.

16 COURT REPORTER: Thank you.

17 EDWARD NUKAPIGAK: Thank you very much.

18 MICHAEL PAYNE: Thank you for your comment.

19 (Off record)

20 (On record)

21 COURT REPORTER: Please state your name.

22 BERNICE KAIGELAK: Bernice Kaigelak from Nuiqsut. I  
23 want to request that all -- any permitting agency have the  
24 backbone to enforce whatever stipulations or whatever  
25 guidelines you issue in the permit for the industry, and that

1 you follow through and make sure you have funding to make sure  
2 they are complying with your permits.

3 I want to thank you for exercising the  
4 government-to-government, but I want to also let you know that  
5 we have a budget with what money the government gives us to run  
6 the tribe. And there's so many meetings that, you know, it's  
7 budgeted for. And we would like to exercise our  
8 government-to-government meeting. But we still have to pay for  
9 the council when they meet with you. And that puts a strain on  
10 our little budget as well.

11 So I don't want to stop the government-to-government, I  
12 would like you to continue that, but you got to remember we run  
13 on a budget just like you do. And I -- how could I say this?

14 MICHAEL PAYNE: Do you want me to leave?

15 BERNICE KAIGELAK: No. I would like to see a buffer  
16 zone at Cross Island and the whaling areas for our community.  
17 Because that's what makes us who we are. We'd like to protect  
18 that. It's not fair that our buffer zone is not on this side  
19 and the west side have it. I understand the need for the  
20 United States to obtain natural resources to run, but they also  
21 need to take care of the community that's directly impacted.  
22 There's no mention of anyone or any agency giving direct impact  
23 funds to the community that is directly impacted.

24 There's lots of bad and good that go with it, and the  
25 impacts with social issues that come with being directly

1 impacted are here. And I think our people still strive to be  
2 Inupiat people and trying to keep their identity and still  
3 being neighborly, because by custom we are good neighbors.  
4 With our custom we need each other to survive, but when we see  
5 our neighbors take advantage and say one thing and do another,  
6 where do you draw the line?

7 So I just want to make sure that you have the backbone  
8 to enforce what needs to be enforced, and the money to go with  
9 it. And I know you're doing your job by putting it in black  
10 and white on paper, but there needs to be a follow-through that  
11 goes with it, because when there's no follow-through, we bear  
12 the consequences. And it's not fair when we have to pick up  
13 the pieces or fight legally with your own resources for  
14 something that should have been taken care of by the  
15 responsible party.

16 And I -- you know, if they are to extract oil from  
17 offshore, they better use the safest, quietest, smallest  
18 technology they could find out there. And that's -- I guess  
19 that's all I have.

20 MICHAEL PAYNE: Thank you.

21 COURT REPORTER: Can you spell your last name for me,  
22 please.

23 BERNICE KAIGELAK: K-a-i-g-e-l-a-k.

24 COURT REPORTER: Thank you.

25 BERNICE KAIGELAK: Bernice.

1           MICHAEL PAYNE: Thank you.

2           BERNICE KAIGELAK: All right.

3           (Off record)

4           (On record)

5           ROSEMARY AHTUANGARUAK: Hello, my name is  
6   Rosemary Ahtuanguaruak, A-h-t-u-a-n-g-a-r-u-a-k. I'm a regional  
7   tribal council member with the Inupiat Community of the Arctic  
8   Slope. I work part-time with the city as a cultural liaison --  
9   or a cultural coordinator, and I work part-time with the North  
10   Slope Borough Wildlife.

11           Our community has been involved in commenting on oil  
12   and gas exploration and development activities for decades.  
13   Our grandparents started these processes. There were a lot of  
14   discussions that were held, but the documentation of the  
15   discussions and concerns that were presented from the tribal  
16   communities and the tribal leaders are not to the fact of what  
17   we have as documents to now review.

18           We can't go in and look at some of these documents and  
19   pull out these key quotes because they were not recorded  
20   appropriately. And that's very concerning. We have a lot of  
21   issues and changes that are now being discussed, but the  
22   baseline data was not obtained to help us now that we're seeing  
23   the actual reactions and changes to the availability of  
24   resources and the successful harvesting. All of these things  
25   are nonexistent to use in comparison. And yet in many of your

1 documents, you put in that we need this information to guide  
2 the process and to make some decision factors with data based  
3 on assessments. So if we don't have the baseline information,  
4 how is the assessment going to occur?

5           There's continued changes that are occurring  
6 simultaneously with these plans that are being presented, and  
7 yet the baseline information is nonexistent to go with that to  
8 assess whether it's coming from this project over here or that  
9 project over there. These concerns have been communicated for  
10 a long time in our community, and the elders, at the time they  
11 were talking about them 30 years ago, there were fears. And in  
12 my lifetime it's a reality of what we're going through. They  
13 are actualities.

14           And we don't have the depth of information to support  
15 our comments. Industry has controlled our research and  
16 reporting and monitoring. And their interpretation of this  
17 process is not our interpretation of the process, but that's  
18 what's guiding the decision-making process.

19           We have worked very hard in sharing traditional  
20 knowledge, but the process has absorbed our comments in various  
21 ways, but it does not give us the strength of the depth of our  
22 generations of accumulation of this knowledge into the process.  
23 It is only used as a factor to take information, and some of it  
24 may be absorbed in ways that they choose to put it in there.

25           But the recognition of the details of the information

1 that's coming, who is giving them comments, and the level of  
2 titleship that goes with it, whether they're a whaling captain,  
3 whether they're a tribal leader, whether they're an elected  
4 official, those kinds of things are not included in the  
5 process. So it's only listed as a name. And so when we're  
6 going back to research some of this information, it's very  
7 difficult to even come up with the right process of trying to  
8 research and help pull together information to demonstrate the  
9 issues and changes that we're faced with.

10 We bring our process to the table because of the  
11 importance for our traditional and cultural uses. These things  
12 have been taught to us through generations. We share these  
13 stories with the new tribal members that we have. We share  
14 generations of knowledge into the process. So when we have a  
15 young whaler that gets to Cross Island, they've already got 10  
16 years or more of the story tellings to go with it.

17 But now as our story tellings are generated in bringing  
18 forth into these communications, there's whole areas of change  
19 that we're no longer using for traditional and cultural uses,  
20 and so the continuation of those stories into the documentation  
21 are void and absent with various important layers of the  
22 process to the stories because of the changes that we've  
23 already gone through. The recognition of these changes is not  
24 absorbed into a level that allows us to prevent some of these  
25 things.

1           Instead, the federal government has told us at various  
2 meetings, like their Tribal Leadership Summit, that we should  
3 sue the federal government in this process. EPA's official  
4 told us to do that. The General Council on Environmental  
5 Quality told us that the impacts that we have already been  
6 communicating for decades are illegal, yet these processes  
7 continue. There's no strength into this process, and yet the  
8 administrations that we have gone through in these various  
9 processes, there's various promises that have been given to us  
10 such as protecting the pipeline with chemicals that are --  
11 increase the longevity.

12           There's no monitoring of whether or not they're even  
13 putting more chemicals into the pipelines. When they finally  
14 got some assessment done, not one gallon was added in even  
15 though there were hundreds of miles of pipe that were added to  
16 the process, and yet nothing was known until the GS-2 spill,  
17 and if we had been working in that process, we would not have  
18 been ignoring those alarms that were going off for four days as  
19 that spill happened.

20           But yet the promises that we had mechanisms in place  
21 that would allow us to stop this process when we had ten  
22 thousands were ignored, and so we had hundreds of thousands of  
23 gallons spilled. And we have comments from contractors related  
24 to industry is putting in their spill monitoring technology,  
25 and the electricians quit the process because they knew when

1 you're dropping rocks down onto these plastic pipes, that some  
2 of them are going to get broken, and thereby our assessment  
3 tool to monitor for spills are already dysfunctional before  
4 it's buried, so what are we using as a tool to monitor the  
5 spills?

6           The process of doing some of these activities with the  
7 seismic activity, all the changes that occur with that, we've  
8 demonstrated that with loss of harvest, with loss of whaling  
9 seasons, with loss of sharing culture and traditions into the  
10 future months that go with whaling. But yet your plan comes  
11 back to us with spilling the drilling muds into the ocean.  
12 Where is the absorption of the understanding of the level of  
13 importance that we're bringing to this discussion?

14           We're supposed to expect -- you're expecting us to just  
15 accept that spilling the drilling muds into the ocean because  
16 there's tons of gallons of water, that it's okay? It's not  
17 okay. It's not just putting salad dressing onto their salad.  
18 It's a lot different.

19           The alarms go off in our reading of the document, and  
20 yet even though we've had generations of talks on these same  
21 issues, you still come back to us with another plan after  
22 decades of participation saying that we're -- saying that  
23 you're going to just dump this stuff, substances that are  
24 abnormal to this environment, adding additional chemicals, some  
25 of these are toxic substances, and you're dumping them into the

1 ocean and forgetting that our migratory pathways are there and  
2 our animals are coming here and we're feeding our families and  
3 our future generations with these issues.

4 And there's no research and monitoring and assessment  
5 of already existing discharges that have been occurring.  
6 There's already documentation of violations with reinjections  
7 of substances that were not supposed to be reinjected. There  
8 were promises that they were going to be backhauling some of  
9 these substances on there, yet every one of the corporations  
10 for the tribes have been involved with violations, and there's  
11 been no processes that occurred.

12 As we've gone through with additional communications,  
13 our efforts are diluted and divided into multiple meetings, and  
14 yet, you know, two years ago we suggested having the forum put  
15 together. And the forum came around, and yet trying to get a  
16 yearly process still never even went anywhere. You still got  
17 us divided in this increased concentration of time of demand,  
18 and it's at our volunteer effort.

19 Now you're saying getting a working group together to  
20 go into this process, it's -- there's no money to go with it,  
21 there's no contribution for the compensation that should be  
22 going. There's no way for -- a mechanism for people that are  
23 taking time off from their jobs to go out and participate in  
24 this process. There's no mechanism for our councils to  
25 participate in a more effective manner in some of these things.

1 And the demonstration of the loss of our participation shows  
2 with the loss of the protective mechanism we put in to protect  
3 Cross Island.

4 Without us continuing at the table of the  
5 decision-making, our priorities were put behind and other  
6 priorities were put in place and we lost out on protections  
7 that we've participated for decades to try to present and keep  
8 a hope of a semblance of our traditional and cultural  
9 activities.

10 The North Slope Borough has put together some comments  
11 that were very important. To me, I think that the depth of  
12 these comments could have gone farther, but this process that  
13 we've been involved in has also defeated our effective  
14 participation because we don't get the information that's  
15 presented in other communities. We only get what's come to our  
16 community for our meeting. We don't get what's being presented  
17 in Barrow, we don't get what's being presented in Fairbanks, we  
18 don't get what's being presented in Anchorage, and yet those  
19 very key information of -- layers of information are very vital  
20 to our continued communication of the issues and concerns.

21 If we're not aware of some of the decision factors that  
22 are coming up with the prioritizations over the way these  
23 decisions are being made, how can we effectively comment in the  
24 process? We're out of the loop in the process, so we're only  
25 able to come in with the little bit of information we get in

1 the early process, and not be involved as further  
2 decision-making criteria are developed and decided upon.

3 There's a lot of issues and concerns that have come out  
4 in relation to air quality. The health of our people are so  
5 vital, and yet there is still no effective mechanism to help us  
6 reduce our impacts, there's no assessment to the way that our  
7 climate and environment and the temperatures that we're dealing  
8 with, how it affects our bodies in our area. We're relying on  
9 studies that are being done in the Lower 48 in which we only  
10 have a few days out of the year at the temperatures that this  
11 research is being done at.

12 So now we know that there is much more damage that is  
13 occurring at the level of changes that are occurring with  
14 increased ramp-up of production during the wintertime when  
15 we're having increased inversion factors. It's much more  
16 damaging to us when we're having increased concentration of  
17 chemicals in the air. When it's 40 below, it's much more  
18 damaging to us. But where's the information to help guide this  
19 process? It's nonexistent, it's not in these documents. We  
20 have to go other places to go and get this information.

21 And yet even though we've been talking for decades and  
22 decades in this process, industry misled us in saying that we  
23 were watching things in our air monitoring station here, and we  
24 were being misled. Routine maintenance activities occurring  
25 during increased ramp-up of production, shutting down the

1 amount of data that's being generated for a whole month of  
2 time, and we've only got 10 days of data when we're having the  
3 highest ramp up of production for 30 days in that process. It  
4 really comes out to a different assessment of those data points  
5 when you don't have a full month of data to assess during our  
6 increased concentration of activities.

7           Some of the ways that this stuff is being assessed, we  
8 have a lot of conflict with these assessment processes that are  
9 occurring, because you don't understand some of these things.  
10 Your comments that you came out today, you're totally  
11 disconnected on some of these issues. You come out with some  
12 of these things, but yet "whaling only occurs for two weeks out  
13 of the month." I'm sorry. No, whaling occurs -- you might be  
14 actually in the water trying to harpoon a whale for two weeks  
15 out of the process, but the whaling activity occurs all year  
16 long. And yet, you know, your understanding in the process,  
17 you were putting it down without really realizing that these  
18 are big issues for us.

19           And so even your process, your lack of information is  
20 very concerning, because you're a key individual that's coming  
21 up with some of these decision criterias that are really going  
22 to increase the concentration of our impacts. So that's very  
23 concerning.

24           The process with the issues related to the water  
25 quality, you know, I don't know how the process is still

1 presented to us in the plan, dumping the muds into the water.  
2 I mean, where is the level of understanding of the importance  
3 of the biological diversity of the area, the increased risk  
4 factors we have because of our continued living in this area  
5 and the increased concentration in these animals because of the  
6 decades of lives that they live and the reactions that occur to  
7 us. We don't have enough information in that area.

8           And the way that some of this information is being  
9 generated using computers and developing those protocols for  
10 these research models, these things can be very damaging to us.  
11 If you don't have actual numbers, which you don't have, and yet  
12 you've already caused us generations of change in our area,  
13 especially around Oliktok and Cross Island and Prudhoe Bay and  
14 all of the areas in between, yet you're coming up with more  
15 development activities without the baseline data, and we've  
16 already had changes, and so now we're going to get some  
17 additional information of data points that are already  
18 construed to facilitate industries, not our concerns.

19           And so -- and you're also coming up with modeling that  
20 can greatly change a report that's generated when you don't  
21 have the right criteria, or you misconstrue this data into ways  
22 that are -- defeat their critical areas of importance in the  
23 concentration of the animals and the biological diversities of  
24 these areas.

25           There are a lot of issues related to the whole process,

1 there's a lot of issues with changes to the ACMP, there's a lot  
2 of issues with Title 18 and 19 and those changes. And all of  
3 these processes are growing at the same time, so when we're  
4 looking at these early documents and using them as a comparance  
5 [sic] for intermediate documents and as the newer documents are  
6 coming through, it's a very different process. You've got  
7 different administrations that looked at things differently,  
8 prioritized things differently.

9           You have others that had the intentions of creating  
10 some of these issues in a strong way, but administrations that  
11 came in after weakened the whole process so that the stuff that  
12 we're putting in as protective mechanisms are not protective,  
13 or have been weakened to be ineffective, and yet how are we  
14 supposed to follow this process and look and absorb this  
15 process into being effective in commenting in these processes?

16           A lot of the issues related to the oil discharge  
17 prevention and contingency plan, that's a whole other can of  
18 worms that we haven't even got into. The timing for this  
19 meeting, there is a whole bunch of commenting that could have  
20 occurred in this public hearing process that was held during  
21 the process of presenting information that's not put into the  
22 public hearing process, but it needs to come into this process.

23           There's a whole bunch of information that has been held  
24 over the last few years that are very relevant to this process,  
25 and how do we know what's even in those informations because we

1 never got any feedback documentation of our participation of  
2 what we put into the process to know whether or not it's really  
3 what we were intending to be absorbed in the process, or is it  
4 what the interpreter received and documented as their  
5 absorption of what we were communicating?

6 I know I talk really fast, I lose people in the  
7 process, and yet we're going through a piecemeal process in  
8 trying to come through and deal with what we're dealing with.

9 The City of Nuiqsut will be providing more comments in  
10 written documentation. Our tribal entity will be providing  
11 comments in a more concise manner, but we also have very  
12 limited staffing to try to deal with this amount of  
13 information. We're divided very thin, and we've got some  
14 really big documents that we're absorbing in this process.

15 Today I dealt with seven different meetings while we're  
16 getting ready for tonight's meeting. I didn't have a lot of  
17 leeway in the time to try to absorb some of the layers of  
18 information that are critical to tonight's meeting to  
19 effectively present them into our discussions here, and yet  
20 we're compounded in trying to come and participate at tonight's  
21 meeting.

22 So this is -- part of the issues that we're presenting,  
23 we really feel that there's a lot of issues. Some of the  
24 processes of getting information has not gone through well.  
25 There is notices in the Federal Registry, and yet our community

1 calendar had no documentation for a request to use the  
2 community center to schedule the meeting so that information  
3 didn't even occur, especially for today's meeting and the  
4 meeting that's scheduled for the 17th, and there's supposed to  
5 be a meeting on the 24th or the 26th, also, with EPA that --  
6 for the NPDES that we don't have that information, it's not on  
7 our community calendar, yet it's very relevant for these  
8 discussions.

9 We have received some information through the --  
10 whatchamacallit -- the Ocean Policies Task Force. There's  
11 information that is being generated through various processes,  
12 yet our access to some of this information is nonexistent. We  
13 have public computers available for people in the public to  
14 use, but our access, because of things that have happened to  
15 these things has been very limited over the last two months,  
16 and yet we have tons of information that's in the e-mail system  
17 waiting to be opened. I have about 6,000 e-mails I need to  
18 catch up on because I've had very limited access for two  
19 months. And this is the kind of things we're trying to deal  
20 with, dealing -- it's rural Alaska, and our ability to comment.

21 There is also a process for the Environmental Justice  
22 Symposium, Strengthening Environmental Justice Research and  
23 Decision-Making, a symposium on the science of disproportionate  
24 environmental health impacts. This is Nuiqsut. Nuiqsut 101,  
25 social impacts. This is who and what we are. This is our

1 daily lives. This is our yearly lives in our -- what we're  
2 doing. And yet there's a symposium being held in Washington,  
3 D.C. and we have key comments and meetings that are occurring  
4 at the same time here. Are we going to be able to get there?  
5 Can't divide into two. Have to choose. Which one's more  
6 priority? It's a meeting in our village about our impacts.  
7 Gee, I think I have to make the decision to stay here, but yet  
8 this is a really big opportunity to learn some more information  
9 that we just can't get off and do at the same time.

10 And this is the compounding of the problems that we're  
11 trying to deal with. Trying to be able to be involved at the  
12 various layers of participation. It's very difficult because  
13 of the dividing of the process and the compounding of the  
14 process. You just can't get to all of the various meetings in  
15 which the decisions are being made in which our impacts  
16 increase and compound when we're not at the table.

17 So I hope that the comments that were presented today  
18 are absorbed in a way that lead to some understanding about  
19 issues and concerns that we're trying to present. We hope that  
20 this process is opening the door to further processes before us  
21 because some of these things that have been done that are being  
22 used as guides have -- are misleading because of the blinders  
23 that were put into the process to -- like Oliktok and the  
24 overdevelopment in the ENI project. I'm blanking on the name  
25 of it right now.

1           When we dealt with those processes, we were dealing  
2           with one well. We've already got 19 at the Pioneer  
3           development, and there's going to be 42, but yet our process to  
4           deal with this was looking at one well.

5           Dealing with Alpine, we were looking at 14 acres, so  
6           the compounding of the change that occurred with that rapid  
7           expansion to over 400 acres in the process that's there, we  
8           were not dealing with 400 acres of placement process that we  
9           were planning with of leveling the amount of compounding of  
10          impacts, we were dealing with 14 acres, yet that's the process  
11          that is guiding some of these further decision-making  
12          processes.

13          Even the North Slope Borough where there are  
14          subsistence harvest report, industry took and put that  
15          information into the 2003 EIS for Alpine, and yet the borough  
16          does not have an independent report. They allowed industry to  
17          do the report so they put decisions on as to what criteria of  
18          where the data points were cut off or not included into the  
19          process. Even they are disconnected in the process.

20          So, you know, this is what we've got as our resource to  
21          work in this process. There's some big holes in these  
22          resources. There are big absences of these processes. But  
23          these are our daily lives. These are our children that are  
24          going to be out in the ocean with these changes, with these  
25          compounding of activities. And we already have seen what's

1 happening.

2 Our whaling activity has changed already. Our caribou  
3 hunting activity has changed already. Our seal hunting has  
4 changed already. These are illegal impacts. It's illegal,  
5 it's illegal, it's illegal. Please do something about this.  
6 Quit compounding it more and pushing your process through  
7 forward at our cost, because we have real children who are not  
8 able to come back to our village because they can't breathe.  
9 We have elders who are in the same boat. This is our daily  
10 lives.

11 Now, these risk factors of dumping more and more  
12 contaminants into the migratory pathways are what our children  
13 have to live for in the future. It should have never happened.  
14 We've demonstrated that it should have never happened. And  
15 take it back. Buy back those leases that were sold around  
16 Cross Island. Why the heck were they sold? How long does it  
17 take to compound our discussions to get them off the books? It  
18 shouldn't have happened.

19 You know the importance of Cross Island, yet we've got  
20 the information on e-mail that they were sold already. Buy  
21 them back, get them off the books. Keep them off the books.  
22 It's not going to change. The whalers are still going to have  
23 importance for that island. The whalers are still going to  
24 have importance for that area around that area. Buy them back.  
25 Thank you very much.



C E R T I F I C A T E

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UNITED STATES OF AMERICA )  
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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 11th day of March, 2010, at Nuiqsut, 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