

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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

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

PUBLIC SCOPING MEETING AND COMMENT PERIOD

POINT LAY, ALASKA

FEBRUARY 22, 2010

APPEARANCES:

- Michael Payne, National Marine Fishery Service
- Christopher Crews, Minerals Management Service
- Michelle Harper, URS
- Sheyna Wisdom, URS

\* \* \* \*

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

(On record)

(Presentation)

BILL TRACEY: Quick question.

MICHAEL PAYNE: Yeah.

BILL TRACEY: The monitors, are they hired or employees of the industry, or are they on their own?

MICHAEL PAYNE: Monitoring takes on different forms. Some of the monitoring is survey work, aerial work. That's not industry. The industry is if they contract somebody to do that. The observers that are on the vessels are often paid for by the industry, they're not necessarily -- they're not industry employees, though.

There are Native observers, for example, that have been on the ship. I don't think the oil companies have their own observers. I think they always try to get people either that are trained marine mammal observers or observers that are local.

SHEYNA WISDOM: NMFS has to approve.

MICHAEL PAYNE: And NMFS is supposed to approve the.....

SHEYNA WISDOM: But they are paid by the industry.

MICHAEL PAYNE: Yeah, they have to. The part -- the pay part is part of the mitigation. They have to come up with the money to do it. Excuse me. NMFS is developing a set of

1 standards for all observers, though, everywhere. And it hasn't  
2 really been completed yet or taken hold in the Arctic. The  
3 observers go through a minimum training, they are approved.  
4 They try to find observers that have been doing this for a  
5 while. There are Native Alaskan observers that have been doing  
6 it for quite a while that are very good. And we also try to  
7 find some new people that are good at monitoring.

8 But the biggest criticism -- one of the biggest  
9 criticisms this process has is this idea of we don't want the  
10 industry to be self-monitoring. And I understand that. I  
11 mean, that's like -- you just don't want to do that. In some  
12 cases it's really difficult not to because it's such a big  
13 ocean, you can't really -- you can't be a -- essentially be a  
14 cop. But you can be a -- you can't police the environment from  
15 shore. You really got to depend on the people out there. But  
16 to the extent that we can, we try to get people outside the  
17 industry to do the monitoring, either from the air or on the  
18 boats.

19 THOMAS NUKAPIGAK: Question. It's been, like, two  
20 years since they did the seismic. Why did you guys try to come  
21 up when they first.....

22 MICHAEL PAYNE: When they first did the seismic?

23 THOMAS NUKAPIGAK: Yeah.

24 MICHAEL PAYNE: Well, the -- for the marine mammal  
25 observers or.....

1           THOMAS NUKAPIGAK: For all the oil activities out  
2 there.

3           MICHAEL PAYNE: But I'm sorry, I missed the -- why  
4 haven't we come up with a monitoring plan that works better?

5           THOMAS NUKAPIGAK: Yeah.

6           MICHAEL PAYNE: Well, I think because, honestly, we've  
7 spent a lot of time arguing with each other over what is the  
8 best plan. Right now, for example, the industry does one kind  
9 of aerial survey when they monitor their vessels. When we do  
10 the research survey, the BWAS (ph) surveys, which is a  
11 different kind of pattern, and there's a real question as to  
12 whether or not which one is better and -- for the purposes of  
13 the monitoring. I think over time we'll work that one out.

14           The biggest problem with the monitoring in an area the  
15 size of the Chukchi is the communication from what's going on  
16 out there to land and get it back to the vessels. And NMFS and  
17 MMS have been trying to set up a -- kind of a comm-sat system  
18 for the past couple of years. And we were actually pretty  
19 close to getting something worked out a year ago, and then it  
20 kind of fell through the cracks. So I'll be the first to admit  
21 it. The person that was working on it left. And there just  
22 hasn't.....

23           THOMAS NUKAPIGAK: This won't fall through the cracks,  
24 will it?

25           MICHAEL PAYNE: Well, over time it won't. It has to

1 work. The communication is the most difficult thing to pull  
2 off so that it's realtime, so whatever the observers are seeing  
3 gets relayed back somehow to the seismic vessels back to the  
4 industry and then they get the -- you know, they get the cue to  
5 shut down or whatever. However, if it's a situation where  
6 they're in an area and a bunch of whales went by, they have the  
7 requirement to shut down immediately until they're out of  
8 sight, out of mind. So it's a -- I'll say the system has  
9 worked, for the most part, pretty well, but it could be a lot  
10 better, and everybody knows that. But I think it's going to be  
11 a little while before it gets perfect, if you will.

12 And actually, something we talked about this afternoon,  
13 that type of monitoring program would really fit really well in  
14 a series of regulations. If you could figure out how to make  
15 it work and put it in the regulations and make it consistent  
16 year after year, people will get used to doing that and it will  
17 become much better faster. Right now it's kind of ad hoc. We  
18 don't know from year to year how it's going to work. Yeah.

19 MARIE TRACEY: You said that taking of mammals?

20 MICHAEL PAYNE: Yeah.

21 MARIE TRACEY: If they accidentally kill a mammal, what  
22 do they do with the carcasses?

23 MICHAEL PAYNE: If they accidentally kill an animal,  
24 we'll be upset. Most of them -- well, they -- I don't think  
25 they've ever done that with an observer on board. This is

1 just -- somebody talked about a dead whale they found along the  
2 beach that got hit by a ship.

3 MARIE TRACEY: That's one.

4 MICHAEL PAYNE: Yeah, that's a little different  
5 situation. If they -- for seals, the requirement right now --  
6 and I don't know that it's going to be this way this year,  
7 because it didn't really work very well. But there was a  
8 requirement if they saw a floater come by in a seismic boat,  
9 they have to shut down, they went out and grabbed that seal,  
10 and they did a necropsy on it to see if they could determine  
11 what killed it. Quite often it was an animal that was shot and  
12 just lost. But you don't know that until you actually take a  
13 look.

14 We've never had a situation where we've had a dead  
15 bowhead that we had to bring in or something like that. At  
16 least not in the three years that I've been doing this. So  
17 that's a good question. I don't know if they actually saw a  
18 dead floating bowhead out there, I don't know what they would  
19 do if they do. It would probably depend a little bit on what  
20 shape it was in.

21 One thing that the North Slope Borough has now that  
22 they didn't have until a couple years ago, they have a pretty  
23 good stranding response program. And it's run out of -- I  
24 forget the woman's.....

25 SHEYNA WISDOM: Cheryl.

1           MICHAEL PAYNE: Cheryl, yeah. And at least for benefit  
2 for seals, for walrus, they're trying to get as many carcasses  
3 as they can when they find them on the beach. But again, that  
4 hasn't been the case for something as big as a bowhead. So  
5 I -- the situation just hasn't really come up. I don't know if  
6 you could do that. You guys probably know better than I. I  
7 think by the time you got a bowhead, it would be such a mess  
8 you probably couldn't tell what killed it anyway.

9           MARIE TRACEY: Yeah.

10          MICHAEL PAYNE: But I don't know. So for small  
11 animals, they're getting better. For big animals, it's still a  
12 problem.

13          MARIE TRACEY: Thank you.

14          MICHAEL PAYNE: Yeah, thank you.

15          (Presentation continued)

16          THOMAS NUKIPIGAK: How many permits you guys received  
17 for this year?

18          MICHAEL PAYNE: For this year? We've received seven  
19 applications for seismic. Five industry, two research, and  
20 then two applications for -- two applications for drilling.  
21 One in each ocean. Now, some of those seismic surveys, they're  
22 spread out pretty good. They're not all at the same time.  
23 They go anywhere from pretty early in the season in the  
24 Chukchi -- we have one seismic survey application, for the  
25 first time ever they want to do it on the ice after the bowhead

1 harvest, like in October, November.

2 They want to try it in the east -- far eastern Beaufort  
3 after the whole harvest is over. So that one really doesn't  
4 count too much because everything is over by then. But it's a  
5 pretty busy year. It's not as busy as it was in 2006. That  
6 was a pretty -- that was a busy year, except we got drilling  
7 now. So the combined effects of drilling on top of seismic is  
8 something that we really want to try to understand better.

9 The other thing I should have said earlier, this EIS is  
10 just getting going. This is kind of a long process. What goes  
11 on this year, whatever you tell us tonight, whatever comments  
12 you offer, won't be able to be incorporated into anything we  
13 really do to any great extent, at least till next year. This  
14 year we're going to be doing things pretty similar to what we  
15 have been doing, except that we're going to try to take a  
16 better look at the effects of drilling on top of seismic, which  
17 we've never had to do before.

18 (Presentation continued)

19 THOMAS NUKAPIGAK: You guys use all this with the  
20 satellite or.....

21 MICHAEL PAYNE: Some of it. Yeah, some of it. We do  
22 surveys ourselves, too. There's a lot of satellite  
23 information. Air quality is not something that we look at  
24 specifically, but it's something that we will be looking at  
25 over time. Especially if they get -- if somebody finds oil, we

1 want to do some exploratory things. Air quality will be much  
2 more of an issue, probably.

3 (Presentation continued)

4 THOMAS NUKAPIGAK: Question. This just going to be all  
5 to the oil industry or are you going to go further than the oil  
6 industry? What is.....

7 MICHAEL PAYNE: This particular assessment will focus  
8 just on the activities of the oil industry.

9 THOMAS NUKAPIGAK: It doesn't really. And I know other  
10 fisheries will say it's not the oil companies that do -- that  
11 disturb them. It's the other barges, like.....

12 MICHAEL PAYNE: Oh, vessel traffic?

13 THOMAS NUKAPIGAK: Yes.

14 MICHAEL PAYNE: Well, actually, let me back up a  
15 second. The primary activity that we're looking at is oil and  
16 gas. There is a section of this document called cumulative  
17 impacts where we'll be looking at the effect of oil and gas in  
18 addition to everything else. And but the focus isn't to  
19 regulate everything else right now. You know, that's going to  
20 be more of an issue as you -- if things keep melting. Or  
21 eventually if you have vessel traffic lanes up here, that will  
22 be really a significant issue.

23 THOMAS NUKAPIGAK: Because I know when you go to  
24 Nuiqsut, you'll hear a lot of this other, you know, entities  
25 that's disturbing the.....

1           MICHAEL PAYNE: Disturbing them?

2           THOMAS NUKAPIGAK:   .....disturbing their hunt.

3           MICHAEL PAYNE: Well, if there are those type of

4 activities going on here, not associated with the industry, I'm

5 not talking about barge traffic where they're bringing people

6 back and forth, but some other activity that we don't know

7 about, that should be considered in this cumulative impact

8 that -- that would be a good thing to let us know. Okay. And

9 I don't know what it would be up here. I don't know the area

10 that well. I don't even know how much large container traffic

11 goes through the Bering Strait, for example. I know a lot of

12 it goes through Unimak to Japan, but I don't know how much

13 comes up this way and around to where Russia and.....

14           THOMAS NUKAPIGAK: Where Bowhead and Crowley come up

15 here in the summer.

16           MICHAEL PAYNE: Yeah.

17           SHEYNA WISDOM: Crowley and who?

18           THOMAS NUKAPIGAK: Bowhead.

19           SHEYNA WISDOM: Bowhead.

20           THOMAS NUKAPIGAK: And then Crowley was the one that

21 disturbed Nuiqsut's hunt.

22           MICHAEL PAYNE: Oh, yeah? And they're a barge company?

23           THOMAS NUKAPIGAK: Fuel.

24           MICHAEL PAYNE: Fuel. Oh, okay. Okay.

25           (Presentation continued)

1 THOMAS NUKAPIGAK: That's what I was going to say.  
2 It's different every year. It seems that we're getting earlier  
3 and earlier in hunting belugas. And I'm going to say end of  
4 June to maybe the second part of July. There's no activities  
5 over.....

6 MICHAEL PAYNE: Yeah.

7 (Presentation continued)

8 MARIE TRACEY: You're talking about historical and  
9 cultural sites, I think the whole ocean is a historical and  
10 cultural site.

11 MICHAEL PAYNE: Well, there are agencies that agree  
12 with you, especially in the Bering Sea Land Bridge site area.

13 MARIE TRACEY: Yeah.

14 MICHAEL PAYNE: Well, I'll tell you, that's a  
15 legitimate comment. Right now I don't know how to respond to  
16 it too well.

17 MARIE TRACEY: Because on land we have cultural and  
18 historical sites.

19 MICHAEL PAYNE: Yeah.

20 MARIE TRACEY: Why not the ocean?

21 MICHAEL PAYNE: Well, you're right. And in some places  
22 there are. I mean, other places, there's designated sites like  
23 that, so it's not -- it's actually a good comment, especially,  
24 like I say, for the Chukchi. Perhaps more so than even for the  
25 Beaufort, because there is such an historical geological wealth

1 of knowledge about this area and its importance, and so -- and  
2 there are a number of private organizations, as well as other  
3 agencies that kind of look at this whole area up here as  
4 something that should be conserved as its own independent -- I  
5 don't know what they're called. The ecosphere, if you will.

6 So it's actually a very good comment, I just don't have  
7 a really good answer, I'm sorry. But put it in there, we'll  
8 try to give you a good answer. If you don't like it, try  
9 again.

10 MARIE TRACEY: What about the polar bears? Are they  
11 endangered species right now? Or they're talking about it?

12 MICHAEL PAYNE: No, they are actually endangered.

13 MARIE TRACEY: They are? Okay.

14 MICHAEL PAYNE: They were listed as endangered a year  
15 ago.

16 THOMAS NUKAPIGAK: Threatened.

17 MARIE TRACEY: Threatened?

18 MICHAEL PAYNE: Threatened. Okay. And the  
19 difference -- I guess the Fish & Wildlife Service probably made  
20 the distinction. There are prohibitions for endangered that  
21 aren't necessarily that way when they're threatened. But  
22 nonetheless, for the most part, we treat threatened species  
23 much like we would an endangered species in many ways. I think  
24 the Fish & Wildlife is going through the process now of trying  
25 to figure out what to do for critical habitat, which will be a

1 real kick.

2 And the polar bear is not one of the species that NOAA  
3 has the authority to do anything about, but in this particular  
4 process, we'll contact Fish & Wildlife, and we already have,  
5 actually. We got a letter back from them just the other day  
6 saying they'd like to kind of work with us on this. And I  
7 assume it's for polar bear and walrus, probably.

8 And the other thing is we try very hard -- as a matter  
9 of fact, our attorneys say we shouldn't. We try very hard not  
10 to issue a permit that allows the taking, the disturbance of  
11 whales, seals, and belugas, things like that that we're in  
12 charge of. And if it's going to take other species that we're  
13 not in charge of, that's -- without dealing with another  
14 agency.

15 So if we know that this permit is going to allow the  
16 oil and gas industry to harass whales and also harass polar  
17 bears, we will consult with the Fish & Wildlife Service to  
18 figure out how they want to treat the polar bear, what they  
19 want to do with polar bears. Do we want to issue takes for  
20 polar bears? Or do they want to tell us you can't do that,  
21 just leave polar bears alone?

22 And we have been told to not -- not with polar bears,  
23 not up here, but in previous situations where I've consulted  
24 with Fish & Wildlife, I've been told you can't do what we were  
25 going to do because it affects their species. And so we just

1 don't issue the permit in that case. I don't know if that will  
2 happen here. But we will be consulting with Fish & Wildlife to  
3 try to figure out what to deal with -- how to deal with their  
4 species.

5           Actually, polar bear and walrus are two really  
6 significant species in this action, and the way they're split  
7 up in the federal government doesn't help us deal with them  
8 very well, to be honest. But again, another good question. So  
9 I didn't know if they were going to work with us or not, but we  
10 just got back a letter saying they want to work with us, much  
11 like MMS is working with us. So when I get back to D.C. we'll  
12 have to contact them and figure out what they want to do.

13           MARIE TRACEY: Well, it seems nowadays that we need  
14 license, we need to pay for license to get anything.

15           MICHAEL PAYNE: Yeah. Or you need a permit to get a  
16 license. Yes, that's true. That is true. And I have to  
17 admit, it's not getting any better with any agency. But that's  
18 good.

19           MARIE TRACEY: Mr. Moose, you better stay put until I  
20 can get a license.

21           THOMAS NUKAPIGAK: Your plane -- your driver will be  
22 here in about 45 minutes.

23           MICHAEL PAYNE: Okay. Thank you.

24           THOMAS NUKAPIGAK: He just texted me.

25           MICHAEL PAYNE: Oh, that's what that was? Oh, okay.

1 Thank you. Okay. So I don't know if you have any other  
2 comments. I really -- again, thank you for coming tonight. We  
3 had a good discussion this afternoon, I think. I hope we did.  
4 I did. I thought it was good. And so if we can -- if you have  
5 any questions, feel free to contact me anytime. We'll get back  
6 to you somehow. Or contact URS. They're local. More local  
7 than I am. And we'll try to make this work out. That's the  
8 best thing I can say, we'll try to make this work out.

9 So thank you again for having us, and have a good  
10 night.

11 (Off record)

12 (On record)

13 BILL TRACEY: Bill Tracey, Senior. Speaking as a  
14 citizen of the Native Village of Point Lay. A couple of things  
15 I wanted to comment on. And one is earlier in the discussion  
16 we talked about environmental justice. I just wanted to  
17 explain a little bit about what I understand about that  
18 subject.

19 It has to do with sharing. If Point Lay catches a  
20 beluga whale, that beluga whale is shared with people as far  
21 away as Anchorage, Kotzebue, Nuiqsut, it just goes all over the  
22 place. So if we get 30 belugas, I wouldn't be surprised if  
23 that showed up in 30 villages. Same with Nuiqsut. They  
24 have -- they're catching bowhead. If they catch a wolf, some  
25 way or another that affects another community because of the

1 sharing aspect of it. The type of fish that they catch in  
2 Nuiqsut, we'll trade with them, with belugas or something that  
3 we have. Kotzebue with the sheefish or with the reindeer.  
4 That's coming up here, and we're sending food down there.

5 So when something affects Point Lay, little old Point  
6 Lay in the middle of north nowhere, it's felt in Anchorage in  
7 some way, in some fashion. So yes, if there is something big  
8 that happens offshore at Point Lay and it contaminates, say,  
9 our lagoon system, we're not catching the belugas anymore,  
10 people in the whole state of Alaska are going to feel that.

11 So that's what I kind of felt environmental justice  
12 means to me.

13 MICHAEL PAYNE: Good point.

14 BILL TRACEY: It's just -- it's a sharing state. I've  
15 never seen anything like that. I come from Connecticut, and  
16 man, if you don't protect what you've got, you lose it.

17 MICHAEL PAYNE: Yeah, you don't share that.

18 BILL TRACEY: So that was one comment I wanted to make.  
19 The other one is about cumulative effects. It's not -- I don't  
20 think it's just the ships being offshore doing their seismic,  
21 or the ships offshore doing the actual drilling and production.  
22 It should include the fact that each and every village in the  
23 last 30 years has grown two, three, four times in size.

24 So there's more people here. We're hunting more. The  
25 subsistence needs are greater. We've got more airplanes in the

1 sky bringing us supplies and mail. And then, of course, the  
2 barge is coming up to bring our fuel and our groceries on an  
3 annual basis. There's more and more.

4 So just fact that we're here with no industry at all is  
5 an effect. So now if you add the offshore activity, the  
6 on-shore activity. We've got BHP doing a coal study 40 miles  
7 south of us. We've got several agencies here doing studies.  
8 They're studying loons, they're studying seals, walruses, polar  
9 bears. We've got guys coming here and studying salmon. All  
10 these guys included. And then, of course, we've got the  
11 activity with the barges servicing Prudhoe Bay, we've got the  
12 airplanes in the sky.

13 So when you do a cumulative effect of study, you need  
14 to cover everywhere. Just our existence up here is -- and  
15 then, I guess, if you throw in Mother Nature, which you almost  
16 have to. The erosion up here, the subsidence type erosion is  
17 tremendous. I could take you outside, across the street, and  
18 show you an outside staircase on a home where the bottom step,  
19 of course, was at ground level, and it's now six feet in the  
20 air.

21 MICHAEL PAYNE: Goodness.

22 BILL TRACEY: So, I mean, there's a lot of things  
23 happening here that's kind of behind the scenes, but I think  
24 it's all related in one fashion or another. We're in trouble  
25 already before we even start any activity.



C E R T I F I C A T E

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

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

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

That the annexed and foregoing National Oceanic and Atmospheric Administration: Effects of Oil and Gas Activities in the Arctic Ocean, Environmental Impact Statement Scoping Meeting was taken before me on the 22nd day of February, 2010, at Point Lay, 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, 550 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