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IN THE TRIAL COURTS FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT  
AT ANCHORAGE

STATE OF ALASKA,

Plaintiff,

vs

JOSEPH HAZELWOOD,

Defendant.

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No. 3AN 89-7217; 3AN 89-7218

TRIAL BY JURY  
FEBRUARY 21, 1990  
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H & M Court Reporting  
510 "L" Street, Suite 350  
Anchorage, Alaska 99501  
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BEFORE THE HONORABLE KARL S. JOHNSTONE  
Superior Court Judge

Anchorage, Alaska  
February 21, 1990  
8:35 a.m.

APPEARANCES:

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TABLE OF CONTENTS

WITNESS INDEX

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
FOR PLAINTIFF:					
STALZER, MICHAEL					
Mr. Cole	4641		4758		
Mr. Madson		4704		4770	
HILSINGER, JOHN					
Ms. Henry	4778				
Mr. Madson		4792			
THORSON, MARK					
Ms. Henry	4801		4810		
Mr. Madson		4806			
MYERS, PAUL					
Mr. Cole	4811				
Mr. Chalos		4824			

---

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EXHIBIT INDEX

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
18	Maneuvering Chart - blow-up	4658
39	Photograph - port bridge	4649
41	Photograph - collision avoidance	4644
44	Photograph - bridge bulkhead	4643
46	Photograph - chart room	4642
56	Photograph - bridge books	4649
70	Photograph - Captain's stateroom forward	4669
71	Photograph - Captains stateroom starboard	4669
104	Letter from District Attorney's office to Mr. Greenberg granting immunity to Mr. Myers	4824

---

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1 PROCEEDINGS

2 FEBRUARY 21, 1990

3 (Tape: C-3629)

4 (1317)

5 (Jury present)

6 THE CLERK: ...with the Honorable Karl S.  
7 Johnstone presiding is now in session.

8 THE COURT: Thank you. You may be seated.  
9 You may resume, Mr. Cole. And you're still  
10 under oath, sir.

11 MR. COLE: Thank you.

12 MICHAEL A. STALZER

13 recalled as a witness in behalf of the plaintiff,  
14 having previously been sworn upon oath, testified as  
15 follows:

16 DIRECT EXAMINATION OF CAPTAIN STALZER

17 BY MR. COLE:

18 Q Captain Stalzer, when we left off we were  
19 discussing a little bit about the operation of  
20 the bridge. I have a couple photographs here I'd  
21 like you to take a look at.

22 I'm showing you what's been marked for  
23 identification as Plaintiff's Exhibit 46. Do you  
24 recognize that photograph?

25 A That looks like the chartroom on the bridge of

1 the Exxon Valdez.

2 Q Is it a fair and accurate representation of  
3 that portion of the chartroom that it shows?

4 A I believe it is.

5 MR. COLE: I would move for the admission of  
6 what's been previously identified as Plaintiff's  
7 Exhibit 46.

8 MR. MADSON: I thought that one was admitted.  
9 It wasn't?

10 THE COURT: Any objection?

11 MR. MADSON: No objection. No.

12 EXHIBIT 46 ADMITTED

13 THE COURT: It's admitted.

14 Q (Captain Stalzer by Mr. Cole:) I'm also  
15 showing you a copy of what's been identified as  
16 Plaintiff's Exhibit 44. Do you recognize that  
17 photograph?

18 A That appears to be a portion of the wheelhouse  
19 on the Exxon Valdez.

20 Q And is that a fair and accurate representation  
21 of the wheelhouse there on the Exxon Valdez?

22 A Of what it shows, it appears so, yes.

23 MR. COLE: I would move for the admission of  
24 what's been identified as Plaintiff's Exhibit 44.

25 MR. MADSON: No objection.

EXHIBIT 44 ADMITTED

1  
2 THE COURT: Admitted.

3 Q (Captain Stalzer by Mr. Cole:) When you say  
4 wheelhouse, Captain Stalzer, is that also the  
5 chartroom? What's the difference between the  
6 wheelhouse and the chartroom?

7 A Well, the bridge is a term that would  
8 encompass both the wheelhouse and the chartroom.

9 Q Okay. Maybe if you show the people with that  
10 diagram?

11 A The chartroom would be (microphone dropped)  
12 I'm sorry.

13 The chartroom would be in this portion of the  
14 bridge. And the wheelhouse would be this portion  
15 of the bridge.

16 Q Now, showing you what's been marked for  
17 identification as Plaintiff's Exhibit 41, do you  
18 recognize that photograph?

19 A That appears to be a photograph of the right  
20 starboard hand side radar console, and a portion  
21 of the engine console in the wheelhouse.

22 Q And as to what this picture actually depicts,  
23 is that a fair and accurate depiction of that  
24 particular instrument?

25 A I would say so.

1 MR. COLE: I would move for the admission of  
2 what's previously been identified as Plaintiff's  
3 Exhibit 41.

4 MR. MADSON: No objection.

5 EXHIBIT 41 ADMITTED

6 THE COURT: It's admitted.

7 Q (Captain Stalzer by Mr. Cole:) While we're  
8 here looking at the radar, would you tell the  
9 jury what this is, right here?

10 A That's a removable hood that goes over the  
11 display -- the CRT, so that in daylight I can  
12 block out the surrounding sunlight and you can  
13 get a better view of the CRT. It's not  
14 necessarily used at night.

15 Q Would you describe for the jury -- let's say  
16 that you were in the Port of Valdez, what would  
17 it look like if you looked at a radar -- into the  
18 radar screen? How would the land show up?

19 A Well, depending on the scale you were on it  
20 would show up as a return -- continuous return in  
21 the case of Port Valdez, if you had the proper  
22 scale on.

23 Q When you say a continuous return would you  
24 describe for the jury -- is it a color? Is it a  
25 mass, or...



1       A           It's -- yeah.  It's a return from the CRT.  
2                   It's a continuous line if it's land.  And the  
3                   return is continuous.  It would show the outline  
4                   of the surrounding land, similar to what you  
5                   would see on a chart for if you just had the land  
6                   presentation.

7       Q           What about ice?  How does ice show up on a  
8                   radar?

9       A           Ice is a poor radar target.  It would -- if  
10                   the return was strong enough it will show up on  
11                   the display as any other target.

12      Q           Why do you say it's a poor target?

13      A           The -- how the radar instrument works, it  
14                   sends out a radio wave and when the radio wave  
15                   strikes an object some of that radio wave is  
16                   bounced back, or whatever direction, whatever  
17                   angle it happens to hit that object.

18                   Now, ice is not considered a reliable target  
19                   because you never know what shape of that ice  
20                   mass might be, whether it's gonna send a return  
21                   back to the radar.  So, typically, you would get  
22                   a return from ice in the two to three mile range.  
23                   If it had a lot of mud in the ice you might pick  
24                   it up a little bit further than that, but...

25      Q           So, it's within the two to three mile range

1 that you start picking up ice? Can you pick it  
2 up further than two to three miles?

3 A You possibly could, yeah.

4 Q How can you tell how big the ice is by what  
5 shows up on your radar?

6 A I don't believe you can determine the size of  
7 the ice from looking at the radar.

8 Q How can you tell whether it's continuous, or  
9 just one or two pieces, or -- is there any  
10 problems with how much ice is in a given area?  
11 Problems with telling how much ice is in a given  
12 area by looking at the radar?

13 A Well, again, ice is not a good target return.  
14 So, you can not be assured that every piece is  
15 being indicated on the radar scope. If the  
16 pieces that the radio wave comes back from is  
17 strong enough to activate the CRT screen, the  
18 PPI, you'll get a target indication on there.  
19 And if the pieces are widely dispersed -- if  
20 they're far enough apart, they will show up as  
21 individual specks.

22 Q And if they are not widely dispersed, could  
23 they show up as one solid mass, almost, or  
24 clumps?

25 A That's correct. If they are very close

1 together, they might show up as one target.

2 Q Does it make a difference as far as the  
3 accuracy of your radar being able to pick up ice  
4 in front of you how far away and which particular  
5 radar you're using?

6 A Would you repeat that question, please?

7 Q Does it make a difference in being able to  
8 ascertain the accuracy of where the ice and how  
9 much it is depending on how far away you are from  
10 the ice? Let me just ask that?

11 A Okay. Yes. Distance away from the ice will  
12 effect what is returned. The closer you are --  
13 if the radio wave only has to, say, travel one  
14 mile out and one mile back, the return would be a  
15 given set strength.

16 For example, if it had -- if the radio wave  
17 had to go out ten miles and return ten miles a  
18 set return pulse is what activates the scope, so  
19 it has to be much stronger return from a 10 mile  
20 target than from a one mile target in order to  
21 travel the whole distance, to come back and reach  
22 the threshold of the equipment to activate the  
23 pulse.

24 Q So, in essence it would be, you would get a  
25 better chance of seeing ice closer up to it?

1 A That's correct. However, please remember that  
2 ice is not a reliable target.

3 Q Well, if it's not a reliable target on radar  
4 how do you avoid it when you're navigating a  
5 ship? What's -- I mean, if you can't -- do you  
6 depend on your radar, or what other things do you  
7 use to avoid ice?

8 A You use all the information that's available,  
9 which would include the observations of the look  
10 out, your own observations, those of the watch  
11 officer. There might be some outside sources.  
12 If other ships had passed through the area they  
13 might report ice. That would alert you to its  
14 presence over the VTS.

15 Q Now, I'm showing you what's been marked for  
16 identification as Plaintiff's Exhibit 39. Do you  
17 recognize that photograph at all?

18 A It appears to be the port bridge wing of the  
19 Exxon Valdez.

20 Q Fair and accurate representation of that part  
21 of the Exxon Valdez?

22 A I believe so.

23 Q I would move for the admission of what's been  
24 identified as Plaintiff's Exhibit 41 [sic].

25 MR. MADSON: No objection.

1 EXHIBIT 39 ADMITTED

2 THE COURT: It's admitted.

3 Q (Captain Stalzer by Mr. Cole:) Finally, on  
4 the bridge, do you keep manuals and references  
5 and books available that could aid in navigation?

6 A Yes. We do.

7 Q I'm showing you what's been identified as  
8 Plaintiff's Exhibit 56. Do you recognize that?

9 A It appears to be a bookshelf from the back  
10 wall of the Exxon Valdez.

11 Q Is it an accurate representation of that  
12 bookshelf as you remember it?

13 A Yes. I would say so.

14 MR. COLE: I would move for the admission of  
15 what's been identified as Plaintiff's Exhibit 56.

16 MR. MADSON: No objection.

17 EXHIBIT 56 ADMITTED

18 THE COURT: It's admitted.

19 Q (Captain Stalzer by Mr. Cole:) I'd like to  
20 talk just a minute about the charts that you use  
21 in and out of Valdez.

22 Are these charts -- are they like a regular  
23 map a seaman uses, or do they take into account  
24 magnetic, or true north? How do they take into  
25 account that, these charts?

1 A Well, they chart appears to be a Mercator  
2 chart, so true north would be indicated straight  
3 up along the longitude lines. There's a compass  
4 rose that will indicate the magnetic north.

5 Q And the -- would you explain to the jury what  
6 all the numbers are in the water areas?

7 A Well, some of the numbers in the water areas  
8 are soundings. On this particular chart they're  
9 in fathoms, I believe, soundings in fathoms.

10 So, there may be other numbers in the water  
11 area that would indicate the buoys and the light  
12 characteristics of the buoys and the distance the  
13 light can be seen.

14 There's other numbers locating notices that  
15 refer to other notices that are printed on the  
16 body of the chart.

17 There are some number for the Loran lines on  
18 this particular chart.

19 I might be able to pick out some more little  
20 numbers somewhere.

21 Q Would you explain to the jury how does tides  
22 going in and out effect the fathometer marks? If  
23 you have a rising tide does that make a  
24 difference, or a low tide?

25 A Well, the chart is set up for -- soundings are

1 at mean low in the water. So, tides are water in  
2 addition to what you would find according to the  
3 soundings.

4 Of course, the soundings are dated. They're  
5 not done yearly, or anything like that. They're  
6 done whenever the NOAA gets around to it, or  
7 whatever system they have set up -- mechanism  
8 they have set up for surveying. And the charts  
9 are dated. So, you need to refer to the dates on  
10 the soundings.

11 Q How many feet is a fathom?

12 A Six feet to a fathom.

13 Q And would you, if you were in eight feet of -  
14 - if a chart registered eight fathoms, how would  
15 a low tide or a high tide effect that  
16 measurement?

17 A Well, you'd have to get the tide tables out  
18 and compute the difference from -- eight fathoms  
19 would say 48 feet, to the mean low of -- this  
20 chart is in mean low in the water, which is the  
21 normal. You would then have to compute the  
22 difference between mean low in the water and the  
23 low tide or the high tide and adjust the sounding  
24 accordingly to get the actual depth of the water  
25 at any given time.

1 Q Now, when you were operating the Exxon Valdez  
2 would you explain to the jury how the radar can  
3 be set up to either point to north, or how it can  
4 be set up to point toward the direction that the  
5 tanker is travelling?

6 A Well, you have a switch on the radar that  
7 permits you to have what we call a heads up  
8 display, where, if you're facing forward the  
9 display will display exactly what you see  
10 forward.

11 There's another option on the radar that  
12 permits the radar to be oriented towards north so  
13 that up on the radar, as you look down at it, is  
14 north.

15 Q When you're traveling in the Prince William  
16 Sound what do you keep it on?

17 A Generally I use north up.

18 Q Why is that?

19 A It's my personal preference.

20 Q Is there any particular reason, or it's just  
21 you feel more comfortable, or...

22 A Well, with the heads up display as the ships  
23 heading changes the picture on the scope changes  
24 then.

25 With a north up display, as the heading



1 changes the picture stays the same. So, it's a  
2 little easier to plot and use some navigation  
3 techniques that I use. So, I prefer north up.

4 Q Would you describe for the jury what type of  
5 system turns the Exxon Valdez, steers it?

6 A It's a SRP-2000 is the steering console on the  
7 bridge, and there's steering gear in the steering  
8 gear room that actually moves the rudder.

9 Q Could you give the jury an idea of how easy it  
10 is to turn the wheel on the steering console?

11 A It's rel -- very easy to turn the wheel on the  
12 SRP-2000. It's a small wheel. It doesn't take a  
13 lot of force. It's very easy.

14 Q I'd like to talk for a minute about the  
15 throttle, or the telegraph mechanism.

16 You indicated yesterday that your general  
17 practice was to control it from the bridge?

18 A That's correct.

19 Q And can you give the jury an idea of the  
20 approximate speeds -- well, let's see. What are  
21 the settings that someone can set the telegraph  
22 at for the ahead mode?

23 A Just for the ahead mode?

24 Q Uh-huh (affirmative).

25 A You have dead slow ahead, which is 24 rpm,

1 slow ahead, which is 32 rpm, half ahead, which is  
2 40 rpm, and full ahead, which is 55 rpm.

3 Q Can you give the jury an idea of how fast a  
4 tanker would be proceeding at each one of those  
5 rpms?

6 A Well, it varies...

7 Q Depending on whether it's laden or unladen.

8 A That's correct. It will depend on whether  
9 it's laden or unladen, and the wind and sea  
10 conditions, the amount of grass, if you have  
11 anything growing on the hull, but generally...

12 Q Grass? Did you say grass?

13 A If -- the hulls are coated with a paint that  
14 prohibits marine growth, because the more marine  
15 growth you have on the hull, that tends to retard  
16 your speed through the water. So, water  
17 conditions enter into how fast the vessel will  
18 actually go.

19 Q Let's say in a calm water with fully laden  
20 tanks, can you give the jury an idea of the  
21 various speeds?

22 A I -- yeah. I can give you a general idea.  
23 Those characteristics are posted on the bridge.

24 For dead slow ahead at fully laded draft,  
25 you'll have about, oh, about 5.5 knots.

1           For slow ahead you'll have about 6.2, 6.3  
2           knots.

3           For half ahead you will have about 8.5 to 8.7  
4           knots, depending on the conditions.

5           And full ahead, you'll have -- full ahead  
6           maneuvering, 55 rpm, you'll have about 11.4  
7           knots, fully loaded.

8       Q           And would the amount of oil -- you say the  
9           amount of oil that the tankers carry would effect  
10          those speeds?

11       A           That's correct. Less oil, when you're in  
12          ballast, your speeds would be a little greater  
13          than that.

14       Q           Now, you indicated earlier yesterday that you  
15          had been involved in some of the tests designed  
16          to test the maneuvering characteristics of the  
17          Exxon Valdez, is that correct?

18       A           I don't know whether I indicated that  
19          yesterday, but I have been involved with  
20          maneuvering characteristics, yeah.

21       Q           And are those characteristics, the maneuvering  
22          characteristics, have there been some done when  
23          the tanker is fully laden, fully -- or, unladen,  
24          making hard starboard turns, hard port turns,  
25          things like that?

1 (2246)

2 A On sea trials we did do maneuvering  
3 characteristic tests, yes.

4 Q Is that -- the results of those particular  
5 tests posted up on the bridge?

6 A The -- in February when I left the vessel the  
7 posted characteristics, I believe were computer  
8 generated from Exxon International Corporation.  
9 They -- prior to them being issued they were  
10 compared to a set of maneuvering characteristics  
11 that NESCO, I believe constructed, and also, a  
12 empirical test which we did on the vessel to try  
13 to confirm the actual characteristic of the ship  
14 to the computer characteristics.

15 I believe the EIC, or those characteristics  
16 that were posted were the most accurate that were  
17 available, yes.

18 Q When you say, "we did some trials...", who is  
19 we? You, personally, did some maneuvering  
20 characteristics?

21 A Yes. Let me explain. After the vessel left  
22 Portland in 1988 we -- we were checking out the  
23 maneuvering characteristics of the vessel.

24 We -- I mean, in that I, personally, did some  
25 tests. And Captain Hazelwood conducted some

1 tests and left that information with me. And I  
2 forwarded -- I combined the two tests, or the  
3 number of tests that we both did together in a  
4 letter to the office at the time we were trying  
5 to confirm those characteristics.

6 Q Now, I'm showing you what's been marked for  
7 identification as -- which has previously been  
8 admitted as Plaintiff's Exhibit 7. Do you  
9 recognize that?

10 A It appears to be -- let me look at the second  
11 page here.

12 Are these the same?

13 They appear to be maneuvering characteristics  
14 of the Exxon Valdez.

15 Q Now, I'm showing you what's been marked for  
16 identification as Plaintiff's Exhibit 18. Does  
17 that appear to be a blow up of those  
18 characteristics? An accurate blow up of those  
19 characteristics?

20 A Well, I'd have to check -- I have to check  
21 every number on there.

22 Q Take your time.

23 (Pause)

24 A Yes. It appears to be an enlarged copy of  
25 this.

1 MR. COLE: I would move for the admission of  
2 what has been previously identified as Plaintiff's  
3 Exhibit 18.

4 MR. MADSON: No objection.

5 EXHIBIT 18 ADMITTED

6 THE COURT: Admitted.

7 Q (Captain Stalzer by Mr. Cole:) Now, Capt.  
8 Stalzer can you -- would you mind taking the  
9 pointer, there, and explain to the jury what  
10 happens -- give them an idea of how you would  
11 read a chart like this to understand it. Maybe  
12 you could start with a deep water turning circle  
13 of a full sea speed...

14 THE COURT: That'll come with you, Captain.  
15 Just grab the amplifier at the base of it.

16 A Okay.

17 THE COURT: And the pointer is right next to  
18 your left elbow behind you.

19 Q (Captain Stalzer by Mr. Cole:) You need to  
20 hold that or...

21 A Well, let's just leave that there.  
22 How do you read this?

23 Q Yeah. Let's start with a full sea speed  
24 unladen, or a laden turn to the starboard side?

25 A If you're referring to this...

1 A Okay. That -- how you would interpret that,  
2 it's for a hard over command when the vessel is  
3 fully laded. The drafts are indicated 64, or  
4 about 64-1/2 feet fore and aft. You would put  
5 the wheel hard over...

6 Q Hard over meaning what?

7 A 35 degrees.

8 Hard right, in this case...

9 THE COURT: Captain, so we won't have that  
10 problem continuously, just take that and snap it to  
11 your belt, or stick it in your pocket, or something.

12 A You would -- a hard right is 35 degrees right  
13 rudder. The vessel will -- and this is at full  
14 sea speed.

15 Q (Captain Stalzer by Mr. Cole:) And how fast  
16 would that be in terms of knots?

17 A Well, if you're referring to this diagram,  
18 fully loaded, full sea speed in a loaded  
19 condition would be 15.96. Again, it would vary,  
20 depending on the wind and the weather conditions  
21 and the other conditions about the vessel.

22 Q Slide this to the right so that we make sure  
23 that all of the jurors can see it, please.

24 A So, the vessel will go approximately point --  
25 according to this chart .59 nautical miles

1 advance. At the time it is 90 degrees from the  
2 time that you began your turn, it will have  
3 traversed .03 nautical miles to the right.

4 The turn -- at that point, you'll have a speed  
5 of about 10.8 knots. And it took 2.8 knots to  
6 reach that position.

7 Q So, these tankers don't turn immediately when  
8 you turn them in other words? When you turn the  
9 wheel, it takes a little while for them to  
10 actually turn?

11 A That's correct. In this case, about six  
12 tenths of a mile.

13 Q And is that something that you would want to  
14 take into consideration before executing a  
15 maneuver?

16 A Yes. I take that into consideration.

17 Q Why does it take so long for these tankers to  
18 turn to a 90 degree angle going at a hard right?

19 A Well, I think you're getting into the dynamics  
20 of the ship's motion through the water, and  
21 friction on the vessel, and the size of the  
22 rudder, the speed of the force on the propeller.  
23 So, it's not like -- it's not exactly like  
24 driving an automobile, where you have very good  
25 friction between your tires and the concrete.



1 Q Well, does it make a difference, the fact that  
2 it's so heavy? Let's compare the full sea speed  
3 full loaded with when it's in ballast condition  
4 making a hard right turn. How does that effect  
5 it?

6 A Okay. We could -- we can look at those two,  
7 full sea speed in a ballast condition. We can  
8 compare those two numbers.

9 The advance is slightly more in ballast, .61  
10 nautical miles. The transfer is slightly  
11 greater, .36 nautical miles. The speed is  
12 slightly greater at the 90 degree turn, 2.1  
13 knots. And the time to reach that turn, though,  
14 is a little bit less, 2.5 minutes, compared to  
15 2.8 minutes.

16 Q So, it just does everything just a little bit  
17 quicker?

18 A Well, the vessel is traveling at a greater  
19 rate of speed. When you refer to the fully  
20 loaded ballast, it's doing 17.8 knots. So, it -  
21 -it is turning quicker. It started with more  
22 speed. There's more force on the rudder. And it  
23 turns a little quicker, I guess.

24 Q Now, if you were traveling in full maneuvering  
25 speed, you would -- would you be in one of these

1 categories that is set up here?

2 A No. These categories are specifically set up  
3 for the speeds indicated, full sea speed, half  
4 speed, which is half ahead maneuvering, loaded  
5 and same speeds for in ballast. So, there is no  
6 chart for maneuvering speed...

7 Q How would you determine how far -- I guess  
8 they call that -- you would advance if you were  
9 going to make a hard right turn at full  
10 maneuvering speed?

11 A Well, you -- that's gained through experience  
12 on how far you think the vessel is gonna go under  
13 given conditions of tides and current when you're  
14 in full ahead, or anything that's not posted.

15 Even these speeds are not -- these distances  
16 and speeds and times are not necessarily exact.  
17 Every situation is different. The wind and  
18 current effects them, and the actual trim. You  
19 have to be actually in that loaded condition and  
20 trim according to what those are.

21 Q So, it's more of a feeling that you acquire  
22 over time? Is that pretty much what you're  
23 telling the jury?

24 A Yes. Yeah. That's exactly so. Everyone  
25 picks their own standards as far as if the

1 vessel's turning quick enough in the different  
2 situations. It's a seaman's eye. You have to  
3 examine that. And if it's not turning fast  
4 enough, if you only have five degrees rudder on,  
5 you'll put 10 on, or 15, or whatever. Or, if  
6 it's turning too fast, you might give counter  
7 rudder to stop it.

8 Q What about when you turn not 35 degrees, but,  
9 say, 10 degrees? How does that effect your rate  
10 of turn...

11 A Well, I...

12 Q ...or your advance?

13 A I would suspect the advance would be longer.  
14 You're not gonna make that sharp of turn with  
15 less than 35 degrees rudder.

16 Q Okay. That's all the questions I have on  
17 that. Thank you.

18 (Pause)

19 Captain Stalzer, can you -- now I'd like you  
20 to talk just for a minute about communications  
21 equipment that you had on board the Exxon Valdez.  
22 What type of radios did you have at your disposal  
23 aboard the Exxon Valdez to talk to people off the  
24 vessel?

25 (2889)

1 A We had VHF radios.

2 Q How many of those would you have had? Do you  
3 remember?

4 A I believe we had three fixed and one portable  
5 in the bridge, and there was one fixed in the  
6 radio room.

7 Q The three fixed, would they be up on this  
8 chart at all?

9 A I don't see them indicated on this chart, no.

10 Q Where were the radios normally kept on the  
11 bridge?

12 A Normally there would be -- there would be a  
13 VHF radio on the port bridge wing -- excuse me,  
14 on the port side of the bridge, at the front of  
15 the wheel house. There was one located on the  
16 starboard side, and there was one hung from the  
17 overhead just about over the telegraph.

18 The portable VHF radio had a charger back in  
19 this area.

20 Q And the numerals 37, 38, 39. Do you remember  
21 what those -- what was kept in that area?

22 A Yeah. That's the -- that's a single side band  
23 and there's an encoder, decoder. The single side  
24 band, the lowering ringer and the  
25 encoder/decoder.

1 Q Did you have a teletype machine on this?

2 A Yes. There was a telex machine located down  
3 at the radio.

4 Q Who ran that? Did you send messages on the  
5 teletype?

6 A The -- last February when I was on the vessel  
7 at that time we had a radio operator assigned to  
8 the vessel and he -- it was his responsibility,  
9 generally, to send messages and receive messages.

10 Q How would you do that? Would you call him up  
11 if you had something, or just walk down and talk  
12 to him?

13 A Typically, I wrote the messages by hand. And  
14 if he was not available I'd leave them on his --  
15 in the radio shack and he would find 'em and send  
16 'em.

17 Q Finally, the depth sounder. What is that?  
18 Where is -- is there a depth sounder, or  
19 fathometer on the Exxon Valdez?

20 A Yes. There were. There were two. One was  
21 located up on the fiddle board here. Maybe I  
22 could pick out exactly what -- 7, that's about  
23 where it is. It's to the right of center line.  
24 That transducer was located forward and there was  
25 another fathometer located on the bulkhead right

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here.

Well, they're showing it located here, but it was actually attached to the side of the bulkhead here and that's operated off an after transducer. That was a recording fathometer, there.

Q The -- I didn't here that last part. It's operated off what?

A The after transducer. That's...

Q What's that?

A That's a recording fathometer?

Q What's that?

A Transducer is where the pulse is put out from the unit into the water to determine -- again, these are done by sending out a pulse. And a return comes back. And the machine times how long it takes the return to go down there and come back. And knowing that divides by two and can figure out the depth for you.

Q Where are those located, those transducers?

A Well, I don't know exactly where -- they're about on the line in the area of frame 5 forward. And aft, I don't recall what particular frame they are, but they were up -- they were under the engine room. We could get it through the engine room compartment.

1 Q Frame 5, when you -- what's -- what do you  
2 mean when you say frame 5?

3 A Frame 5 was the bulkhead between the fore peak  
4 and the 1 cargo tanks. The transducers were  
5 located in the fore peak.

6 Q Transducers for both of those, or...

7 A No. The transducer for the fathometer on the  
8 fiddle board was located forward in addition to  
9 one of the transducers for the Amitek speed log  
10 and the transducer for the Sperry doppler speed  
11 log was also located forward of frame five in the  
12 fore peak.

13 Q You went on the Exxon Valdez after it was  
14 grounded?

15 A That's correct. I did.

16 Q Do you know what the condition of the depth  
17 sounder -- the depth sounders was after the  
18 grounding?

19 A The forward units did not function.

20 Q And the aft units?

21 A I believe the recording fathometer still  
22 functioned.

23 Q I'd like to talk for a minute about the --  
24 where are your quarters located on the Exxon  
25 Valdez?

1 A They're located one deck below the bridge deck  
2 on the starboard side.

3 Q Do you have any navigational instruments or  
4 equipment in your quarters?

5 A In January and February I believe there were  
6 some navigating instruments there. There was, I  
7 think a pair of dividers in the desk drawer, and  
8 maybe some navigating triangles.

9 (3280)

10 Q Were there any rudder indicators, or gyro  
11 repeaters, or heading indicators of any kind?

12 A No, sir. Not that I recall.

13 (Pause)

14 Q I'm showing you what's been marked for  
15 identification as Plaintiff's Exhibit 70. Do you  
16 recognize that photograph?

17 A That appears to be looking forward in the  
18 master's quarters.

19 Q And is that a fair and accurate  
20 representation, generally, of the way you  
21 remember the master's chambers?

22 A Well, not -- not with that number of  
23 magazines, or necessarily books in the rack, but  
24 as far as the furniture, I guess.

25 MR. COLE: I would move for the admission of



1 what's been identified as Plaintiff's Exhibit 70.

2 MR. MADSON: I have no objection.

3 EXHIBIT 70 ADMITTED

4 THE COURT: It's admitted.

5 Q (Captain Stalzer by Mr. Cole:) And 71?

6 A This appears to be a view looking in the  
7 master's quarters again, looking toward the  
8 starboard side.

9 Q And is that a fair and accurate representation  
10 of that area?

11 A I believe so.

12 MR. COLE: I would move for the admission of  
13 what's been identified as Plaintiff's Exhibit 71.

14 MR. MADSON: No objection.

15 EXHIBIT 71 ADMITTED

16 THE COURT: Admitted.

17 Q (Captain Stalzer by Mr. Cole:) Now, I see  
18 that there's a couple windows that are in the  
19 master's quarters. Can you open those windows?

20 A Not without great difficulty, no.

21 Q Why do you say that?

22 A Well, there's a number of bolts around the  
23 edge that holds them shut.

24 Q So, you'd have to unbolt it to open up the  
25 window?

1 A That's correct.

2 Q Now, would you explain to the jury on a  
3 typical trip to Prince William Sound and back  
4 what kind of paperwork do you have that you are  
5 required by Exxon Shipping Company to fill out?

6 A The entire trip?

7 Q Well, let's say from -- let's narrow it down a  
8 little bit more. How about from Valdez to out to  
9 San Francisco, or Long Beach?

10 A It depends on the particular trip, or what's  
11 going on on the ship at the time, and the time of  
12 year, but generally, we have paperwork dealing  
13 with waring of stores, messages on the vessel's  
14 movement. And we might receive, or need to send  
15 orders for bunkering.

16 Q Bunkering? What do you mean by that?

17 A Taking on fuel for the vessel.

18 Q Anything else?

19 A Well, a whole host of paperwork. The  
20 administrative duties are spelled out somewhat in  
21 the bridge organization manual. We may have  
22 evaluations to do of the crew, communications  
23 concerning status of equipment, or upcoming  
24 shipyards, or work that might be planned on the  
25 vessel.

1           So, yeah. There's paperwork to be done.

2           Q           Where do you generally -- you, yourself, do  
3           that paperwork? What part of the vessel?

4           A           Usually in the master's office.

5           Q           And can you tell the jury when during the trip  
6           you do it?

7           A           Well, it varies from situation to situation,  
8           but generally I do it in port or out at sea.

9           Q           How about, can you give the jury an idea,  
10          let's say you were on a trip from San Francisco  
11          to Valdez back to Long Beach. Would you tell the  
12          jury about the number of hours you would  
13          frequently be working during this time?

14          A           Well, again, it varies from trip to trip and  
15          situation to situation. If we encounter fog off  
16          the coast, my work hours might increase somewhat.  
17          Generally, I worked a 10 to 12 hour day on the  
18          vessel.

19          Q           Is fatigue a factor in performance of your  
20          duties as a master?

21          A           We have to be mindful of fatigue. As  
22          indicated in the Bridge Organization Manual in  
23          certain watch conditions, such as I just  
24          described, fog off the coast, where you might be  
25          up on the bridge for long hours, you have to be

1           aware of that and, perhaps, have a senior officer  
2           relieve you so you can get some rest.

3       Q           But you can take steps to minimize the effects  
4           of fatigue, is that correct?

5       A           Yes, we can.

6       Q           I'd like to switch our focus now to the cargo  
7           control room. What goes on in that room?

8       A           Generally, we control the loading and  
9           discharge of cargo, or the loading or discharge  
10          of ballast for the vessel.

11      Q           Is that done electronically, there in the  
12          room, itself?

13      A           Yes. It is, yeah. There are switches which  
14          are electronically connected to the valves out on  
15          deck so that we can control that movement from  
16          the cargo control room. In addition are switches  
17          which connect to the pumps. And we can adjust  
18          the speeds on the pumps.

19      Q           Who is generally responsible for the unloading  
20          and loading process that goes on in port?

21      A           Generally the chief mate is responsible for  
22          constructing the loading, or discharge plan that  
23          all the other officers are to follow. And they  
24          are responsible when they are on watch for their  
25          activities.

1 Q And are you consulted at all in that process?

2 A Yes. I am. Generally the chief mate will  
3 provide to me prior to loading or discharge a  
4 preliminary plan. And we'll discuss any unusual  
5 activities that might need to be taking place  
6 following a loading or discharge he'll provide me  
7 copies of the actual load, including stress  
8 calculations.

9 Q Stress calculations. Do you have a computer  
10 that helps you in this process?

11 A On this -- on the Exxon Valdez, there was an  
12 IBM computer, designated the Loading Computer,  
13 that operated from a program written by Ocean  
14 Motions.

15 Q How did that computer help you to determine  
16 whether or not you were stable -- you were  
17 meeting the requirements of stability and stress?

18 A The program was approved by American Bureau of  
19 Shipping for that purpose. And we would enter  
20 the amounts, quantities, or tonnage in the tanks  
21 in different various compartments, including the  
22 engine room and fuel tanks, and it would provide  
23 on the screen, on the CRT screen, or a paper  
24 print-out of the stresses, longitudinal stress  
25 and stability of the vessel.

1 Q What do you mean by longitudinal stress?

2 A Well, the vessel's -- is very long, so we look  
3 at bending movement stresses over the length of  
4 the vessel.

5 Q Would it help to draw that on a chart? Could  
6 you demonstrate it on a chart?

7 A I could, perhaps, clarify that a little bit.

8 (Pause)

9 All right. For the benefit of the jury, if  
10 you consider the ship as a beam, it's 187 feet  
11 long. Depending on how you load it up, stresses  
12 will vary along that length. For example, if you  
13 put all the weight on one end, or on both ends,  
14 the ship would bend in a hugging (ph) motion.  
15 That beam, if you loaded weight on each end here,  
16 if you consider it just as one long piece of  
17 steel, it would bend like this. If you put all  
18 the weight in the middle it would bend like that,  
19 what we consider a sagging condition.

20 So, the computer would, after we put in the  
21 various weights along this length, it will run  
22 and determine the bending moment stresses for  
23 various points along the length of the vessel so  
24 we could make sure we were within the guidelines  
25 of the Term and Spilley (ph) Booklet, that we

1           were within a safe bending moment stress.

2       Q           Now, this program there was a part of the  
3           program that dealt with grounding, and in the  
4           event of grounding, is that correct?

5       A           There was -- to my knowledge part of the  
6           program that indicated grounding condition.  
7           However that part of the program did not work?

8       Q           On the Exxon Valdez?

9       A           As far as I'm aware, on the Exxon Valdez it  
10          did not function properly, no.

11      Q           How did you know that?

12      A           Well, I ran several tests through the  
13          computer, and based on my knowledge of the  
14          OCCs...

15      Q           The OCCs, what do you mean?

16      A           Very large group carriers, vessels of this  
17          size. The information that the computer was  
18          providing, or it didn't run, I don't recall, I  
19          didn't consider accurate and I was in  
20          correspondence and discussions with the naval  
21          architect ashore that Ocean Motions would need to  
22          fix that part of the program because it didn't  
23          operate.

24      Q           When did you find this out?

25      A           I think -- I don't recall specifically. Soon

1 after making the first trip, actually, as master  
2 in 1987. And these discussions were ongoing up  
3 until the time of the accident.

4 Q Did you ever have any discussions about that  
5 with Captain Hazelwood?

6 A No. I don't -- don't believe I did have  
7 discussions with Captain Hazelwood about that  
8 feature of the program, however, there was  
9 correspondence in the files concerning that  
10 topic.

11 Q In files? What do you mean "in files"?

12 A In files on the vessel. We keep -- we kept  
13 file -- correspondence of letters that we sent to  
14 the office. So, I believe it was correspondence  
15 in the files.

16 Q And is it the normal course of business for  
17 the master who comes on to check these files  
18 before accepting the responsibility of the  
19 vessel? How would somebody know about this?

20 A He would have to either run the test cases and  
21 have some knowledge of the OCCs. himself, or  
22 peruse the files and see comments concerning that  
23 -- concerning that particular function of the  
24 computer was in the files.

25 Q Where exactly were the correspondence kept?



1           Were they kept in the cargo control room, or in  
2           the master's chamber?

3           A           I believe they were in the master's filing  
4           system.

5           Q           And that would have been right in his  
6           chambers?

7           A           It would have been in the master's office.  
8           (Pause)

9           Q           Let's switch here for a minute. Would you  
10          give the jury an idea of how many trips that you  
11          took while on the Exxon Valdez while it was in  
12          service?

13          A           I have -- I don't know exactly trips. I know  
14          my trips through Prince William Sound. I have  
15          about 24 or 25 trips on the Exxon Valdez there.

16          Q           What was your general destination during those  
17          times?

18          A           From '87 and through '88 the general  
19          destination was Port Amigos (ph), Panama.

20          (Tape: 3630)

21          (3)

22                    In late '88 and '89 we stopped trade down in  
23                    Panama and we were bringing the cargo into the  
24                    west coast of the United States, primarily San  
25                    Francisco or the Long Beach area.

1 Q How long would it generally take to make a  
2 round trip ticket -- round trip -- wishful  
3 thinking, I guess -- a round trip voyage from  
4 Valdez to Panama and back?

5 A And back to Valdez?

6 Q Yes.

7 A About 30 days.

8 Q Now, can you give the jury an idea of how long  
9 it would take to make a round trip ticket from  
10 Valdez -- round trip from Valdez to Long Beach to  
11 San Francisco and back to Valdez?

12 A I've never made that particular voyage on the  
13 Exxon Valdez, but it would be actually sailing  
14 passage about two weeks. It depends on if you're  
15 delayed with docking or how many lighters they  
16 would have to take off the vessel in San  
17 Francisco for the actual time that that round  
18 trip would take.

19 Q The times in late '88 and '89 when you were  
20 the captain of the vessel, what trips were you  
21 making during that time?

22 A In late '88 I made a trip to Panama. In early  
23 '89 I made, I believe, two trips into Valdez,  
24 down to San Francisco.

25 Q Down to San Francisco, and then, back?

1 A That's correct. As I recall early January I  
2 returned into Long Beach from Panama and sailed  
3 from Long Beach to Valdez for a trip down to San  
4 Francisco. And then, that was toward the middle  
5 -- end of January. And then made another trip  
6 into Valdez and back down to San Francisco in  
7 early February.

8 Q Now, when you were sailing from Valdez to  
9 Panama would you be considered sailing on the  
10 register at that time?

11 A The registry is a document, another term for  
12 it is called certificate of documentation. The  
13 registry is issued by the government and it  
14 denotes the ownership of the vessel and the  
15 nationality of a vessel.

16 On this document there is an indication if the  
17 vessel is what we term "under registry".  
18 Registry would mean a vessel that could be  
19 restricted to only sailing foreign, or under  
20 enrollment or coast-wise, where a vessel may only  
21 be restricted to sailing coast-wise.

22 In the...

23 Q When you say "sailing foreign" what do you  
24 mean?

25 A Well, sailing to a foreign port. Leaving a U.

1 S. port and going to a foreign port.

2 Q When you say sailing "coast-wise" what do you  
3 mean?

4 A Sailing from a U. S. port and going to a U. S.  
5 port.

6 Now, when sailing foreign certain  
7 documentation must be delivered and issued from  
8 the customs office. One of those things is a  
9 clearance to a foreign port. So, when you sail  
10 foreign, you have a clearance to a foreign port.

11 Q What would sailing from San Francisco to  
12 Valdez to Long Beach be considered? If the Exxon  
13 Valdez was doing that? Would that be a coast-  
14 wise, or on the register type trip?

15 A If you do not file the required documentation  
16 with a customs office, then that would be  
17 considered -- I would -- my understanding is I  
18 would consider it as an under enrollment, or a  
19 coast-wise voyage.

20 Q Now, is the Exxon Valdez a U. S. -- you talked  
21 about who owns it and where its nationality is.

22 Who owned the Exxon Valdez?

23 A I believe it's Exxon Shipping Company.

24 Q And where was its home port, or was it a U. S.  
25 ship?

1 A It is a U. S. flagged vessel, yes.

2 Q Now, I'd like to talk about the procedure that  
3 you would use when you were coming into the  
4 Prince William Sound area.

5 When was the first time that you would contact  
6 the VT -- the Vessel Traffic System in Valdez?

7 A My first contact would probably be through my  
8 agent 24 hours before the vessel arrived. I'd  
9 contact the agent through telex and let them know  
10 our ETA. And he would notify the Captain of the  
11 Port of our intended trip into that area.

12 Q Then when would be your next contact?

13 A That would typically be, in a normal  
14 situation, three hours out from Cape  
15 Hinchinbrook.

16 Q And that would be three hours prior to  
17 reaching?

18 A Three hours prior to arrival off of Cape  
19 Hinchinbrook.

20 Q At that time what information would you  
21 provide to the Coast Guard?

22 A Well, normally we did this through a small  
23 form we kept on the vessel and I might miss one  
24 of the items, but, basically, we told them the  
25 name of the vessel, the type of vessel, the

1 drafts, the ETA into Cape Hinchinbrook, the speed  
2 through the Sound, the ETA, where we think we're  
3 going, which berth, and the destination, or if we  
4 were going to anchor.

5 We would indicate if we had any dangerous  
6 cargo on board. We would indicate if we were in  
7 compliance. And we would indicate, usually, that  
8 the master had pilot -- when I was there we would  
9 indicate that the master had pilotage.

10 Q When would be the -- did you indicate at that  
11 time whether all your equipment was working?

12 A Yes. That's whether or not we're in  
13 compliance.

14 Q When would be the next conversation that you  
15 would have with the Coast Guard?

16 A That would typically be one hour prior to  
17 arrival off of Cape Hinchinbrook.

18 Q And what information would be exchanged then?

19 A Normally we would, again, give the vessel's  
20 name, its position and speed, ETA at  
21 Hinchinbrook, and we would generally ask for an  
22 ice report.

23 Q Where was the next time that you would report  
24 to the Coast Guard?

25 A Normal passage that would be at arrival off of

1 Hinchinbrook, or prior to entering the traffic  
2 separation scheme.

3 Q What information would you provide on that?

4 A Generally, we would give them the vessel's  
5 name, indicate that we -- our arrival time off of  
6 Cape Hinchinbrook and give him an ETA for Naked  
7 Island.

8 Q Maybe you could just take the pointer and  
9 indicate where you would call and give your ETA  
10 of being abeam of Naked Island?

11 A Being abeam of Naked Island would be in this  
12 area -- area about there.

13 Q Okay. And where would you call when you were  
14 out abeam of Cape Hinchinbrook?

15 A I typically would call in this area here.

16 Q Now, where would be the next place that you  
17 would report in to the Coast Guard?

18 A On a typical voyage we would report in after  
19 the pilot exchange -- when we picked up the pilot  
20 off of Rocky Point. That would be in this --  
21 about in this area here.

22 Q How long would it take to get from --  
23 generally, from Cape Hinchinbrook into Valdez?

24 A Well, that typically used to take from six to  
25 eight hours, depending on weather conditions.

1 Q Do you send any messages to the agent, or back  
2 to Houston Shipping Company during this time?  
3 Was it your practice?

4 A I don't personally send -- go down to the  
5 telex machine and send them, no. I may at  
6 arrival I'll have -- the arrival information off  
7 of Hinchinbrook written out, and the radio  
8 operator will come up to the bridge and get it.  
9 And he would -- he might send that information in  
10 the sound.

11 Q Would you tell the jury what your personal  
12 procedure was then, during the docking process at  
13 Alyeska Terminal?

14 A Well, I was on the bridge closing observing  
15 the navigation and the approach of the vessel to  
16 the dock.

17 Q What about during the time from Cape  
18 Hinchinbrook into Rocky Point? What was your  
19 personal operating procedure as far as being on,  
20 or off the bridge?

21 (400)

22 MR. MADSON: Your Honor, excuse me. I'll  
23 object at this point. I don't believe it's relevant at  
24 all to what this gentlemen would do as his personal  
25 preference as opposed to anybody else.



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THE COURT: Mr. Cole?

MR. COLE: I believe that what the captain did in this particular area is relevant to this issue.

THE COURT: Objection sustained.

Q (Captain Stalzer by Mr. Cole:) What was the custom in the industry as far as where the captain with pilotage remained on the bridge?

MR. MADSON: Your Honor, I'd object again. First of all, there's no foundation that he knows what the custom is, if there is one. And secondly, the custom is not relevant.

THE COURT: As to the form of the question, sustained. And as to foundation, sustained.

(Pause)

Q (Captain Stalzer by Mr. Cole:) On the last trip that you made into the Prince William Sound area where were you on the vessel during the voyage from Cape Hinchinbrook to Rocky Point?

A I'm generally on the bridge during the entire time. It is, however, a trip which takes six -- about four hours into Rocky Point. And I'm up on the bridge before entrance -- usually an hour before arrival at Hinchinbrook.

So, I may, during that time, step away from that bridge to go to the bathroom for a few

1 minutes, but generally I am on the bridge during  
2 that time.

3 Q Now...

4 A Again, normally, if I do step away from the  
5 bridge it is only -- it's not during any critical  
6 area, or when there would be any course change  
7 required when the vessel is in the lane and it's  
8 safe to do so.

9 Q So, it would depend on what the circumstances  
10 were surrounding the navigation of the ship --  
11 well, let me withdraw that.

12 What happens during the docking process, then?

13 A Well, during the docking process we're making  
14 the approach to the dock, the -- there's a pilot  
15 on board on the bridge. Generally, we relinquish  
16 the con to the pilot. He is issuing orders. I  
17 am overseeing those orders.

18 Q Do -- are you involved in the transfer from  
19 the -- of the orders from the pilot to the other  
20 people on board?

21 A Sometimes I am, yeah.

22 Q If your vessel were to come into the Valdez  
23 harbor and dock around 11 o'clock at night, what  
24 would you do, then, after the vessel docked to  
25 prepare it for the next day?

1 A Generally, I would meet with the agent who  
2 would meet the vessel following the docking,  
3 discuss any business that had to transpire there  
4 in the port, receive the mail and sort it and get  
5 it delivered to the crew.

6 I would -- generally, I go down and check in  
7 the cargo control room how things are going  
8 there.

9 I may at times -- each situation is different  
10 -- I may at times open some of the mail that's  
11 addressed to the master to see if there's  
12 anything critical or important.

13 Q The next day what were your responsibilities  
14 during the next day for loading?

15 A Well, I think I'm -- as master of the ship I'm  
16 responsible for the safety of the crews, and the  
17 ship, the cargo and protecting the environment.  
18 So, I don't think those responsibilities change  
19 either at night or at day.

20 Q When you were in Valdez would you go into town  
21 at all?

22 A Normally my -- I do not go into town normally,  
23 no.

24 Q When the loading process was finished, what,  
25 then, would you do?

1 A Well, the -- I would check with the chief mate  
2 generally on the -- or the man on watch in the  
3 cargo control room, see the status of the cargo,  
4 the amount of the load, the drafts. I would go  
5 to the bridge and ensure that the gear was  
6 properly tested. I have my own checklist for --  
7 I kind of run around and check the equipment  
8 myself for the most part.

9 I might speak with the agent who'd come on  
10 board. Deliver to him any mail that needed to be  
11 mailed back to the company, or personal letters  
12 from the crew off to their relatives and friends.

13 I think that's about the sum total.

14 Q About what time would you come up to the  
15 bridge prior to departing?

16 A Generally for a normal trip anywhere from 30  
17 or 40 minutes. I may not be up on the bridge the  
18 entire time before getting underway. I might go  
19 up to the bridge and talk to the pilot and check  
20 the gear and talk to the mate and go down and  
21 talk to the radio operator, tell him what time I  
22 expect him to be out for departure, if he was  
23 gonna send a message, or -- if the chief mate  
24 called and wanted to discuss something I might go  
25 down to the cargo control room and talk to him

1 for a minute or two, but generally within 40  
2 minutes of sailing I was up and about, on the  
3 bridge or elsewhere in the decks.

4 Q Now, during the undocking process how do you  
5 use the pilot?

6 (666)

7 MR. MADSON: Your Honor, excuse me, but I'm  
8 gonna object again. I just don't see the relevance of  
9 what this captain, personally, does or does not do, or  
10 normally does or does not do when there's no rule,  
11 there's no regulation. There's only the personal  
12 preference of each individual master as I understand  
13 it.

14 MR. COLE: It does -- it's following just the  
15 Bridge Manual, Your Honor. He's just charting out what  
16 is ordinarily expected of them in the course of their  
17 employment.

18 THE COURT: That may be, but that's not what  
19 you've established. You're asking him for what he,  
20 personally, does. And the form of the question is  
21 objectionable. I'm gonna sustain the objection.

22 If you want to lay a foundation for this to  
23 establish what you say you're doing it for, you may  
24 try. But, so far his personal preference is not  
25 relevant in this proceeding.

1 Q (Captain Stalzer by Mr. Cole:) Now, what does  
2 the -- does the Exxon Bridge Manual discuss the  
3 master's responsibilities as far as what goes on  
4 when the pilot is on board?

5 A I believe it does, yes.

6 Q Did you in an attempt to fulfill this manual  
7 design -- let's see. Let me ask it this way.  
8 Did you generally try and follow the requirements  
9 of the Bridge Manual when the pilot came up on  
10 board?

11 A I generally tried to follow it all the time.

12 Q What are your responsibilities according to  
13 the Bridge Manual during the period of time that  
14 the pilot is navigating the Exxon Valdez from the  
15 dock out to the Narrows -- to the beginning of  
16 the Narrows?

17 A I'm not sure. We may have covered exactly  
18 what the policy says on that yesterday, but  
19 generally, I am still responsible for the safety  
20 of the crew, the ship, the cargo, and for  
21 safeguarding the environment. That  
22 responsibility remains mine. Each individual on  
23 the vessel that's employed in their own position  
24 shares in some of that responsibility for  
25 fulfilling their obligations for their own

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duties.

Q When you approach the Narrows what type of watch situation was required there?

A My understanding of the manual is that we were entering and leaving port, and that would be either watch conditions B, C, or D.

Q And that would be in the area of the Port of Valdez and the Narrows, or just the Narrows, or just the Port of Valdez?

A My understanding of the manual, that would include the Port of Valdez and the Narrows.

Q According to the manual, if you felt that the pilot was taking some action that was detrimental to the safety of your vessel, what were your obligations?

A Well, my responsibility still exists. It would depend on the particular situation and circumstances. If there was an opportunity to discuss it with the pilot it wa just something I didn't particularly like, for example, we might pull away from the dock at slow ahead and he'll immediately go to full ahead. Well, I prefer not to do that. I prefer to go to half ahead for five minutes and then to full ahead to give the engine time to warm up. So, I would check that

1 command and discuss it with the pilot and say,  
2 "I'd prefer to do it this way."

3 If it is an emergency situation, then I issue  
4 my own commands and they're followed on the  
5 vessel.

6 Q Does the Bridge Manual discuss whether or not  
7 automatic pilot should be used in an area like  
8 the Port of Valdez, or the Narrows?

9 A I believe the Bridge Manual does discuss the  
10 use of autopilot in all the watch type  
11 conditions, A, B, C, and D.

12 Q What would be the policy as far as using  
13 automatic pilot in the area of the Port of  
14 Valdez, or the Narrows?

15 (870)

16 A The manual was changed in 19 -- it was  
17 modified -- some sections of it -- in 1987.

18 My general understanding of it is that because  
19 I believe we're entering or leaving port I would  
20 set conditions B, C, or D, and that requires the  
21 presence of a helmsman and a look out, the  
22 master, or senior watch -- the senior officer and  
23 a watch officer on the bridge.

24 Q How about the use of automatic pilot in those  
25 areas?



1 A It -- in 1987 they modified the manual such  
2 that they would give the master a little more  
3 ability to set and use manual or automatic  
4 steering.

5 Q Is there any times when the steering is  
6 required to be changed from automatic pilot to  
7 manual?

8 A I believe we covered some of those yesterday,  
9 specifically in the manual. And I believe there  
10 are some cases when manual steering is required.

11 Q Would those include navigating close to shore,  
12 or shallow banks?

13 A I believe the manual so states that, yes.

14 Q Would you consider that navigating through the  
15 Narrows, for instance, would be navigating close  
16 to shore or shallow banks?

17 A By Narrows, if you mean the one way zone, yes  
18 I would...

19 Q Yes.

20 A ...would agree that that is navigating close  
21 to shallow banks, close to the shallow water and  
22 banks.

23 Q Now, I'd like to talk for a minute about icy  
24 conditions, and ice in front of the Exxon Valdez.  
25 Could ice across the TSS system present a

1 dangerous circumstance, or a hazardous  
2 circumstance to the Exxon Valdez?

3 A Yes. Ice could present a danger.

4 Q Why is that?

5 A Depending on the size or quantity, and if it  
6 struck the vessel it could damage the hull, or it  
7 could damage the propeller, or it could damage  
8 the rudder.

9 Q When you say "damage the hull" what do you  
10 mean?

11 A Well, it could dent it, or it could hull --  
12 actually puncture a hole in it.

13 Q And is there any policies as to what you  
14 should do -- in the Exxon Bridge Manual -- as to  
15 what the master should do when encountering  
16 potentially hazardous ice conditions?

17 A I think it cautions him to safely navigate the  
18 vessel in the manual.

19 Q What's that mean?

20 A Well, it means that he has basically three  
21 options, as I see it when departing Valdez if  
22 there is ice out there and the -- and the Coast  
23 Guard has not closed the port for winter ice  
24 conditions. That means he can remain at the  
25 berth or he can proceed out and maneuver the ice,

1 or he can proceed on and maneuver around the ice.  
2 And in all cases he has to proceed with caution.

3 Q If a vessel was traveling out of Valdez in the  
4 northbound lanes -- southbound lanes, and  
5 encountered ice as is depicted in that diagram  
6 that is in front of you, what type of watch would  
7 be required under the Bridge Manual?

8 A I believe -- my interpretation of the manual  
9 is we're departing port and it would set watch  
10 condition B, C, or D, depending on the condition.

11 Q And that would be from where to where? Where,  
12 departing port?

13 A My understanding of the manual that would be  
14 from the manual to Cape Hinchinbrook. And that  
15 would -- that's -- I set one of those conditions  
16 in that stretch of -- body of water.

17 Q What about if you encountered ice in this  
18 situation right here, would this call for if you  
19 had ice coming -- leading edge all the way out to  
20 here to within .9 miles of Bligh Reef and you  
21 were in that coming down in this area.

22 Which condition -- watch condition would the  
23 Bridge Manual call for in that situation?

24 A I'm not exactly sure what you mean by coming  
25 down in this area, but I believe from leaving the

1 dock to out -- out to Cape Hinchinbrook we would  
2 -- I would set watch condition B, C, or D,  
3 depending on the situation. Watch condition B is  
4 generally for fog. C would be for a good  
5 visibility and D would be tremendous hazards and  
6 lots of traffic in reduced visibility.

7 Q Does it make a difference whether it was night  
8 or at day -- during the day?

9 A It could, but I don't believe that's specified  
10 in the manual.

11 Q Well, would this be -- if you had a situation  
12 where you were avoiding ice and detouring around  
13 it and you had Busby Island a mile off, Bligh  
14 Reef straight in front of you -- if you were  
15 coming at a heading of 180 -- straight in front  
16 of you, and the leading edge of the ice between  
17 .9 miles, is that the type of situation that the  
18 use of watch D would be appropriate?

19 MR. MADSON: I'd object to the form of the  
20 question. It's leading.

21 THE COURT: Mr. Cole.

22 MR. COLE: Well, some -- I've tried to get it  
23 out of him twice and I'm just trying to establish a  
24 foundation...

25 THE COURT: Objection sustained.

1 MR. MADSON: I agree he's trying to get it out  
2 of him.

3 Q (Captain Stalzer by Mr. Cole:) If you were  
4 traveling at 180 degrees, your track was to take  
5 you off Busby Island one mile, you were traveling  
6 directly toward Bligh Reef, Bligh Island, the  
7 leading edge of the ice came down to within one  
8 mile -- .9 miles of Bligh reef and it was night  
9 time, what watch would the Bridge Manual call  
10 for?

11 MR. MADSON: Your Honor, I object. I don't  
12 believe there sufficient foundation. We don't know  
13 visibility conditions. We don't know traffic density,  
14 things like this that are also involved in setting  
15 different watch conditions.

16 THE COURT: Objection overruled. You may give  
17 your opinion.

18 A I'm not sure that I have enough information to  
19 pick what particular watch. Watch condition B, I  
20 normally set watch condition C in a normal  
21 situation, leaving Valdez.

22 I do not believe that a would navigate in the  
23 area of one mile off of Busby, that's my own  
24 personal preference. I have my own...

25 MR. MADSON: Your Honor, I'd object to that.

1 It's not responsive and it's also his personal opinion.  
2 I'd ask that it be stricken.

3 MR. COLE: He's just giving the basis for his  
4 -- the opinion that I asked him to say as to watch.

5 THE COURT: Well, the opinion didn't call for  
6 an answer I wouldn't personally operate within a mile  
7 of Busby. The opinion asked whether B, C, or D would  
8 be called for under the circumstances you described and  
9 he said he was unable to give his opinion because he  
10 didn't have enough information. So I'm gonna strike  
11 that answer. It was non-responsive and it wasn't  
12 supported by a foundation.

13 Normally non-responsive objection is the  
14 objection made the by person who's asking the question,  
15 but this answer was totally unforeseen and it was not  
16 admitted, so disregard that answer, ladies and  
17 gentlemen, what his personal preference would have been  
18 under those circumstances.

19 Q (Captain Stalzer by Mr. Cole:) What  
20 information -- what other information do you need  
21 to determine that?

22 A I would need to know the visibility, the  
23 amount -- the exact amount of the ice, and if  
24 there's any other traffic in the area.

25 Q Okay. What if the visibility was poor enough,

1 or so poor that you decided to not put a look out  
2 out on the bow, you placed the look out out on  
3 the bridge wing, there was no other traffic in  
4 the area, and the third one?

5 A The exact amount of ice.

6 Q Let's say that it was more ice than you'd ever  
7 seen in Prince William Sound?

8 MR. MADSON: Your Honor, I would object to the  
9 form of the question again. I believe Mr. Cole's  
10 misstating the prior evidence on visibility.  
11 Visibility was eight to 10 miles as I recall, not so  
12 poor he had to move somebody back to the bridge wing.

13 THE COURT: You can answer that question.  
14 Objection overruled. If you can answer it.

15 A With reduced visibility and encountering more  
16 ice than I've ever seen in Prince William Sound,  
17 which is a lot of ice, completely covering the  
18 lanes, I would be in probably watch condition  
19 either B or D.

20 Q (Captain Stalzer by Mr. Cole:) Now, when  
21 you're in this area are there any messages that  
22 need to be sent back to the agent?

23 A When they're a normal situation we call the  
24 agent after we come off the dock by VHF radio,  
25 and that's normally the only communication I

1           might have with the agent after departing the  
2           dock.

3           Q           And are there any communications that need to  
4           be made with Exxon Shipping Company in that  
5           particular -- in the area of Rocky Point on your  
6           way out?

7           A           I'm not aware of any in a normal situation,  
8           no.

9           Q           Does the bridge manual -- if you were  
10          presented with that situation as we've outlined  
11          it, does the Bridge Manual say whether or not the  
12          captain is required to remain on the bridge  
13          during those times?

14          A           I believe the manual says that the master must  
15          be on the bridge when the safety of the vessel  
16          requires it, and so, under those conditions I  
17          would normally be on the bridge, yes.

18          Q           Does the Bridge Manual talk about the  
19          requirements for masters knowing the abilities of  
20          their crew members?

21          A           I believe it may mention something to that  
22          effect.

23                    THE COURT: Mr. Cole, we're getting close to  
24          our break time. Would this be okay for you to take a  
25          break?



1 MR. COLE: Sure. That's fine.

2 THE COURT: We'll take our first break, ladies  
3 and gentlemen. And remember not to discuss this matter  
4 among yourselves, or with any other person. You're not  
5 to form or express any opinions.

6 THE CLERK: Please rise. This court stands in  
7 recess subject to call.

8 (1417)

9 (Off record - 10:01 a.m.)

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

11 (Jury present)

12 THE CLERK: This court now resumes its  
13 session.

14 Q (Captain Stalzer by Mr. Cole:) Captain  
15 Stalzer, was James Kunkel a chief mate under you  
16 while you were captain of the Exxon Valdez?

17 A Yes. He was.

18 Q And did you ever discuss with him the fact  
19 that the grounding mode of the Ocean Motions  
20 program did not operate correctly?

21 A I don't recall sailing with Mr. Kunkel except  
22 for maybe a day when he joined and I left the  
23 vessel, other than after the grounding. So,  
24 there was no opportunity to discuss until after  
25 the grounding. And we may have discussed it, but

1 I don't recall.

2 Q Do you know an Able-bodied seaman by the name  
3 of Robert Kagan?

4 A Yes. I do.

5 Q How do you know him?

6 A He signed on aboard the Exxon Valdez in  
7 January of 1989.

8 Q How did you treat him as an Able-bodied seaman  
9 while he was under your supervision?

10 MR. MADSON: I would object, Your Honor. I  
11 don't know that the relevance is of how he treated him.  
12 Sounds like he's keeping a pet, or something.

13 THE COURT: Maybe you could rephrase your  
14 question, Mr. Cole?

15 And Mr. Madson, that's unnecessary, that kind  
16 of a comment.

17 MR. MADSON: I apologize, Your Honor, but I  
18 didn't understand what the question meant.

19 Q (Captain Stalzer by Mr. Cole:) Were you asked  
20 to make any special evaluations of Mr. Kagan's  
21 performance?

22 A Yes. I was.

23 Q Would you explain what that was?

24 A The telex assigning Mr. Kagan to the vessel  
25 indicated that he had not sailed as AB for a long

1 time, and that I was to develop and help him and  
2 evaluate him at 30 and 60 day intervals.

3 Q And did you do that?

4 A I believe I did, yes, or had -- I did not,  
5 personally evaluate him. I had a chief mate  
6 evaluate him. I had that done.

7 Q Were you aware of any problems that Mr. Kagan  
8 had in steering the Exxon Valdez while you were  
9 the captain?

10 A When Mr. Kagan joined the vessel he indicated  
11 that he had not sailed as an AB for a long time  
12 and was concerned about his steering ability.  
13 And after observing him I provided for training  
14 for him to improve his ability of steering.

15 Q How did you do that?

16 A I ordered that he practice steering every day  
17 out at sea in the evening watch for at least 30  
18 minutes, under the guidance of the watch officer.

19 Q Was he allowed to steer without the guidance  
20 of a watch officer?

21 A A watch officer, I believe, was always on the  
22 bridge when Mr. Kagan was steering.

23 Q And when you were relieved by Captain  
24 Hazelwood, did you have any discussions with him  
25 about Mr. Kagan?

1 A Yes. I did.

2 Q Would you tell the jury what those were?

3 A I provided to Captain Hazelwood a copy of the  
4 telex assigning Mr. Kagan to the vessel, which we  
5 read together. I indicated to him that we had  
6 just done the 30 day evaluation of Mr. Kagan and  
7 that he needed improvement steering, and required  
8 close supervision.

9 MR. COLE: I have nothing further, Your Honor.

10 (1637)

11 CROSS EXAMINATION OF CAPTAIN STALZER

12 BY MR. MADSON:

13 Q Captain Stalzer, how long have you been with  
14 Exxon now?

15 A Since July of 1973.

16 Q Have you worked for any other maritime  
17 employer except Exxon?

18 A I believe I did a two or three day consulting  
19 job for another employer in the mid 80s.

20 Q So, except for two or three days you've been  
21 continuously employed by Exxon Shipping Company,  
22 is that correct?

23 A That's correct.

24 Q And you're now at what level in the company?  
25 What's your position?

1 A I'm a master of the ocean going fleet.  
2 Q What does that mean?  
3 A That's a captain of one of their vessels,  
4 currently assigned to the Exxon Valdez.  
5 Q Are you currently the master of the Exxon  
6 Valdez?  
7 A I'm not aware of there are any other masters  
8 currently assigned to it.  
9 Q So, you're the only one right now?  
10 A As far as I know, yes, sir.  
11 Q And you talked a little bit yesterday about  
12 how you get to be a master or a captain, it's the  
13 same term, it's synonymous, is it not? Master  
14 and captain mean the same thing?  
15 A We can -- we could -- you could take it so.  
16 Master is -- the license is a master of ocean  
17 going vessel. So...  
18 Q But, you're called a captain?  
19 A Yes. We are called a captain.  
20 Q In other words, you don't have any kind of a  
21 different license as a captain as opposed to a  
22 master? There's no such thing as a captain's  
23 license?  
24 A I'm not aware of it as a captain's license,  
25 no.

1 Q In other words, you go to academy and you get  
2 some formal training in seamanship and  
3 navigation, engineering, things like this?  
4 A Yes, sir. I did do that.  
5 Q And after graduation then you get a third  
6 mate's -- you apply for and take a test to get a  
7 third mate's license, correct?  
8 A That's correct. I've received a third mate's  
9 license.  
10 Q In other words, when you graduate from the  
11 academy they don't automatically hand you a third  
12 mate's certificate?  
13 A No, sir. One of the requirements for  
14 graduation from the United States Merchant Marine  
15 Academy is to successfully pass that examination  
16 for third mate or third engineer.  
17 Q Who gives that examination then?  
18 A I believe the United States Coast Guard does  
19 that.  
20 Q And that's totally separate and apart from the  
21 school, right?  
22 A Yes, sir, it is.  
23 Q And as you gain experience and more competence  
24 as a third mate, you can apply for and take the  
25 examination for second mate, right?

1 A Yes, sir. There is a service requirement, but  
2 that's correct.

3 Q You have to serve so long and have so much  
4 experience before you can apply for the next  
5 level up?

6 A That's -- yes, sir.

7 Q And the same is true, then, for, let's say,  
8 first mate, or chief mate?

9 A Yes, sir.

10 Q And then, to get the master's license, that's  
11 the top license you can get from the Coast Guard,  
12 is it not?

13 A I believe so, yes, sir.

14 Q And to get that you have to have additional  
15 experience, time on board ships and things of  
16 this nature?

17 A Yes, sir.

18 Q Are you also examined on your competence, your  
19 ability to read charts, navigate vessels, things  
20 like this?

21 A Yes, sir.

22 Q You also said you've got a -- believe a radio  
23 license and engineer's license. What exactly are  
24 those?

25 A I have a Curlyhoe (ph) third assistant

1           engineer's license, steam and diesel. That's  
2           also a Coast Guard license that would allow me to  
3           sail in the position of third assistant engineer  
4           and a general radio operator license that permits  
5           -- permits me to send telexes and messages.  
6       Q           And you also said that you've got your Prince  
7           William Sound pilotage indorsement, correct?  
8       A           Yes, sir. I have a Prince William Sound  
9           indorsement.  
10      Q           That requires that you just be on board a  
11           vessel and make so many trips in and out of  
12           Prince William Sound to begin with, right? You  
13           have to have so many trips?  
14      A           There is a trip requirement and then, a test.  
15      Q           And it's a written test. It isn't a driver's  
16           test, right?  
17      A           No, sir. It is a written test.  
18      Q           And that test, essentially, tests your  
19           knowledge of Prince William Sound navigation  
20           aids, hazards, things like this?  
21      A           Yes, sir. It does.  
22      Q           Basically, you have -- correct me if I'm  
23           wrong, but basically don't you have to just kind  
24           of memorize the chart?  
25      A           That's part of the test.



1 Q And you were subpoenaed to be here today for  
2 the State of Alaska, were you not?

3 A I'm here because of subpoena, yes, sir.

4 Q Did you discuss your testimony prior to coming  
5 here with the other official -- any other  
6 officials in Exxon?

7 A I -- I've discussed -- I've discussed many  
8 things with Exxon attorneys and officials.  
9 They've asked me a lot of questions since the  
10 grounding. And I've also discussed it with my  
11 own attorney.

12 Q You had discussions with Mr. Cole, right? Or  
13 a representative of the State?

14 A I had a phone conversation discussion with Mr.  
15 Cole and another individual in his office when I  
16 went to the courthouse to pick up the subpoena.  
17 There was a conflict of the dates. And so, the  
18 courthouse clerk that was dealing with me called  
19 up here to -- to get some explanation of that.

20 Q But, in this conversation did it relate only  
21 to when you're supposed to be here, or did Mr.  
22 Cole or any other representative of the State ask  
23 you questions pertaining to your testimony here  
24 in this case?

25 A As I recall the conversation was very general

1 and I asked him what sort of questions he might  
2 ask me, but I did not supply any answers to those  
3 questions.

4 Q Why not?

5 A Exxon officials had -- Exxon attorneys had  
6 asked me that they would prefer that I not  
7 discuss the case with -- with anyone.

8 Q Did you meet with any State representatives,  
9 Mr. Cole, or anybody else over this past weekend,  
10 personally?

11 A Other than yesterday when I came to the  
12 courthouse, no. I don't believe I did.

13 Q So, you're saying they asked -- they wanted  
14 you to testify in certain areas, or asked you  
15 about it, but you wouldn't give them any  
16 information, right?

17 A I did not give Mr. Cole -- I do not believe I  
18 gave Mr. Cole any indication of my answers to the  
19 questions on the telephone.

20 Q And you have a lawyer here with you today,  
21 right?

22 A Yes, sir. I do.

23 Q An Exxon lawyer?

24 A No. I have my own attorney.

25 Q Your own attorney? One you hired, personally?

1 A I hired the individual, personally, however,  
2 Exxon is gonna pay the bill for that.

3 Q Oh. I see. You had the selection, but  
4 they're gonna pay the bill?

5 A That's correct. I was free to choose any  
6 attorney to my liking.

7 Q Well, were you informed that you were gonna be  
8 possibly charged, or targeted with any kind of an  
9 offense here?

10 A No. I have not been informed of that.

11 Q Why do you need a lawyer? I know we're all  
12 very important guys, but why do you need one?

13 MR. COLE: Objection on relevance, Your Honor.

14 THE COURT: You can answer the question.

15 A I have not found myself in a courtroom very  
16 often and I desire to have some counsel to  
17 discuss the matters.

18 Q And you've discussed this with Exxon? They're  
19 aware of it, right? Of your preference to have  
20 your attorney here?

21 A Yes, sir.

22 Q Did Exxon ever tell you -- any official from  
23 Exxon ever tell you what to basically volunteer,  
24 or try to tell or not tell, or anything -- guide  
25 you at all in your testimony in this case?

1 A Exxon officials did tell me to tell the truth,  
2 as my own attorney did.

3 Q And that's all?

4 A I'm not sure I understand your question.

5 Q Well, generally, you had a lot of discussions  
6 with them, but all they said to you was to  
7 basically tell the truth, right?

8 A That's correct.

9 Q Exxon have an interest -- they express an  
10 interest to you with the outcome of this case one  
11 way or the other? I don't care what -- I'm not  
12 asking for the what was said, but from your  
13 understanding did Exxon express an interest in  
14 the outcome of this case as far as they were  
15 concerned?

16 A I believe Exxon does have an interest in the  
17 outcome of this case.

18 Q Now, I'm gonna go back a little bit to your  
19 training that you said you had after -- or,  
20 perhaps, before you got your pilotage indorsement  
21 for Prince William Sound. I think you said that  
22 you went to a -- a simulator course in about 19 -  
23 - I may have this wrong, '81 or thereabouts?

24 A I believe it was 1980.

25 Q '80?

1 A Yes, sir.

2 Q And that was in Grenoble, France?

3 A Oh, that's...

4 Q Or is that a different one?

5 A That's a different simulator than what I  
6 thought you were referring to the Prince William  
7 Sound.

8 Q Okay. I apologize. The one in 1980. Where  
9 was that? What was that?

10 A I believe it was in 1980. I might be mistaken  
11 on the date, but that was at LaGuardia, New York.  
12 Marine Safety International had a simulator  
13 training program available there, which  
14 specifically dealt with VLCC handling  
15 characteristics in Prince William Sound.

16 Q And, I mean, with Prince William Sound? They  
17 have a program just for Prince William Sound, is  
18 that correct?

19 A I believe they did. Yes, sir.

20 Q Maybe you could explain to us just how this  
21 works. I mean, some of us aren't familiar with  
22 what's called a computer simulated simulator.  
23 What exactly is that? How does it work?

24 A Well, this was 10 years ago. The simulator  
25 set up is that they have a mock bridge with

1 equipment and helm and a gyro and a VHF radio and  
2 a radar, as I recall, some other instrumentation  
3 around.

4 And there's a -- the screens -- they're not  
5 exactly television screens. I don't know how  
6 they're constructed -- that give a view of about  
7 130 or 40 degrees.

8 And the -- as I recall their simulator work  
9 -- they had miniature scale models of the areas  
10 with a camera that reacted to whatever changes in  
11 speed or helm that you might give. The cam would  
12 report, you'd move along this scale model and  
13 that image off that camera would be displayed on  
14 the screen, so you would see what their scale  
15 model is up on the screens. If the vessel was  
16 reacting to the commands and the rudder order  
17 changes that you were giving.

18 Q Does it really represent true to life  
19 conditions, or...

20 A Well, your visibility is restricted to those  
21 areas and their model is for a particular ship  
22 and it may not be the particular ship that I  
23 sailed on.

24 Q Now, this is similar to the course you took, I  
25 think, in 1987 when you said Exxon sent you to

1 Grenoble, France, right, to take one?

2 A No. That was not in 1987. That was before I  
3 could -- became -- before I was promoted to  
4 master. I don't recall a specific date on that  
5 one, but that is a different type of course.  
6 They -- their scale models are built that you  
7 actually, physically sit in and maneuver the  
8 vessel around a small lake under various  
9 conditions.

10 Q Grenoble, France is not on the ocean, is it?

11 A No, it's not. I don't believe so.

12 Q But you actually sit in a little scaled down  
13 vessel and steer it around the lake?

14 A Yes. This is a world-wide renowned school for  
15 ship masters for ship handling. And the scale  
16 models -- I believe they're one fifth scale. I  
17 don't remember exactly what size they are. Or  
18 one sixteenth, but the time factor -- the one  
19 difference I do remember is that they react  
20 exactly to the design of that ship, whatever size  
21 it might be, except that things respond five  
22 times faster because of the scale is reduced.  
23 So, we maneuver these vessels around a small  
24 lake.

25 Q Okay. I guess the point I'm making here, you

1           said that this was prior to getting your master's  
2           license, you were employed by Exxon at that  
3           time...

4           A           This is...

5           Q           And they sent you there?

6           A           Yes, sir. They -- Exxon sent me there. I was  
7           prior to being promoted to Master.

8           Q           Is it fair to say that Exxon was encouraging  
9           progress in its employees to, let's say,  
10          establish and acquire a greater personal  
11          incentive, training, experience to kind of  
12          upgrade themselves?

13          A           Yes, sir. I think that's fair to say.

14          Q           And, of course, to do that you acquire more  
15          experience as you go along, right?

16          A           Yes, sir.

17          Q           I mean, if you're serving as a third mate, for  
18          instance, you'd want to basically get all the  
19          experience you could?

20          A           Yes, sir. Depending on the vessel you gain  
21          experience. You gain different experiences on  
22          different vessels.

23          Q           And, naturally you would hope that your  
24          superiors, second mate, third mate -- I mean, the  
25          first mate and captain would give you more and



1 more responsibility as you go along, right?

2 A Yes, sir. You -- an individual might hope for  
3 that.

4 Q And after you became captain -- now, this is  
5 kind of the -- I guess, the ultimate as far as  
6 being on a vessel's concerned, a master is the  
7 highest level you can attain in Exxon Shipping,  
8 is that correct?

9 A On the vessel, yes, sir.

10 Q On the vessel?

11 A Yes.

12 Q After that it's some type of a shore, or  
13 management position, right?

14 A If you go ashore, yes, sir.

15 Q Have you had any shore management positions in  
16 your career?

17 A Yes. I have.

18 Q When were they?

19 A No, pardon me? Shore management positions?

20 Q Yes.

21 A No. I don't believe I have.

22 Q Are you anticipating, or, let's see, trying to  
23 get a higher position in Exxon at the present  
24 time?

25 A No, sir. I intend to continue sailing.

1 Q If a better position would offered to you  
2 would you take it?

3 A I might. I don't know that I would or  
4 wouldn't.

5 Q You indicated, also, that Exxon Shipping  
6 Company had, oh, different, maybe yearly  
7 conferences, I think, where you said that the  
8 masters would all get together, right?

9 A Masters or other fleet officers. And they're  
10 not every year, but generally yearly, I guess.

11 Q Generally every year. Once a year?

12 A Yes, sir.

13 Q And you say masters and other fleet officers.  
14 What does other fleet officers mean?

15 A That would be chief engineers. And during  
16 some of these years it included all of the junior  
17 officers, deck and engine.

18 Q How many masters are there with Exxon Shipping  
19 Company?

20 A Today?

21 Q Yeah.

22 A I don't know exactly. About 30, I think.

23 Q And how many Exxon vessels go regularly to and  
24 from Valdez to load crude oil?

25 A Today?

1 Q Yeah. Well, let's go back. Let's say in  
2 March of 1989? Almost a year ago.

3 A Well, we have the Valdez, and the Long Beach,  
4 the Benicia and North Slope, the Houston and New  
5 Orleans, the San Francisco and the Baton Rouge  
6 and the Philadelphia. Occasionally, maybe not.  
7 I think the Baytown might have been out there at  
8 that time.

9 Q In your experiences have you -- you've served  
10 as mate on various vessels going in and out of  
11 Prince William Sound, Correct? Other than  
12 master?

13 I think you said you were on the Baton Rouge  
14 at one time.

15 A As master I was on the Baton Rouge, yes.

16 Q Okay. You were a master on that.

17 A That was my first command as master for two  
18 months -- or, one month and then I was switched  
19 to the Exxon Benicia.

20 Q Is it fair to say there is a number of Exxon  
21 vessels that are going back and forth -- and were  
22 going back and forth loading crude oil to Valdez,  
23 taking it to various ports in 1989, March, other  
24 than the Exxon Valdez?

25 A Oh, yes, sir.

1 Q It is also true, sir, that Exxon is not the  
2 only company that's going to the Terminal in  
3 Valdez to load crude oil?  
4 A Yes, sir.  
5 Q How about ARCO? How many vessels do they  
6 have, do you know?  
7 A I don't know that, but I believe they do sail  
8 in there.  
9 Q And Chevron?  
10 A I don't know how many vessels they have?  
11 Q British Petroleum?  
12 A I don't know how many vessels they have.  
13 Q How many other companies are you aware of that  
14 own, lease, charter, or otherwise utilize the  
15 Terminal at Valdez to obtain cargo and transport  
16 it to other ports?  
17 A Probably three of four other companies.  
18 Q So, it's fair to say there's a number of  
19 companies that have vessels that utilize the  
20 Terminal there at Valdez other than Exxon?  
21 A Yes, sir.  
22 Q Do you know if they have Bridge Manuals for  
23 their companies or organizations?  
24 A I don't know if they do or don't.  
25 Q Nothing -- there's no requirement by the Coast

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Guard or anyone else you're aware of that requires a particular Bridge Manual, is that correct?

A I'm not aware of any regulation that requires a Bridge Manual.

Q So, you don't know if ARCO has one, or even if they do, it's the same as Exxon's?

A I don't know if they have one or not.

Q The Bridge Manual is simply a guideline for masters and watch officers, is it not?

A It cont -- our manual contains the policy for Exxon Shipping Company and provides guidelines how we are to conduct the navigation of a vessel.

Q Well, sir, what's the penalty for violating one of the guidelines? Is there any?

A The penalty would vary, I think, depending on the circumstances.

Q There is no policy that sets out in that manual that you described here yesterday and today that says if you violate section 2.4(c) there's a certain penalty, or anything like that, right?

A I'm not aware of any specific penalty set up for a specific failure to comply with the manual, no.

1 Q You don't get a trial, or something, right?  
2 To determine whether or not you did or did not  
3 violate it?  
4 A No, sir.  
5 Q Is it fair to say that the policy is a guide  
6 to assist masters and watch officers in what the  
7 company would normally expect in the course -- to  
8 perform their duties in the normal course of,  
9 say, their watch? A little confusing sentence,  
10 but maybe I can try it again.  
11 A Okay. Thank you.  
12 Q Is it fair to say that it is just a guideline  
13 for watch officers and masters to assist them in  
14 performing their duties?  
15 A It's the policy of Exxon Shipping Company that  
16 we're to follow the manual. I think within the  
17 manual provides some room for the master to use  
18 the manual as guidelines. Certain circumstances,  
19 situations may change and he has to be governed  
20 accordingly.  
21 Q In fact, the master has considerable latitude  
22 to interpret the guidelines, does he not?  
23 Depending on his personal experience at the time  
24 and what he considers the danger, hazard or lack  
25 of?

1 A I think he has some latitude, yes, sir.

2 Q Well, let's -- as an example, you testified  
3 about -- well, let's take an example, the -- the  
4 autopilot. I think you said that there was a  
5 policy in use in -- part of the policy Bridge  
6 Manual regarding the autopilot, but that was  
7 modified or changed in 1987. Is that correct?

8 A Yes, sir.

9 Q And that was June 16th, 1987?

10 A It may have been. I don't recall that  
11 specific date.

12 Q Let me ask you this, sir, did you happen to  
13 notice yesterday when you reviewed the manual  
14 that Mr. Cole gave you to look at and identify,  
15 did you happen to notice if the June 16th, 1987  
16 modification was included in there?

17 A I believe the modification was included in  
18 that manual, yes, sir.

19 Q Let me just double check. I don't want to  
20 duplicate this if we don't have to.

21 MR. COLE: It's between page 49 and 50.

22 MR. MADSON: Is that Exhibit 14, was it?

23 MR. COLE: It's right there. It's right  
24 underneath your right hand.

25 (Pause)

1 (2770)

2 THE COURT: Mr. Cole, maybe you can come up  
3 and help.

4 MR. COLE: Right under his right hand.

5 MR. MADSON: Right under my right hand. Aah.

6 (Pause)

7 Page 49, Mr. Cole?

8 MR. COLE: Pages 49 and 50.

9 Q (Captain Stalzer by Mr. Madson:) Okay. Sir,  
10 let me hand you what's been previously admitted  
11 as Plaintiff's Exhibit 14. And I'll ask you if  
12 that is the June 16th, 1987 modification?

13 A It appears so if it's dated June 16th, 1987.

14 Q Captain Stalzer, would you agree that this  
15 1987 letter changes the use of the autopilot to  
16 basically give the master a lot of discretion as  
17 to when and where he will use it and under what  
18 conditions?

19 A It -- it was changed to give the master more  
20 flexibility in the use of autopilot. That's my  
21 understanding of it.

22 Q And, by more flexibility, that means that it  
23 doesn't really restrict the use of the autopilot  
24 substantially, does it?

25 A My understanding is it doesn't -- that it



1 permits the master to the use of autopilot in  
2 watch conditions B, C, and D. This was a change  
3 from the earlier version of the manual.

4 Q What about A? Watch condition A?

5 A Watch condition A was already covered, and it  
6 does permit the use of autopilot in watch  
7 condition A.

8 Q So, this basically allows the use of the  
9 autopilot under all watch conditions?

10 A It provided -- yes, sir. It provided more  
11 flexibility in the use of autopilot.

12 Q And watch conditions depend on -- would you  
13 agree, the circumstances at the time, obviously  
14 whether you're leaving port, entering port,  
15 visibility? A number of factors determine what a  
16 watch condition is, is that fair to say?

17 A Yes, sir. A number of factors enter into the  
18 setting of the watch condition.

19 Q In other words, watch condition A that you  
20 referred to -- this is on page 46, I believe of  
21 the manual I'm looking at -- by the way, you  
22 haven't memorized this manual, have you?

23 A No, sir. It's over 100 pages long, but I am  
24 familiar with it.

25 Q If -- let me just ask you kind of a

1           hypothetical, if you're in a situation, let's say  
2           going into Prince William Sound, do you normally  
3           take this manual out and look at it and say,  
4           well, I believe the manual says we're in watch  
5           condition B, but I think it might be C, or it  
6           might be A, and then use this every trip, more or  
7           less to guide your decision on whether it's A, B,  
8           or C?

9           A           I use this as a guide. And I believe when I  
10           was on board the vessel some of either page 46 or  
11           47 was posted and available on the bridge.

12          Q           And it's still open to interpretation of the  
13           individual master, is it not?

14          A           These were examples of how -- what condition  
15           the company felt that we should have that watch  
16           set and I followed them.

17                    THE COURT: The question was is it up to the  
18           individual interpretation of the master. That was the  
19           question. Whether it's A, B, C or D.

20          A           The master is the one who decides, yes, sir -  
21           - who sets the condition.

22          Q           (Captain Stalzer by Mr. Madson:) In fact,  
23           that's exactly what the manual says, does it not?  
24           "The watch condition is to be set by the master."

25          A           Yes, sir.

1 Q In open waters where there's clear visibility  
2 regardless of traffic, watch condition A. Now  
3 that means -- maybe I better ask you. Clear  
4 visibility means in your mind and your opinion at  
5 that time you have clear visibility, right?

6 A Yes.

7 Q And regardless of traffic means, it could be  
8 congested, a lot of different vessels around or  
9 it could be no other vessels?

10 A Yes, sir.

11 Q And watch condition B would be with restricted  
12 visibility, regardless of traffic. Now, this is  
13 in open waters, right?

14 A Yes, sir.

15 Q Now, it doesn't define open waters here, does  
16 it?

17 A I don't believe the manual defines open  
18 waters, no.

19 Q It doesn't define clear visibility, or  
20 traffic?

21 A I don't believe it does, no.

22 Q It doesn't define restricted visibility?

23 A No. I don't believe it does define restricted  
24 visibility.

25 Q Then, in restricted waters, now I imagine you

1 would consider Prince William Sound to be  
2 restricted waters as opposed to open waters?  
3 A Yes, sir. I would.  
4 Q If there's clear visibility and little or no  
5 traffic in restricted waters that could be watch  
6 condition A, could it not?  
7 (Pause)  
8 A (No audible response.)  
9 Q Did you answer the question on this, sir?  
10 A No. I haven't. Are you asking for a specific  
11 location, or just in restricted waters is it  
12 possible to have watch condition A...  
13 Q I'm going by...  
14 A ...with clear visibility and no traffic.  
15 Q Whatever restricted waters means and clear  
16 visibility and little or no traffic?  
17 A The manual states that you can set watch  
18 condition A, yes, sir.  
19 Q Okay. Watch condition A means what?  
20 A That means -- do you want exactly?  
21 Q Yeah. What does watch condition -- what's  
22 required for watch condition A?  
23 A A gen -- do you want me to read from the  
24 manual, or...  
25 Q Well, let's put it this way, do you know from

1           your own personal experience and memory what it  
2           means?

3       A           Yes, sir. I believe I do.

4       Q           Okay. What's that?

5       A           It means one officer on the bridge with a --  
6           with a able seaman readily available.

7       Q           Okay. So, only one watch officer's necessary  
8           under watch condition A?

9       A           Yes, sir.

10      Q           And that's wherever a master decides that he  
11           is in restricted waters with clear visibility and  
12           little or no traffic?

13      A           He has the option of setting watch condition  
14           A.

15      Q           Now, if I understand your testimony correctly  
16           you said that you considered this to be watch  
17           condition C?

18      A           Of my normal...

19      Q           In Prince William Sound?

20      A           Yes. I normally pass through Prince William  
21           Sound in watch condition C.

22      Q           That's because you consider it leaving or  
23           entering port, right?

24      A           Yes, sir.

25      Q           And you consider port to be Cape Hinchinbrook

1 all the way to the Terminal, there at Valdez,  
2 right?

3 A Yes, sir.

4 Q Otherwise, according to the guidelines, and  
5 I'm referring to page 46, again, the master  
6 should be on the bridge whenever there's a  
7 potential threat such as passing in the vicinity  
8 of shoals, rocks, or other hazards which  
9 represent a threat to safe navigation?

10 A What page, there?

11 Q It's -- I can't tell. I can see a six, but it  
12 isn't 46. It must be a different page, 'cause it  
13 isn't shown on here. 2.1.5(a).

14 A Now what was the question, sir?

15 Q Is it not correct, that, sir, that according  
16 to guidelines that master should be on the bridge  
17 whenever the ship or vessel is passing in the  
18 vicinity of shoals, rocks, or other hazards,  
19 presenting a threat to...

20 MR. COLE: Your Honor, I object to Mr.  
21 Madson's reading. It's not "should". It says, "must"  
22 be on the bridge.

23 MR. MADSON: Excuse me.

24 Q (Captain Stalzer by Mr. Madson:) Must be on  
25 the bridge.

1 A Yes, sir.

2 (3270)

3 Q That's subject to interpretation, too, is it  
4 not?

5 A Yes, sir.

6 Q What does vicinity mean? That gives you some  
7 latitude as to whether you think you are close  
8 enough, or far enough away from a rock or shoal  
9 to determine whether or not you should or should  
10 not be on the bridge, right?

11 A Yes, sir.

12 Q Again, without belaboring the point, captain,  
13 the guidelines that you've testified here to  
14 about, and the ones I've just mentioned are not  
15 clearly defined. In other words, there seemed to  
16 be no attempt on the part of Exxon to get these  
17 right down to as close as possible...

18 MR. COLE: I object to compound question.

19 THE COURT: Don't answer the question. It's  
20 kind of complicated to answer. Rephrase the question.

21 MR. MADSON: I'll try to simplify it.

22 Q (Captain Stalzer by Mr. Madson:) Captain  
23 Stalzer, these guidelines are not very definitive  
24 in defining a lot of terms, are they?

25 A No, sir.

1 Q Wouldn't you agree, sir, it would be very  
2 difficult to try to do that?  
3 A To define every term...  
4 Q Yeah.  
5 A ...in the manual?  
6 Q Define all these terms?  
7 A Yes, sir.  
8 Q So, when they try to set policy or guidelines,  
9 it's up to you, or Captain Hazelwood, or any  
10 other Exxon masters to try to follow them, but  
11 interpret them the way they feel the situation  
12 warrants?  
13 A Yes, sir.  
14 Q Are you aware of these guidelines ever being  
15 included in any Alaska State statute or law or  
16 regulation? Part of any Alaska law?  
17 A No, sir. I don't believe...  
18 Q Part of any...  
19 A ...law.  
20 Q Excuse me. I didn't mean to interrupt.  
21 A I'm not aware of any Alaska law.  
22 Q Have they been encompassed, or included in any  
23 Coast Guard regulation, or federal statute?  
24 A These -- these specific guidelines...  
25 Q Yeah.



1 A ...policies? No. No, sir. I don't believe  
2 they are.

3 Q In fact, there's no requirement by anybody to  
4 your knowledge, is there, that a shipping company  
5 even has to promulgate, or, you know, to make up  
6 these policy guidelines?

7 A I'm not aware of any regulation that requires  
8 it, no, sir.

9 Q Going on to another subject, you said that you  
10 received some alcohol training -- detection of  
11 alcohol in about 1985. Is that correct?

12 A Well, yes, sir.

13 Q I think you said it was about a half hour  
14 presentation of how to detect alcohol?

15 A Alcohol and drugs, yes, sir.

16 Q And that was, what? A half hour presentation  
17 at one of the masters' conferences you attended?

18 A Yes, sir. It might have been a little bit  
19 longer than that, 45 minutes.

20 Q It wasn't fairly extensive, though, was it?

21 A No. It -- they discussed different drugs and  
22 how you might detect them and a, you know, I  
23 think we watched a film. Might have been a 10  
24 minute film that showed some examples.

25 Q And the tox kits that you referred to --

1 toxicology kits for the drawing of blood for  
2 testing. I think you said they were required to  
3 be on board the vessels because of Coast Guard  
4 regulation, is that correct?

5 A I think the Coast Guard regulation requires  
6 that an employer provide kits within 24 hours.  
7 And they have the option to have them located on  
8 board.

9 Q Do you recall, sir, whether or not that  
10 regulation that requires that did not become --  
11 go into effect until December of 1989?

12 A No. I thought it went into effect in December  
13 of -- yes. It was in late '88.

14 Q Late '88?

15 A I believe, yeah. Late '88, sir.

16 Q In any event, the course you took, or the tox  
17 kits didn't teach you how to draw blood samples,  
18 right?

19 A The course in 1985?

20 Q Yeah.

21 A No, sir.

22 Q It required the employer, regardless of the  
23 time -- there was a regulation that required the  
24 employer, in this case Exxon Shipping, to have  
25 these on board, right? Tox kits -- toxicology

1 kits on board?

2 A Yes. Would you repeat the question?

3 Q Whether it was in '88 or '89 there was a  
4 regulation that required the owner, the employer  
5 to have on board certain toxicology kits, right?

6 A Or, to supply within 24 hours, I believe.

7 Q That means, I presume, you could fly them out,  
8 or from a helicopter, from shore or something  
9 like that if you had to?

10 A I suppose so.

11 Q Was there anybody on board the vessel that was  
12 -- let me -- from your knowledge, anybody trained  
13 that was on board the vessel to take blood  
14 samples as part of their duties?

15 A No, sir.

16 Q So, the responsibility was to have them  
17 available, in case the Coast Guard or somebody  
18 wanted to do a blood test, or a drug test -- the  
19 kits?

20 A I believe so, yeah.

21 Q You also testified -- well, to a great extent  
22 yesterday about all the different pieces of  
23 equipment on the bridge. Fair to say that the  
24 Exxon Valdez was kind of a flag ship of the Exxon  
25 Shipping Company?

1 A I don't know if it was the flagship, but it is  
2 well outfitted, yes, sir.

3 Q It was one of the newest vessels, was it not?  
4 A Yes, sir. It was.

5 Q And being new, it had the latest innovations  
6 in design and features such as electronic  
7 equipment, navigational equipment?

8 A I believe it did, yes.

9 Q In other words, it didn't have anything  
10 outmoded put on it when it was built, right?

11 A No. I don't think so, no.

12 Q And would you say that it was a good, you  
13 know, kind of a star in your cap, if you will, to  
14 get assigned to the Exxon Valdez as captain or  
15 master?

16 A I thought it was, sir.

17 Q Now, the -- I think Mr. Cole covered this and  
18 I'm not gonna go into great detail, but with  
19 regard to rudder indicators, the purpose of a  
20 rudder angle indicator is to tell the watch  
21 officer what the angle of a rudder is at a given  
22 time, correct?

23 A And, also, the helmsman, yes, sir.

24 Q And the helmsman. And that's...

25 A And anyone else -- the pilot, or the master.

1 Q So, if it's at zero, you know the vessel's  
2 going straight ahead, regardless of what it's  
3 course is, you're going straight ahead? Assuming  
4 there's no current, or something that's sideways?

5 A Okay.

6 Q I'm learning a lot about this, too.

7 But, if you want, say, 10 degrees right  
8 rudder, there's a number of ways the helmsman can  
9 tell if the rudder is at 10 degrees, right?

10 A There are a number of rudder angle indicators,  
11 yes, sir.

12 Q And the watch officer can also tell?

13 A Yes, sir.

14 Q He can even tell if he's out on the bridge,  
15 right? 'Cause there's indicators out on the port  
16 wing and the starboard wing?

17 A Yes, sir. There are indicators out there.

18 Q When the rudder is turned, let's say at 10  
19 degrees, let me ask you a few questions about  
20 this, first. I'm referring now to Exhibit 18.

21 You testified earlier today about the turning  
22 characteristics of the Exxon Valdez?

23 A Yes, sir.

24 Q Now, it's a little difficult to describe in  
25 words, but it appears that -- let's say you --

1 let's just take an example. You have a full load  
2 and you want to make a hard turn to the right,  
3 okay? That's up here in the upper left corner, I  
4 believe.

5 A Yes, sir.

6 Q The second one.

7 It looks -- from looking at the diagram --  
8 like the vessel goes straight ahead and makes a  
9 very, very tight sharp turn, you know, from  
10 looking at the diagram.

11 A Well, that's about six tenths of a mile.

12 Q Isn't it true, sir, that that doesn't truly  
13 represent the course of the ship at full right  
14 rudder. In other words, it starts turning it  
15 makes more of a gradual turn to the right?

16 A That -- that's correct. It -- under -- you're  
17 speaking about a hard right turn there.

18 Q Yeah. Right.

19 A Yes. It'll -- it does not instantaneous turn  
20 90 degrees. It slowly comes around and takes  
21 about 2.8 minutes and six tenths of a mile.

22 Q Let me ask you this, and answer it if you can,  
23 please -- if you had the Exxon Valdez loaded, say  
24 a draft of 56 -- 57 feet, and you were at 11.74  
25 knots, the seas are calm, there's no current, the

1            tide is just about high tide -- within an hour or  
2            so -- if you have a right degree right turn -- 10  
3            degrees, rather, right rudder, do you know how  
4            many degrees per minute the vessel would actually  
5            turn? Can you give an approximate of that?

6            A            No. I don't know exactly how many degrees per  
7            minute the vessel would turn.

8                        With a right turn -- it would depend to a  
9            certain extent on wind and sea conditions and how  
10           long you left that right rudder on, but it would  
11           probably slowly build up to about 20 degrees per  
12           minute.

13           Q            About 20 degrees per minute. We you say that,  
14           that means the vessel's heading actually turns 20  
15           degrees per minute. By heading, that means its  
16           change in position or course?

17           A            Yes, sir. It would also depend on how long  
18           you left that rudder on.

19           Q            Correct. But if you just turn it to 10, it's  
20           gonna stay there, right? Until you move it  
21           physically back?

22           A            That's correct. The rudder will stay.

23           Q            I think you answered this question yesterday,  
24           but as far as the fathometer's concerned, I think  
25           you said there were two of them on the Exxon

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Valdez, correct?

A Yes, sir.

Q One is located on the bridge somewhere in a forward position?

A Yes, sir. On the fiddler board.

(Side conversation)

Q (Captain Stalzer by Mr. Cole:) By the way, while I'm up here, sir, could you just explain again something called transfer, and I believe this is called advance. Just exactly what does that mean?

A Well, advance is the distance the vessel will travel until it reach -- in the forward direction before it reaches 90 degrees from the course change under those conditions and the transfer is the distance, in this case, to the starboard, or to the right of your baseline of the distance the vessel will travel at the time it reached 90 degrees.

Q So, I think you said that in this situation here, full sea speed, 15.96 knots, draft 64.57 feet, that's aft, and the forward isn't exactly the same, the vessel would advance about six tenths of a mile?

A Yes, sir.



1 Q And that's as far as it would go forward,  
2 correct? In a forward position?

3 A Well, I...

4 Q What I'm trying to get at is what does this  
5 mean?

6 A Yes, sir. But each situation is slightly  
7 different, so it might slightly variable...

8 Q Yeah.

9 A ...but, basically, that's what that tells you.

10 Q Yeah. These are hypothetical, or ideal  
11 situations, are they not?

12 A Correct. Yes, sir.

13 Q And then, transfer is the distance it would go  
14 in the 90 degree position until it started  
15 turning again, which would be 180 degrees from  
16 where the ship started?

17 A Yes, sir. At the time it swings through a 90  
18 degree difference from your base course line.

19 Q So, if you started a 180 degree -- figure 180  
20 degrees...

21 A Yes, sir.

22 Q Okay? Under these conditions you would  
23 advance about six tenths of a mile, transfer, or  
24 go to the right angle position -- to the right  
25 or, I guess that'd be to the...

1 A Starboard.  
2 Q ...starboard.  
3 A Yes, sir.  
4 Q About three tenths of a mile. And then, you  
5 would be back at a course of zero degrees.  
6 A No. At that point -- if I'm reading this  
7 right, you're -- you would be at 270 degrees.  
8 (Tape: C-3631)  
9 (A)  
10 Q Okay.  
11 A And then, if you come to the next position  
12 shown...  
13 Q That's .63 miles -- it's called a diameter?  
14 A Oh. Okay. Then you're back to north at that  
15 point.  
16 Q Okay, then you're actually back on a heading  
17 going straight north, again?  
18 A Yes, sir.  
19 Q And getting back to the fathometers, the one  
20 you said that is mounted somewhere in the front  
21 of the bridge, where exactly is that, again, sir?  
22 Just -- if you could point there just for a  
23 second?  
24 A Oh, I think in this diagram it's -- it's 7 --  
25 is that what -- yeah. Right here. On the

1 fiddle board. Is that the one you're speaking  
2 of?

3 Q And you said there's one in another position  
4 also, over by the chart table, I think...

5 A Yes, sir. Over here.

6 Q You said one was working and one was not at  
7 the time you...

8 A When I joined the vessel in April.

9 Q In April.

10 And which one was still working, sir?

11 A I believe the after one. The one by the chart  
12 table.

13 Q Is that the recording one?

14 A That is the recording one, yes, sir.

15 Q Where is the transducer for that particular  
16 fathometer? Where's it located on the ship?

17 A I believe it's aft.

18 Q When you say aft do you know how far aft?

19 A No. I don't know the exact frame it's at. We  
20 could get at that transducer by going down into  
21 the engine compartment.

22 Q But, if you were aground, let's say, and the  
23 forward part of the ship was aground and there  
24 was deep water astern, that fathometer could  
25 still possibly tell you how much depth you had

1 off your stern, right?

2 A It tells the depth underneath the vessel, yes,  
3 sir.

4 Q Getting back to one thing I may have  
5 forgotten. On our turning circle there? The  
6 situation I described, that is the vessel loaded  
7 and at full sea speed -- do you recall what I  
8 just told you about?

9 A Yes, sir.

10 Q Do you know how long that entire procedure  
11 would take?

12 A To go how far, sir? To the 90 degree  
13 position?

14 Q Let's say the 90 degree position, okay.  
15 Making a right angle turn?

16 A It's about 2.8 minutes. I believe it's 2.8  
17 minutes is what's posted on there.

18 Q 2.8 minutes, right?

19 A Yes.

20 Q You said the captain's quarters are located  
21 right below the bridge, right?

22 A On the starboard side, yes, sir.

23 Q On the starboard side.  
24 You're within 15 seconds of the bridge if you  
25 wanted to hurry?

1 A Yes, sir. I believe so.

2 Q You have a telephone there? A telephone  
3 communication with the bridge?

4 A Yes, sir.

5 Q How does that work? You just pick up the  
6 phone, or you have to dial a number or extension,  
7 or something?

8 A From the quarters, or the office?

9 Q Let's try the bridge to the quarters?

10 A Bridge to the quarters. There are -- there  
11 are two phones. One is a dial telephone similar  
12 to any other telephone that you use in your  
13 house, push button, three digits to call the  
14 captain's office. And there is a sound powered  
15 phone from the bridge down to the captain's  
16 quarters.

17 Q That's a what kind of phone?

18 A Sound powered phone.

19 Q How does that work?

20 A That -- you place the selector switch on the  
21 station you want to call. There's a crank that  
22 you -- that the caller will crank, which rings a  
23 bell, then, at the location he's selected and you  
24 pick it up and you push a button and talk and  
25 listen.

1 Q Is one of those systems used more frequently  
2 than the other...

3 A I believe...

4 Q ...in communicating back and forth?

5 A I usually use the dial telephone, yes, sir.

6 Q That's just personal preference, I take it?

7 A Yes, sir.

8 Q In any event, when you -- if you're in your  
9 quarters and there's a watch officer on deck, you  
10 normally tell him if there's any problem, or you  
11 don't feel comfortable in a situation, call me,  
12 right?

13 A Watch officer on the bridge?

14 Q Yeah.

15 A Yes, sir.

16 Q I mean, that's pretty logical instruction to  
17 give somebody who's on the bridge, isn't it?

18 A Yes, sir. Whenever they're in doubt they're  
19 to call the master.

20 Q Are you acquainted with Greg Cousins, sir?

21 A Yes, sir. I have sailed with Mr. Cousins.

22 Q You sailed with him before?

23 A Yes, sir.

24 Q Have you evaluated his performance?

25 MR. COLE: Objection, relevance.

1 THE COURT: Objection overruled.

2 A I don't recall if I've formally evaluated him

3 on an evaluation sheet. I have discussed his

4 performance with him.

5 Q Would you consider him to be a competent third

6 mate?

7 A Yes, sir. I would.

8 Q Capable of carrying out pretty simply,

9 straight forward instructions?

10 A Yes, sir. I would.

11 Q If you were to tell him to turn a vessel --

12 make a turn, or maneuver a vessel when you're 90

13 degrees off a particular light, that's pretty

14 simple, isn't it?

15 A In some situations it could be, yes, sir.

16 Q Getting back to the fathometer, you don't use

17 that as a navigation aid, do you, to plot a

18 course, do you? Fathometer?

19 A Yes, sir. A fathometer could be used as a

20 navigation aid for plotting a course.

21 Q Would you use it in Prince William Sound to

22 plot a course?

23 A Generally, we don't -- it is available for use

24 to check the sounding. When you plot a position

25 you can confirm it by checking the sounding.

1 Q If you were -- say you're gonna make a turn,  
2 or maneuver at a particular fathom mark, that's a  
3 little bit difficult to do? You have other  
4 navigational aids that are much easier to use,  
5 right?

6 A I'm not sure I understand the question, sir.

7 Q Well, let clear this up a little bit if I can.  
8 I'm referring now to the chart of Prince  
9 William Sound. For instance, off of Busby Island  
10 -- there's a light right on Busby Island, is  
11 there not?

12 A Yes, sir.

13 Q You can see that for -- with clear visibility  
14 you can see it for quite a distance, correct?

15 A Yes, sir.

16 Q Assuming there's a particular fathom mark in  
17 the vicinity of Busby Island that reads 38, if  
18 you were -- let me get back where I belong here.

19 Let's say it's a mile -- mile and a half off  
20 Busby and it's somewhat south of Busby Island.  
21 And there's a chart that has a 38 fathom mark on  
22 it...

23 A Yes, sir.

24 Q Would you agree, sir, it would not be very  
25 prudent as a navigator to make a turn when you're



1 looking for a particular fathom reading as  
2 opposed to using the navigational aids, such as  
3 the light on Busby Island?

4 A In that case I don't believe that would -- it  
5 would be more prudent to use other navigation  
6 aids and not rely solely on -- on a sounding.

7 Q In other words, something to the effect of  
8 start a turn when you're abeam of Busby Island,  
9 or 90 degrees off Busby Island if you're on a  
10 course of 180 would be pretty simple, would it  
11 not?

12 A It could be.

13 Q A lot simpler than looking at a fathometer to  
14 see if it's gonna read 38, or not?

15 A Well, the fathometer at the fiddle board -- if  
16 he just watched that until the number 38 came up,  
17 but that...

18 Q Wouldn't it also depend on what the tide  
19 condition is?

20 A Yes. It would, sir.

21 Q 'Cause the fathom marks on a chart are -- I  
22 think you said at mean low tide?

23 A A mean low in the water, yes, sir.

24 Q What does that mean? Would you describe to  
25 the jury what that means?

1 A That's generally the lowest tide that's --  
2 that's encountered.  
3 Q The lowest tide?  
4 A The lowest of the low, yes, sir.  
5 Q Over a long period of time?  
6 A Yes, sir.  
7 Q Okay. So, the tide in Prince William Sound is  
8 roughly, what? Say, 12 feet? Is that a fair  
9 estimate?  
10 A That would be a fair estimate.  
11 Q And so, if you're looking for a fathom mark on  
12 a chart, trying to correlate that with your  
13 position, you'd have to take into account the  
14 tide, too, right?  
15 A Yes, sir. And the draft of the vessel.  
16 Q So, you have to do all these calculations and  
17 then, if you're a little bit off, you're not  
18 gonna read 38. Unless your bottom is pretty  
19 smooth, right?  
20 A Yes, sir.  
21 Q In other words, if it's, say pretty bumpy,  
22 you're gonna get a lot of variation in your  
23 fathom readings?  
24 A That's correct.  
25 Q Now, on a trip into Prince William Sound as a

1 master of the Exxon Valdez, you've indicated that  
2 there was paperwork to do. There's no  
3 requirement, is there, as to when the master's  
4 supposed to do the paperwork?

5 A No. I'm not aware of requirements, generally,  
6 when paperwork has to be done.

7 Q Basically it means it has to be done, but the  
8 when is up to you, or any other master?

9 A Yes, sir.

10 Q When you're in port loading, taking on cargo,  
11 the chief mate is generally responsible, is he  
12 not, for the loading of the cargo?

13 A Yes, sir.

14 Q As captain, you oversee the operation and you  
15 are certainly aware of it, right?

16 A Yes, sir.

17 Q But, the function of carrying it out would be  
18 the chief mate. In turn, he would delegate  
19 certain duties to other ship officers or seamen?

20 A Yes, sir.

21 Q And if the chief mate is up, let's say for a  
22 long period of time, would it be unusual at all  
23 for, say, the master to stand his next watch to  
24 allow him to get some more sleep?

25 A I don't know if it would be unusual.

1 Q Has it been done, to your knowledge?  
2 A Yes, sir. It has been done.  
3 Q And then, if the master's gonna stand an extra  
4 watch, he has other duties to perform -- he still  
5 has the same duties to perform, but in addition  
6 he would have an extra watch covered for the  
7 chief mate if he chose to do that, right?  
8 A Yes, sir.  
9 Q You also discussed the grounding program on  
10 the computer, I think you said the Ocean Motions  
11 program? I believe that's what it's called?  
12 A Yes, sir.  
13 Q The grounding portion of that didn't seem to  
14 work?  
15 A No, sir. I don't believe it did.  
16 Q Were you the only one that was aware of this?  
17 A No, sir. I was not.  
18 Q Oh, who else was?  
19 A I think chief mates that had been on the  
20 vessel previous -- previously, and the naval  
21 architect ashore and the shore staff.  
22 Q Well, did you discuss this with your superiors  
23 in Exxon?  
24 A Yes. I did, sir.  
25 Q To your knowledge did they call in all the

1           captains, or anybody that was gonna be involved -  
2           - well, let me back up a little bit. I'm getting  
3           ahead of myself.

4           This particular program, was it unique, or  
5           only on the Exxon Valdez, or did other Exxon  
6           vessels have a similar computer and program?

7           A           No. I believe the Ocean Motions program was  
8           only on the Exxon Valdez and Exxon Long Beach.

9           Q           Which is a sister ship, right?

10          A           Yes, sir.

11          Q           By telling Exxon officials, or your superiors  
12          about this particular problem did you believe,  
13          then, that they, in turn would alert, or address  
14          the issue with other captains, or other chief  
15          mates who might be on the Exxon Valdez?

16          A           Well, they might do that.

17          Q           I take it you thought your responsibility,  
18          once you discovered this, was to tell them,  
19          right?

20          A           Yes, sir.

21          Q           Let Exxon know?

22          A           Yes, sir.

23          Q           What they do, or what they didn't do, of  
24          course, would be up to them. You have no control  
25          over that, right?

1 A Correct. I don't have any control of that.

2 Q And I believe you said you did not know  
3 whether Mr. Kunkel knew or didn't know of the  
4 problems on this particular computer program. I  
5 think you said you weren't sure?

6 A Yes, sir.

7 Q Well, what exactly were the problems? What  
8 didn't it do?

9 A I don't recall what it did, or didn't do. I  
10 don't recall if it didn't give you any data, or  
11 if it just gave you bad data. I know I did  
12 examine it and I had correspondence with the  
13 office to go back to Ocean Motions and have it  
14 fixed.

15 Q Do you know if that was ever done?

16 A I believe they were having discussions with  
17 Ocean Motions, but, no. I do not believe that  
18 the program has been fixed.

19 Q You also discussed the difference between  
20 sailing on register and coastal -- coast-wise  
21 sailing. I'm sorry, but I was quite confused.

22 When you say a vessel's sailing on register,  
23 this means it was registered in ownership of the  
24 vessel, does it not?

25 A The certificate of documentation is called the

1 register. And it tells on that document -- it's  
2 issued by the government, and it tells the  
3 nationality of the vessel and the owner ship,  
4 yes, sir.

5 Q When you say government, that's the federal  
6 government, not the state government, correct?

7 A That's correct. The federal government.

8 Q Far as you know, the state have any register,  
9 or controls, or requirements at all? The State  
10 of Alaska, that is? Any documentation  
11 requirements?

12 A No, sir.

13 Q Then, even though it's sailing, let's say on  
14 the register, does that mean it could still be  
15 restricted to only coastline sailing, or foreign  
16 -- or going to and from foreign ports? What  
17 difference does it make?

18 A Registry is normally foreign. A vessel is on  
19 coast-wise, he could be restricted to the coast.

20 If you're not clear for foreign, you're not  
21 permitted to -- to proceed foreign.

22 Q And if you're -- well, is it true that the so  
23 called official log is the document that's used  
24 when you're sailing under register? You have to  
25 have this official log, besides this deck log?

1 A Yes, sir.

2 Q In Prince William Sound, you -- I think you  
3 said a number of times that you use all the  
4 information you have available to determine your  
5 course of action in a given situation as to  
6 whether you would or would not do something,  
7 right?

8 A I try to use all the information, yes, sir.

9 Q That information would include the VTC at  
10 Valdez, would it not? Vessel Control Center?

11 A It could, yes, sir.

12 Q In other words, you would call them and ask  
13 for ice reports?

14 A Yes, sir. I've done that.

15 (630)

16 Q You would know that they're only passing on  
17 what some other ship would tell you, right?

18 A Yes, sir.

19 Q You would still rely on that, wouldn't you?

20 A I would use that information, yes, sir.

21 Q In other words, it goes into your personal  
22 computer, if you will, and you will give it a lot  
23 of weight, or not much weight, depending on what  
24 you personally might observe?

25 A Yes, sir.



1 Q In other words, more time. Let's say the last  
2 ice report was previous and the tide was going  
3 out, in you experience you might say, well, I  
4 think it's gonna be better because the tide's  
5 going out and it's an old report, right?

6 A The -- I could expect different conditions  
7 than what the Coast Guard is telling me under  
8 some of those conditions, yeah.

9 Q You're also aware, are you not, that there's  
10 radar coverage in Valdez harbor?

11 A Yes, sir.

12 Q You rely on that as far as any of your  
13 responsibilities are concerned. You believe the  
14 Coast Guard is watching you so to speak?

15 A I was under the impression that the Coast  
16 Guard was watching us, yes, sir.

17 Q By the way, regarding the steering again. If  
18 the rudder does not follow the helmsman's turning  
19 of the wheel -- in other words, there's some kind  
20 of a break down in the steering system, the  
21 helmsman turns, let's say a full turn, the rudder  
22 does not, there's an alarm that goes off, isn't  
23 there? Or is supposed to go off?

24 A If manual helm is engaged, yes, sir.

25 (Pause)

1 Q One last question on the sailing under  
2 register, or on register. Can you sail as a  
3 coast-wise vessel between two U. S. ports even  
4 though you are so called under register?

5 A I believe you can with the approval of  
6 customs.

7 Q Thank you I don't have any other questions at  
8 this time.

9 (740)

10 REDIRECT EXAMINATION OF CAPTAIN STALZER

11 BY MR. COLE:

12 Q Captain Stalzer, when is the first time that  
13 you met a representative from the State of Alaska  
14 --the District Attorney's Office prior to taking  
15 the stand?

16 A I'm not sure if a member of the District  
17 Attorney's Office came out to the vessel after  
18 the grounding when I was there between April 8th  
19 and April 24th of 1989, but -- so, maybe I met  
20 somebody there, I don't know. But just  
21 yesterday.

22 Q That's when you got here?

23 A Yes, sir.

24 Q You indicated that you were told that Exxon  
25 has an interest in this matter? What interest

1 does Exxon have in this matter?

2 MR. MADSON: I'd object unless he knows what  
3 the president of Exxon or any other officials really  
4 know. Otherwise he's simply speculating.

5 THE COURT: You don't have foundation for  
6 that. I'll let the question come in, though, if you  
7 can lay a foundation since you opened that up.

8 Q (Captain Stalzer by Mr. Cole:) You indicated  
9 as a response to Mr. Madson's questions that you  
10 believed there was an interest -- Exxon had an  
11 interest in this matter, remember that?

12 A Yes, sir.

13 Q Why do you think that Exxon has an interest in  
14 this matter?

15 A Because at the time of the incident Captain  
16 Hazelwood was employed with Exxon.

17 Q And what is your understanding -- what is your  
18 belief that Exxon's interest is in this  
19 particular case -- in the outcome of this case?

20 A I believe that perhaps the outcome of this  
21 case will have some effect on some of the other  
22 pending litigation.

23 Q Are you aware of other people, crew members  
24 that obtained attorneys?

25 A Yes, sir.

1 Q Who -- other crew members on the Exxon Valdez?  
2 A Yes, sir.  
3 Q Who was that?  
4 A I believe Maureen Jones when I was on the  
5 Valdez requested an obtained and attorney.  
6 I'm aware, or I believe Mr. Kunkel has his own  
7 attorney.  
8 I believe Mr. Cousins has his own attorney.  
9 And, of course, Captain Hazelwood.  
10 Mr. Kagan also has his own attorney, I  
11 believe.  
12 Q When did you learn that Exxon would pay for  
13 your attorney?  
14 A Two to three weeks ago.  
15 Q And were you told whether or not this was  
16 different from the arrangements that they'd made  
17 with any of the other crew members?  
18 A No. They said that precedent has been set for  
19 them to provide attorneys for individuals  
20 involved in the case and that I could obtain my  
21 own.  
22 Q You talked about -- with Mr. Madson about a  
23 situation where it's important to give crew  
24 members that work under you additional  
25 responsibilities to obtain -- help in the

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advancement of their careers. Do you remember that?

A Yes, sir.

Q Are there certain situations where it would not -- you do not place people in situations that are -- or, give them more responsibility than they should have?

A There may be some, yes, sir.

Q Would that be in the areas of hazardous conditions to the ship?

A I take my responsibility as master seriously and I generally prefer to handle hazardous situations for myself and rely on my own ability. And they can learn from observing, and we discuss situations so that they can learn in that manner.

Q Now, you indicated that -- that the setting the conditions it's your responsibility as a captain to set the watch condition?

A Yes, sir.

Q And Mr. Madson asked you about the ways -- how vague some of the language is in the watch conditions. Do you remember him asking you about that?

A I think he said those terms weren't defined.

Q Weren't defined.

1           How did you define watch A? Was that the type  
2           of watch that you would use in Prince William  
3           Sound?

4       A           No, sir. I -- my normal procedure is to set  
5           watch condition C in Prince William Sound if the  
6           visibility is good.

7       Q           And Mr. Madson asked you about the fact that  
8           vicinity -- when he was discussing 2.1.5 which  
9           says, "The master must be on the bridge whenever  
10          conditions present a potential threat to the  
11          vessel such as passing in the vicinity of shoals,  
12          rocks, or other hazards which represent any  
13          threat to safe navigation."

14                   He asked you if there was a definition of  
15          passing in the vicinity of that and you answered  
16          and indicted what?

17       A           I don't believe there is an actual definition  
18          in the manual for that.

19       Q           How do you interpret that?

20       (1007)

21                   MR. MADSON: Well, Your Honor, once again let  
22          me object. There's no definition. It's subject to  
23          interpretation by every individual who reads it. And I  
24          think it's irrelevant as to what he may, or may not  
25          interpret in this particular...

1 THE COURT: I think this is an opinion that  
2 this witness is capable of giving based on his  
3 experience. I'll let the question stand.

4 Q (Captain Stalzer by Mr. Cole:) What did you  
5 consider passing in the vicinity of shoals,  
6 rocks, or other hazards which represent any  
7 threat to safe navigation?

8 A About two miles.

9 Q If you instructed -- are you aware of what the  
10 course -- what a course recorder is?

11 A Yes, sir.

12 Q Was there a course recorder on the Exxon  
13 Valdez?

14 A Yes, sir.

15 Q What would it do?

16 A It records the heading of the vessel at a  
17 given time.

18 Q Was it an accurate instrument?

19 A It was fairly accurate, yes.

20 Q Did you at any time while you were master rely  
21 on the course recorder and the headings that it  
22 gave you?

23 A I don't know within what regard you mean?

24 Q Well, would you check it with the gyro to see  
25 what heading the vessel was?

1 A Normally I would look at the gyro repeaters.

2 Q Well, let me ask you this: if you were to  
3 make a 10 degree turn to the right, would that  
4 show up on a course recorder if you went from 180  
5 to, say, 200 -- or, let's say -- no. Let me --  
6 yes.

7 If you were to make a 10 degree turn to the  
8 right would that show up on a course recorder?

9 A Yes, sir.

10 Q Heading change -- a 10 degree heading change?

11 A Yes, sir. It should.

12 Q If you were to give an instruction of 10  
13 degrees right rudder how long would you  
14 anticipate before the heading of the ship  
15 actually changed enough so that it would be  
16 picked up on the course recorder?

17 A Each situation is different, but based on  
18 currents and wind, but within 15 to 30 seconds.  
19 And it would be different based on whether the  
20 ship's in ballast or fully loaded.

21 Q Let's say that it drafts 56 feet. Is that  
22 about -- what is that? 80? 90 percent of the  
23 capacity? 56 feet?

24 A Well, fully loaded is about 64 -- about 64-  
25 1/2 foot. I don't know exactly what percentage



1 that would be, 56 foot.

2 Q Would it change -- the number that you just -  
3 - 15 to 30 seconds if it was -- what are you  
4 assuming, that it's fully laden?

5 A That would be fully laden. It would -- the  
6 vessel responds more quickly to the rudder order  
7 when you're in a ballast condition. It's also  
8 dependent on the speed.

9 Q Well, would the rudder have turned -- if you  
10 had asked for a 10 degree right rudder turn would  
11 the right rudder have gone over to the 10 degree  
12 turn prior to the 15 to 30 second course change?

13 A Yes, sir. The rudder would respond more  
14 quickly. I thought you were asking me the time  
15 it took before the heading...

16 Q Right.

17 A ...change.

18 Q What accounts for the difference between the  
19 time the rudder gets over to 10 degrees starboard  
20 and the time that the vessel actually starts  
21 changing heading?

22 A Well, forces on the vessel.

23 Q Does the vessel -- what does the vessel do  
24 during that period?

25 A I'm not exactly sure I understand your

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question.

Q Well, let me...

A It takes a little bit of time for the momentum and the forces on the vessel to turn the vessel. The rudder responds quickly.

Q Let's say that your -- that at this point right here it'll stay right zero. Make this 30.

Now, let's just say that this is one of the heading changes.

What does the vessel do between this point and this point? Does it go straight before the heading -- while the heading changes? I mean, during this period?

A More or less, yeah. It proceeds along.

Q Does it slide at all?

A Yes. It will -- will slide as it progresses along the track and as the vessel turns.

Q Why does it slide?

A Because of the friction in the water and the size and momentum of the vessel.

Q So, if the vessel was going at 11.75 knots with a 56 foot draft, and an order was given to go 10 degrees right rudder, you would expect that to show up on the course recorder within 15 to 30 seconds after the command was given?

1 A Yes, sir.

2 Q What about if the vessel was only turned to  
3 six degrees? Would you expect at some point the  
4 course to change? The course heading change and  
5 be recorded...

6 A I'm not sure what you mean? Six degree  
7 heading change?

8 Q No. Let me rephrase it.  
9 What if the rudder angle was only put to six  
10 degrees? Would you expect to see that at some  
11 point cause the heading of the vessel to change?

12 A Yes, sir. I would.

13 Q Would that also at some point be recorded on  
14 the course recorder?

15 A Yes, sir. It should be.

16 Q Do you have any idea how long that would take?  
17 A Compared to the 10 degree?

18 Q Yes.

19 A It would be -- it would be very, very similar.  
20 Just a few seconds longer, perhaps.

21 Q In this hard right turn fully laden, what is  
22 the advance measured from? Is the advance  
23 measured from the top of the vessel, or from the  
24 back of the vessel?

25 A I think that shows that it's measured from the

1 bridge wing.

2 Q From the bridge wing?

3 A Yes, sir.

4 Q So, it advances .59 miles, or nautical miles?

5 A Nautical miles.

6 Q .59 nautical miles forward before -- by the

7 time it gets to a right angle?

8 A By the time you're 90 degrees off of the

9 original course, yes.

10 Q Now, Mr. Madson asked you about the command

11 turning when you were abeam of Busby -- or, abeam

12 of some light.

13 You indicated that in some situations that

14 would be a fairly easy command. Are there other

15 situations where it might be difficult?

16 A It is more difficult with more traffic.

17 Q Is it more difficult in hazardous areas?

18 MR. MADSON: I'd object to the form or the

19 question. It's leading. He gave the answer.

20 THE COURT: Objection overruled.

21 Q (Captain Stalzer by Mr. Cole:) You can answer

22 the question. Is it more difficult in hazardous

23 areas?

24 A It could be.

25 Q Now, you talked about your -- the chief mate

1 being -- he's up most of the day when you're in  
2 port, loading and unloading, is that correct?

3 A I believe he is up quite a bit of the time.

4 Q And it's not uncommon for you to set up a  
5 situation where his -- he is relieved from his  
6 watch when the vessel begins to sail again for  
7 its destination, is that correct?

8 A Yes, sir. That has occurred.

9 Q Are there other ways that he can be relieved  
10 from his duties besides you filling in for him?

11 A One of the other watch officers could fill in  
12 for him -- deck licensed.

13 Q Is that an uncommon, or a common occurrence?

14 A It has occurred.

15 THE COURT: Mr. Cole, this would be our normal  
16 time for the next break if...

17 MR. COLE: I've just got maybe one or two  
18 questions and I think we can...

19 THE COURT: Sure. We'll finish your part off,  
20 then.

21 Q (Captain Stalzer by Mr. Cole:) To what extent  
22 did you rely on the VTC radar system?

23 A I relied primarily on my own ability to  
24 navigate, but I would use any information  
25 provided by the crew, or the officers, or

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external sources, including the VTS.

MR. COLE: I have nothing further, Your Honor.

THE COURT: We'll take our break, ladies and gentlemen. Don't discuss the matter among yourselves, or with any other person. Don't form or express any opinions.

THE CLERK: Please rise. Court stands in recess subject to call.

(1530)

(Off record - 11:46 a.m.)

(On record - 12:05 p.m.)

THE CLERK: Court now resumes its session.

THE COURT: Mr. Madson.

RE-CROSS EXAMINATION OF CAPTAIN STALZER

BY MR. MADSON:

Q Just a few questions, Captain Stalzer.

You indicated response to one of Mr. Cole's recent questions that as a master of the Exxon Valdez you took it upon yourself to assign responsibility to other, help them learn their job so to speak, right?

A Yes, sir. We helped to train others on the ship.

Q That's a noble goal, is it not, to assist younger officers to progress and learn and become

1 more competent in their job?

2 A You can consider it, yes, sir.

3 Q And able seamen, too, right? Train them to  
4 become better?

5 A Yes, sir.

6 Q And there's certain ways you can do this, is  
7 there not? In other words, you can stand and  
8 watch, in other words, I could watch you do  
9 something and learn from that, or I could  
10 actually do it myself, maybe with you watching?

11 A Yes, sir.

12 Q And later on, maybe I could do it myself with  
13 nobody watching? In other words, if I assume the  
14 responsibility and I assure you I can do it and  
15 I've shown that I can be competent and you can  
16 trust me to do that, you might give me that  
17 responsibility...

18 A I might.

19 Q ...depending on the situation, right?

20 A Yes, sir.

21 Q In fact, with regard to Mr. Kagan, you said  
22 that you did, in fact, give him additional  
23 training?

24 A Yes, sir.

25 Q I think you said he had trouble -- he told you

1 he had trouble steering. He hadn't been an AB  
2 very long?

3 A He was concerned about his steering. He  
4 hadn't sailed as AB for quite a while.

5 Q When was this, sir?

6 A When he told me that?

7 Q Yeah.

8 A When he signed on.

9 Q Pardon me.

10 A When he signed on the vessel.

11 Q And that was in...

12 A That was in January 18th, perhaps, 1989.

13 Q And you had a -- someone -- when you said  
14 trouble steering did you know exactly what he  
15 meant by that?

16 MR. COLE: Objection. I'm gonna object.  
17 That's beyond the scope of cross examination.

18 MR. MADSON: Your Honor, he went into the  
19 responsibility of teaching others and I think I can go  
20 into that. He certainly opened that door.

21 THE COURT: Objection overruled.

22 Q (Captain Stalzer by Mr. Madson:) When you say  
23 steering, does that mean -- let me withdraw that.

24 Correct me if I'm wrong, sir, by steering,  
25 would that imply or mean giving a course to a



1 helmsman like, assuming you're on a course that's  
2 — straight north, zero degrees and you say come to  
3 a course of 45 degrees. The helmsman would steer  
4 to that course?

5 A Yes, sir.

6 Q So, he would physically have to turn the wheel  
7 until the compass reading was at 45 degrees?

8 A Yes, sir. He would be turning the wheel. He  
9 would turn the wheel back before it actually got  
10 to 45 degrees, or the vessel would swing past  
11 that, but, yeah. He turns the wheel.

12 Q When you say "he" you mean...

13 A The helmsman.

14 Q Huh?

15 A The helmsman.

16 Q The helmsman would have to stop before it  
17 actually got to that point -- to 45 degrees,  
18 otherwise the vessel would go too far and you'd  
19 have to bring it back.

20 A You would have to take the rudder off, yes,  
21 sir.

22 Q So, that's something you acquire with time,  
23 right? The skill, or the ability to do that --  
24 know when to catch the wheel and stop it?

25 A Yes, sir.

1 Q That would also depend on the degree of the  
2 heading you're taking. In other words, from,  
3 instead of 45 degrees, say you're going to -- all  
4 the way around to 90 degrees, you have to swing  
5 it more. Would that make it any less or more  
6 difficult, I guess, is my question?

7 A It would be different. I don't know that it  
8 is less or more difficult, but if you -- if you  
9 were -- if the heading is changing a larger  
10 amount it's a different amount, so he has to know  
11 when to ease the rudder, or take it off, or  
12 counter rudder to stop on the -- on the heading  
13 that was so ordered.

14 Q And you assigned someone to assist Mr. Kagan  
15 in doing this, right?

16 A Yes, sir. I did.

17 Q Otherwise without training he might, let's  
18 see, chase the compass, is that a term that's  
19 commonly used?

20 A That's a term I've heard before, yes, sir.

21 Q In other words, you can't kind of keep it  
22 right on the course you want after you make your  
23 turn?

24 A I believe that refers to -- to having the --  
25 the vessel coming off course and the helmsman

1           correcting with the wrong rudder.

2           In other words, you come off to the right and  
3           he puts more right rudder on and he doesn't  
4           realize that he's adding to the problem, so he's  
5           chasing it around as opposed to putting left  
6           rudder on and stopping.

7           Q           If you're putting rudder on the ship and it  
8           goes too far, if you turn it back the other way  
9           is the called counter rudder?

10          A           You could call it that, yes, sir.

11          Q           Would you agree, sir, from your experience  
12          that a -- rather than giving the helmsman a  
13          course change to say, take a heading and go to 45  
14          degrees, or 180, or 240, or anything like that,  
15          as opposed to that giving a helmsman an order 10  
16          degrees right rudder is a very simple order?

17          A           It's a very simple order, yes, sir.

18          Q           In other words, the helmsman doesn't have to  
19          turn until there's a certain compass reading. He  
20          simply turns the wheel under the rudder angle  
21          indicator says 10?

22          A           Yes, sir.

23          Q           And he has to turn it the direction that you  
24          instruct him, right or left?

25          A           Correct, yes, sir.

1 Q And in your opinion in 1989, early, when Mr.  
2 Kagan came on board the ship is it true that he  
3 was capable of carrying out a simple rudder  
4 command such as 10 degrees right rudder?

5 A I believe, yes, sir. He could.

6 Q Thank you. I have no other questions.

7 Oh, really, I do have one other, if I could.

8 Lastly Mr. Cole asked you about what you'd  
9 expect from the VTC system. I think you said  
10 that that's one more piece of information that  
11 you would rely on, right?

12 A I said I would use that information if it was  
13 supplied, yes, sir.

14 Q Would that mean that if, say, you were -- you  
15 strayed off course in the vessel traffic  
16 separation system that you would expect the Coast  
17 Guard to let you know you were off course or out  
18 of the lanes?

19 A I was under the impression that they were  
20 monitoring us by radar from Potato Point down to  
21 the -- through the Narrows, but down to the area  
22 of Naked Island.

23 Q Down to Naked Island?

24 A Yes, sir.

25 Q Thank you, sir. I don't have any other

1 Q Thank you, sir. I don't have any other  
2 questions.

3 THE COURT: Anything further, Mr. Cole?

4 MR. COLE: No, Your Honor. I have no  
5 questions.

6 THE COURT: May this witness be excused from  
7 further participation?

8 MR. MADSON: Yes.

9 (1846)

10 THE COURT: You're free to go.

11 A Thank you.

12 THE COURT: Would you call your next witness.

13 MR. COLE: At this time the state will call  
14 Mr. Hilsinger.

15 THE COURT: Thank you.

16 (Pause)

17 THE CLERK: Sir, the microphone is dangling.  
18 Would you remain standing and raise your right hand?

19 JOHN ROBERT HILSINGER  
20 called as a witness in behalf of the state, being first  
21 duly sworn upon oath, testified as follows:

22 (Oath administered)

23 A I do.

24 THE CLERK: Please be seated. Sir, would you  
25 please state your full name and spell your last name?

1 A John Robert Hilsinger. H-i-l-s-i-n-g-e-r.  
2 THE CLERK: Your current mailing address?  
3 A 1783 Morningtide Court, Anchorage, Alaska,  
4 99501.  
5 THE CLERK: And your current occupation?  
6 A I'm a fishery biologist with the State of  
7 Alaska, Department of Fish & Game.  
8 THE CLERK: Thank you.  
9 MS. HENRY: Thank you.  
10 DIRECT EXAMINATION OF MR. HILSINGER  
11 BY MS. HENRY:  
12 Q Mr. Hilsinger, how long have you worked for  
13 the Department of Fish & Game?  
14 A Approximately 11-1/2 years.  
15 Q And you are a state biologist with them. Is  
16 that correct?  
17 A Yes, I am.  
18 Q So what education do you have as a state  
19 biologist?  
20 A I have a bachelor's degree in fisheries  
21 science and a master's degree in fisheries  
22 biology.  
23 Q What are your responsibilities, your current  
24 responsibilities with the Department of Fish &  
25 Game?

1 A I supervise the management of commercial  
2 fisheries in both the Cook Inlet and the Prince  
3 William Sound areas, primarily Cook Inlet fin  
4 fish and shellfish and Prince William Sound  
5 shellfish.

6 Q All right. When you say you supervise the  
7 management, can you be more specific what you do?

8 A Each individual management area has a local  
9 area biologist who's located in one of the  
10 communities in the area, and I'm the supervisor  
11 of those local area biologists.

12 Q All right. Now, were you requested by the  
13 District Attorney's Office to compile some  
14 estimates of the loss of income to fishermen in  
15 the 1989 season due to the closure of certain  
16 fisheries ordered as a result of the Exxon Valdez  
17 oil spill in Prince William Sound?

18 A Yes, I was.

19 Q And where did you go to; what sources did you  
20 use to compile this information?

21 A All of our basic fishery information is  
22 recorded on fish tickets; fish tickets made out  
23 at the time of each delivery of fish by a  
24 fisherman and contains the information about the  
25 fisherman, the amount of fish or shellfish that

1 was caught and often contains the price  
2 information.

3 We enter those all into a computerized fish  
4 ticket system which we use then to compile catch  
5 records, and we annually publish those catch  
6 records in various departmental documents.

7 Q Now, are the fish tickets required to be  
8 filled out by the fishermen and turned in to the  
9 biologists?

10 A Yes, they are.

11 Q And then are you required to compile those  
12 statistics into an annual report?

13 A Yes, we are.

14 Q Are the fish tickets then, once they're turned  
15 into the biologists and the annual reports, once  
16 they are completed, kept in the ordinary course  
17 of business of the department?

18 A Yes, they are.

19 Q And what other sources of information would  
20 you use to obtain the estimates?

21 A We have -- on some of the price information we  
22 have direct information from processors about the  
23 price that they're paying at the time, and  
24 sometimes if they make retroactive payments the  
25 price would change, and we would know that, but



1           it might not be reflected directly on an  
2           individual fish ticket.

3       Q           All right.  And are the processors also  
4           required to provide information to you?

5       A           Yes, they are.

6       Q           And that's in the form of what, reports as to  
7           what they've purchased?

8       A           Yes.  Besides -- normally the processor  
9           actually provides us with the fish ticket and  
10          then they're also required to do the annual  
11          processor reports, where they report once a year  
12          to the state on how much they bought.

13      Q           All right.  Now, did you also use information  
14          from emergency orders in order to compile the  
15          estimate?

16      A           Yes, I did.

17      Q           Why don't you explain what emergency orders  
18          are.

19      A           Emergency orders are documents that the  
20          department uses to make emergency changes in the  
21          fishing regulations because the fisheries are so  
22          variable from year-to-year, depending on run  
23          strength or stock level of animals.  We use the  
24          emergency order to allow us to look at in-season  
25          data and analyze that data and then make a change

1 in the regulations to fit the current stock  
2 condition.

3 These emergency orders are written by one of  
4 the local area biologists under a direct  
5 delegation from the commissioner of Fish & Game  
6 and contain basically a plain language  
7 explanation of what the order does, then the  
8 amended regulatory language and a full  
9 justification for the need for the emergency  
10 order.

11 Q All right. So there are regulations on the  
12 books that give generally when openings and  
13 closures are going to be in certain fisheries.  
14 Is that correct?

15 A That's correct. It depends on the fisheries.  
16 Some fisheries, the regulation states that the  
17 fishery will be opened and closed by emergency  
18 order, and other fisheries, the regulations will  
19 have set fishing periods, or set opening dates,  
20 and we have the authority to change a time of  
21 fishing and area of fishing by emergency order.

22 Q All right. So the regulations, you have a  
23 commissioner who then can delegate it to one  
24 biologist, the authority to change closures. Is  
25 that correct?

1 A That's correct.

2 Q On openings, I guess, too. All right. These  
3 emergency orders, you said they're put in  
4 basically simply language. Where are they sent?

5 A Emergency orders are distributed to all the  
6 newspapers, radio stations in the area. We send  
7 them to all the fishermen's organizations, the  
8 local Fish & Game Advisory Committee. We post  
9 copies in the Fish & Game offices and have copies  
10 available, usually, for people who want to have a  
11 copy for themselves. I believe that's about it.

12 Q Do you ever publish in the newspapers?

13 A We often will have a news release that  
14 accompanies an emergency order which will be  
15 published in the newspaper, but normally the  
16 emergency order itself would not be published in  
17 the newspaper.

18 Q All right. I'm going specifically now to the  
19 season in 1989. Were there closures of certain  
20 fisheries ordered as a result of the Exxon Valdez  
21 oil spill?

22 A Yes, there were.

23 Q And eventually were some of those fisheries  
24 reopened?

25 A Yes, they were.

1 Q And what was decided whether or not a fishery  
2 was to reopen?  
3 A We reopened fisheries at the time when we felt  
4 that the fishery could take place in a orderly  
5 manner with no appreciable likelihood of  
6 harvesting oil contaminated fish or of fishermen  
7 contaminating their gear.  
8 Q Okay. Were there some fisheries that remained  
9 closed for the entire season?  
10 A Yes.  
11 Q Now, the estimates of loss of income that you  
12 provided to the state, were those basically the  
13 estimates of the income for the 1988 season in  
14 each given fishery?  
15 A Yes, that's correct.  
16 Q So, if there had not been an oil spill in 1989  
17 it's possible that the fishermen could have  
18 obtained more income than 1988 or less income  
19 than 1988. Is that correct.  
20 A That's correct.  
21 Q So, the information that you are about to  
22 provide is really an estimate. Is that correct?  
23 A That's correct. You know, I should point out  
24 that it's an estimate of just the "X" vessel  
25 value which is only the money paid to a

1 fisherman. It does not include any of the other  
2 processors, brokers, any of the other money that  
3 would be made.

4 Q So, you are only taking consideration, the  
5 income to the fishermen directly, as opposed to  
6 income to processors or other people involved in  
7 the industry?

8 A That is correct.

9 Q All right. Going first to the Prince William  
10 Sound sable fishery, was that closed in 1989 as a  
11 result of the oil spill?

12 A Yes, it was.

13 Q Was it also reopened?

14 A Yes, that fishery was reopened.

15 Q So, the fishermen were able to recoup some of  
16 their losses as a result of the closure when it  
17 reopened?

18 MR. MADSON: Well, I object to the form of the  
19 question to some of the losses. We don't know if any  
20 yet.

21 THE COURT: Objection as to the form of the  
22 question is sustained. It's also leading.

23 Q Do you know whether or not the fishermen who  
24 fished the sable fish fishery in Prince William  
25 Sound were able to recoup any losses as a result

1 of it being closed originally?

2 A Yes.

3 Q Do you know how much?

4 A No.

5 Q All right. So again, the loss figure is a  
6 gross estimate. Is that correct?

7 A That's correct.

8 Q And, in fact, it's probably more of a risk of  
9 loss than actual loss?

10 A That's correct.

11 Q What was the amount for the Prince William  
12 Sound sable fish fishery?

13 A In 1988 the X-vessel value of that fishery was  
14 \$193,023.00.

15 Q Going to the Prince William Sound pot shrimp  
16 fishery, was that fishery closed?

17 A Yes, it was.

18 MR. MADSON: Excuse me. What fishery?

19 A Pot shrimp.

20 MR. MADSON: Pot shrimp.

21 Q Was that ever reopened in '88 and 9?

22 A No, pot shrimp fishery was not.

23 Q What was the value of that fishery?

24 A The 1988 value was approximately \$525,344.00.

25 Q Referring to the Prince William Sound herring

1           purse seine sac roe fishery, was that closed in  
2           1989?  
3       A           Yes, it was.  
4       Q           Was it reopened?  
5       A           No.  
6       Q           What was the value of that?  
7       A           The approximate value of that in 1988 was  
8           \$6,600,000.00.  
9       Q           And that was not opened at all in 1989?  
10      A           No, it was not.  
11      Q           Going to the Prince William Sound herring gill  
12           net sac roe fishery, was that closed in 1989?  
13      A           Yes, it was.  
14      Q           And was that reopened?  
15      A           No.  
16      Q           What was the value of that?  
17      A           \$537,000.00.  
18      Q           Going to the Prince William Sound herring kelp  
19           pound fishery, was that fishery closed in 1989?  
20      A           Yes, it was.  
21      Q           And was that reopened?  
22      A           No.  
23      Q           What was the value of that?  
24      A           \$4,500,000.00.  
25      Q           Going to the Prince William Sound herring wild

1 kelp fishery, was that closed in '89?  
2 A Yes.  
3 Q And was it reopened?  
4 A No.  
5 Q What was the value there?  
6 A The 1988 value was \$232,000.00.  
7 Q All right. The Prince William Sound trawl  
8 shrimp fishery, was that closed in 1989?  
9 A Yes, it was.  
10 Q Was it reopened?  
11 A It was reopened in a portion of the area.  
12 Q And what was the risk valued at, I guess?  
13 A The 1988 value was approximately \$150,000.00.  
14 Q All right. Going to the Prince William Sound  
15 bottom fish and smelt fishery, that does not  
16 include sable fish. Is that correct?  
17 A That's correct.  
18 Q All right. Was that closed in 1989?  
19 A Yes, it was.  
20 Q Was it reopened?  
21 A Yes.  
22 Q And what was the value of that?  
23 A 1988 X-vessel value was 151,784.00.  
24 Q Going to the Prince William Sound salmon  
25 fishery, was that closed in 1989?



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A           Portions of that fishery were closed and portions of it were not closed.

Q           All right. And if some of the portions were closed were they reopened?

A           Yes.

Q           And what was the dependency on whether it -- something was closed or open in that fishery?

A           Those areas that we made the determination because of the amount of oil and the distribution of the oil, that it would not be possible to fish throughout the course of the season without having an appreciable likelihood of harvesting contaminated fish, were closed and remained closed throughout the season.

          We had other areas which periodically through the season, due to wind and weather and movement of oil at the time, were at one time perhaps could be opened and at another time during the season, because oil had moved into the area, could not be opened.

Q           What was the value of that fishery?

A           In 1988 that fishery was worth about \$76 million.

Q           Going to the Prince William Sound brown king crab fishery, was that closed during 1989?

1 A Yes, it was.  
2 Q And was it reopened?  
3 A No, it was not.  
4 Q What was the value of that?  
5 A \$193,768.00.  
6 Q Okay. Moving out into Cook Inlet, were there  
7 any fisheries in Cook Inlet that were closed as a  
8 result of the Exxon Valdez oil spill?  
9 A Yes, there were.  
10 Q Specifically the Cook Inlet outer and eastern  
11 districts herring purse seine sac roe fishery,  
12 was that closed in '89 as a result of the oil  
13 spill?  
14 A Yes, it was.  
15 Q Was it reopened?  
16 A No, it was not.  
17 Q And what was the value of that?  
18 A In 1988 the ex-vessel value was \$85,000.00.  
19 Q Going to the Cook Inlet outer and eastern  
20 district bottom fish, sable fish and smelt  
21 fishery, was that closed in 1989?  
22 A Yes, it was.  
23 Q Was it reopened?  
24 A The bottom fish and sable fish portion of that  
25 was reopened in 1989?

1 A Smelt was not?  
2 A Smelt was not reopened.  
3 Q Okay. What was the value of that one?  
4 A Approximately \$189,456.00.  
5 Q Going to the Cook Inlet outer and eastern  
6 districts pot shrimp fishery, was that closed in  
7 '89?  
8 A Yes, it was.  
9 Q Was it reopened?  
10 A Yes, it was.  
11 Q What was the amount of that one?  
12 A 1988 that fishery was worth about \$33,000.00.  
13 Q And lower Cook Inlet salmon fishery, was that  
14 closed in 1989?  
15 A A portion of the area was closed.  
16 Q And a portion remained open?  
17 A Yes.  
18 Q Was that for the same reasons that you've just  
19 explained for the Prince William Sound salmon  
20 fishery?  
21 A That's correct.  
22 Q What was the value of that?  
23 A In 1988 the X-vessel value was \$8,247,000.00  
24 Q And the upper Cook Inlet salmon fishery, was  
25 that closed?

1 A A portion of that fishery was closed and a  
2 portion remained open.

3 Q All right. For the same reasons?

4 A Yes.

5 Q What was the value of that?

6 A 1988 the X-vessel value was \$121,800,000.00.

7 MS. HENRY: Thank you, sir. I have no other  
8 questions.

9 (2695)

10 CROSS EXAMINATION OF MR. HILSINGER

11 BY MR. MADSON:

12 Q Well, sir, that went by me pretty quick, but  
13 let me see if I can kind of gather up some of  
14 this stuff and understand it a little better.

15 When you talked about the 1988 fishing  
16 fisheries harvest you actually used fish tickets,  
17 right?

18 A That's correct.

19 Q A certain part of them, not necessarily all,  
20 but when salmon, for instance, are caught the  
21 fishermen have to make out a record of how many  
22 fish?

23 A That's correct.

24 Q We're talking commercial fish and not  
25 recreational, right?

1 A That's correct.

2 Q And these tickets have to be turned in to the  
3 state?

4 A Correct.

5 Q I would assume that this information is used  
6 by your department to determine what the salmon  
7 harvest was, how good it was, whether there were  
8 some problems that needed to be closed next year  
9 or things like this?

10 A Correct.

11 Q In other words, to make sure you're not  
12 depleting the resources?

13 A That's correct.

14 Q Now, the state of Alaska doesn't own these  
15 salmon, do they?

16 A (No audible response)

17 Q The ones swimming around in Prince William  
18 Sound, for instance.

19 A I believe that the state of Alaska does own  
20 those salmon.

21 Q They have little tags on them that say "owned  
22 by little numbers"?

23 A No, they don't.

24 Q You just believe that they're owned by the  
25 state even though they're loose?

1 A That's correct.

2 Q They've got to be caught?

3 A That's correct.

4 Q You agree the state certainly has some  
5 interest in fisheries within the territorial  
6 limits of Alaska?

7 A That's correct.

8 Q When I talk ownership maybe we're talking  
9 about in a little different sense, okay. In  
10 other words, you cannot go out there and between  
11 a number of salmon and say, well, I know that  
12 salmon is one of ours and that one came from  
13 California or something?

14 A No, that's correct.

15 Q And when you started estimating -- well, let  
16 me back up just a second. The combined  
17 commercial salmon harvest for 1989 in Prince  
18 William Sound actually was 24.4 million fish, was  
19 it not?

20 A That's correct.

21 Q That's greater than the average 10-year  
22 harvest?

23 A That's correct.

24 Q Now, when you say that these fisheries can be  
25 closed by emergency order, I think you described

1           how that's done, but it really comes down to some  
2           biologist working for the state, deciding that a  
3           fishery should be closed.

4       A           That's correct.

5       Q           And if the state of Alaska wanted to increase  
6           the damages as a result of the oil spill, there  
7           would be a tendency to increase the amount of  
8           closures, thereby increasing the potential  
9           damage, right?

10      A           I don't believe that happened.

11      Q           Is there a possibility that that occurred?

12      A           I don't believe so.

13      Q           That biologist has the power to do it, doesn't  
14           he?

15      A           Yes.

16      Q           And if the state of Alaska was looking for  
17           somewhere else to recoup their losses and exceed  
18           those, perhaps, and make the loss as big as  
19           possible, it certainly would be possible, would  
20           it not, for a fishery to be closed even if it's  
21           questionable as to whether or not it may be  
22           contaminated or not?

23      A           The emergency orders are governed by a series  
24           of regulations that basically limits our  
25           authority to close fisheries for certain reasons

1 and so we could not legally close a fishery if we  
2 did not follow those requirements, and that  
3 emergency order would be open to challenge.  
4 There's a process within the regulations that  
5 allows any individual to challenge an emergency  
6 order within so many days of its issuance.

7 Q An individual. But who decides ultimately  
8 whether it was lawful or not, the state of  
9 Alaska?

10 A That would -- it would go to the commissioner,  
11 who would review the emergency order, would fully  
12 review the actions of the local area biologist,  
13 and if the commissioner upheld the actions of the  
14 area biologist, then that emergency order could  
15 be taken to court.

16 Q It could be. That sounds like kind of a long  
17 drawn-out process though to challenge an order.

18 A Well, it does happen fairly often.

19 Q Do you have to go through the person who in  
20 effect oversees the department commissioner to  
21 have him decide first whether or not it's a valid  
22 order?

23 A That's correct.

24 Q The orders that were issued, emergency orders,  
25 they were based on the risk of contamination by



1 oil, were they not?

2 A That's correct.

3 Q Pot shrimp, for instance, what depths are pot  
4 shrimp normally harvested?

5 A Most of the harvest of pot shrimp comes at  
6 depths from 40 to 80 fathoms.

7 Q In terms of feet, that's how many feet?

8 A 240 to 480 feet.

9 Q Were any tests or studies done to determine  
10 whether or not shrimp at that depth were actually  
11 affected by the oil that spilled?

12 A There were -- there have been samples taken,  
13 yes.

14 Q What was the result of that, if you know?

15 A I don't know.

16 Q But, in any event, all the fisheries you  
17 described that were closed were closed because of  
18 the risk of contamination, right?

19 A That's correct.

20 Q I presume, and correct me if I'm wrong, but  
21 the decision was made prior to some testing, any  
22 testing, but just because the risk was there a  
23 biologist decided it isn't worth the risk, let's  
24 go ahead and close it and then and look and see,  
25 later we might reopen it?

1 A Those situations where we closed fisheries  
2 early-on were due to large quantities of oil in  
3 known fishing areas. In some cases we actually  
4 witnessed fishermen pulling their gear in areas  
5 with -- with heavy concentrations of oil. So it  
6 was a well documented risk; it was a very real  
7 risk.

8 Q What fisheries were being opened? You  
9 mentioned that and I didn't catch it, closing and  
10 reopened. Was the salmon fishery in Prince  
11 William Sound?

12 A There were a number of fisheries that we  
13 closed and then later in the season we were able  
14 to reopen. The Prince William Sound sable fish  
15 fishery was reopened on June 12th.

16 Q Is it fair to say, sir, that the biologist  
17 deciding to issue an emergency order, closing the  
18 fishery, would -- if he was going to error in his  
19 judgment, he would tend to want to error on the  
20 side of the risk of contamination as opposed to  
21 the opposite, and say, well, I think it's going  
22 to be okay, and determine later it wasn't?

23 A The -- we were extremely careful at the time  
24 we issued those emergency orders to...

25 Q Well, excuse me. I didn't mean to interrupt,

1 but you said "we." Did you have any part in  
2 issuing these emergency orders?

3 A Yes, I issued some of these emergency  
4 orders...

5 Q Which orders did you issue?

6 A ...myself. I believe that I issued the sable  
7 fish emergency order, the -- and the pot shrimp  
8 and the bottom fish -- some of the bottom fish  
9 emergency orders.

10 Q Did you do these all at the same time?

11 A No, they were not.

12 Q Can you tell us when you did them?

13 A The first two were the for the sable fish and  
14 the pot shrimp, which were done -- oh, I would  
15 have to look in my -- in my records to see the  
16 exact date that we issued them.

17 Let's see, the sable fish emergency order was  
18 actually issued on March 28. It was effective  
19 April 1st. The pot shrimp emergency order was  
20 issued on March 28th and was effective April 3rd.

21 Q I guess I'm just curious, but why would there  
22 be a two-day difference between one and the  
23 other?

24 A Because of the difference in the fishery, the  
25 sable fish fishery uses a long-line type of gear,

1 where the boat can carry all of its gear on-board  
2 at one time. We gave them then basically a two  
3 or three-day notice to allow people to get out to  
4 the fishing grounds and pull their gear.

5 The pot shrimp fishery uses a trap, or we call  
6 it a pot, which is large enough that the boats  
7 cannot carry all of their gear on-board at one  
8 time. It may take him three or four trips to  
9 pick up all their gear. So we have to give them  
10 -- normally we try to give them a five to  
11 seven-day notice in order that they have  
12 opportunity to get their gear out of the water  
13 before the closure.

14 Q Okay. Thank you. Lastly, did you or were you  
15 part of any process to handle any claims made by  
16 fishermen to get repaid for their losses?

17 A No, I...

18 Q Was that part of your job?

19 A ...wasn't.

20 Q Do you know in fact that any fishermen were  
21 being paid for their claims?

22 A Yes, I do.

23 Q Do you know that they were or were not?

24 A I have had fishermen tell me that they had  
25 payments made on their claims.

1 MR. MADSON: Thank you, sir. I don't have any  
2 further questions.

3 MS. HENRY: I have no other questions, Your  
4 Honor.

5 THE COURT: May the witness be excused?

6 MR. MADSON: Yes, Your Honor.

7 THE COURT: You are excused. Call your next.

8 MS. HENRY: The state will call Mark Thorson.

9 THE CLERK: Sir, there's a microphone that's  
10 hanging over the countertop there. If you'd attach  
11 that to your tie and remain standing and raise your  
12 right hand.

13 (Oath administered).

14 A I do.

15 THE CLERK: Be seated.

16 MARK JEFFREY THORSON  
17 called as a witness in behalf of plaintiff, being first  
18 duly sworn upon oath, testified as follows:

19 THE CLERK: Sir, would you please state your  
20 full name and spell your last name?

21 A Mark Jeffrey Thorson, T-h-o-r-s-o-n.

22 THE CLERK: And your current mailing address?

23 A Post office box 806, Douglas.

24 THE CLERK: Douglas, Alaska?

25 A Yes.

1 THE CLERK: And your current occupation?  
2 A I'm the director of administrative services of  
3 the Department of Environmental Conservation.  
4 MS. HENRY: Thank you, Your Honor.  
5 (3383)  
6 DIRECT EXAMINATION OF MR. THORSON  
7 BY MS. HENRY:  
8 Q Sir, how long have you worked for the  
9 Department to Environmental Conservation?  
10 A Since September of 1986.  
11 Q And what positions have you had with ADEC?  
12 A Just the director.  
13 Q Okay. What are your responsibilities as the  
14 director?  
15 A I supervise all the centralized administrative  
16 functions within the department.  
17 Q Is part of your responsibilities to supervise  
18 the expenditure of money?  
19 A Yes, it is.  
20 Q All right. What is the 470 fund?  
21 A The 470 fund is the oil and hazardous  
22 substance spill response fund.  
23 Q And how is that funded?  
24 A The legislature annually appropriates money to  
25 the fund.

1 Q Were there any special appropriations over the  
2 last couple of years?

3 A Yes, there were. Last session there was a  
4 \$32 million appropriation and there was a  
5 \$10 million appropriation and a \$10 million in  
6 program receipts.

7 Q All right. Now, were you requested to provide  
8 the state with some information regarding the  
9 amount of money spent by the department on oil  
10 spill cleanup as a result of the oil spill of the  
11 Exxon Valdez?

12 A Yes, I was.

13 Q And the money that was spent, would that have  
14 come out of the 470 fund?

15 A Yes, it was.

16 Q All right. And the money or the information  
17 that you provided, if this information that has  
18 been -- DEC has been reimbursed from Exxon for?

19 A Some of it has been reimbursed to date.

20 Q Okay. Going specifically to the amount that  
21 has not been reimbursed as of January 15, 1990,  
22 how much money has DEC spent on oil spill  
23 cleanup?

24 MR. MADSON: Your Honor, before he answers,  
25 could we approach the bench, please?

1 (3489)

2 (Whispered bench conference as follows:)

3 MR. MADSON: Your Honor, I'm going to object  
4 to this (indiscernible - away from mike) ...calls for  
5 the jurors (indiscernible - away from mike)

6 THE COURT: Okay. Your objection is  
7 overruled. You don't need to approach the bench to  
8 make them,...

9 MR. MADSON: Okay.

10 THE COURT: ...relative to one like that.  
11 Thank you, but it's not necessary for you to do that in  
12 the future.

13 (3535)

14 (End of whispered bench conference)

15 THE COURT: The objection is on relevance and  
16 it's overruled.

17 Q (Mr. Thorson by Ms. Henry:) Going  
18 specifically, sir, to the money the DEC has spent  
19 as of January 19, -- or January 15, 1990 on the  
20 oil spill cleanup, what is the amount that has  
21 not be reimbursed by Exxon?

22 A As of that date the amount not reimbursed is a  
23 little over \$23 million.

24 Q All right. Now, there has been amounts that  
25 have been reimbursed. Is that correct?



1 A That's correct.

2 Q Before we get to that, are you anticipating  
3 billing Exxon for this amount that has not been  
4 reimbursed?

5 A We have billed them for everything. Well, let  
6 me -- could you repeat that?

7 Q All right. The figure that you just gave us,  
8 the \$24 million [sic] figure, do you anticipate  
9 billing Exxon for any of that?

10 A Yes.

11 Q For all of it or just part of it?

12 A Yes.

13 Q All right. Now going to the amount that Exxon  
14 has in fact reimbursed, how much have they  
15 reimbursed?

16 A To date we've gotten approximately 7.8  
17 million.

18 Q From Exxon?

19 A Yes.

20 Q All right. Are there certain expenditures  
21 that DEC made that Exxon will not reimburse?

22 A Yes.

23 Q And what sort of expenditures are those?

24 A They have been those expenses that were not  
25 directly related to the cleanup.

1 Q All right.

2 A In other words, assessment and monitoring,  
3 they have chosen not to pay those costs.

4 Q When you say assessment and monitoring what do  
5 you mean?

6 A Monitoring of our oil in the water column,  
7 assessment of oil on the beach, that type.

8 Q Were those expenditures considered important  
9 by DEC?

10 A Yes.

11 Q Why?

12 A Water quality determined the state of the  
13 water, subsistence food resource in the area.

14 Q Okay.

15 MS. HENRY: Thank you, sir. I have no other  
16 questions.

17 CROSS EXAMINATION OF MR. THORSON

18 BY MR. MADSON:

19 A If I understand it correctly, you said, sir,  
20 that Exxon has not reimbursed \$23 million so far  
21 that you claim should be paid by them?

22 Q To DEC.

23 A To DEC, yes.

24 Q DEC is a department of the state of Alaska, is  
25 it not?

1 A Yes, sir.

2 Q And if I understand you correctly, you spent  
3 this money, which was state funded money, and you  
4 did it for certain things, as far as cleanup is  
5 concerned. For instance, where did it go? If  
6 you could just tell us what it was spent for.

7 A Sure.

8 Q For assessment and monitoring, whatever.

9 A Sure. Our personnel costs have been \$8  
10 million; our travel costs \$1.6 million;  
11 professional services contracts, a little over \$3  
12 million; transportation \$69,000.00; motor pool  
13 vehicles from DOT, \$41,000.00; utilities,  
14 \$72,000.00; space rental, \$486,000.00; janitorial  
15 for \$81,000.00; aircraft and vessel charters for  
16 \$7.8 million; printing for \$44,000.00; rental  
17 equipment for \$167,000.00; operating supplies for  
18 \$277,000.00; data processing supplies for  
19 \$49,000.00; field supplies for \$134,000.00;  
20 scientific equipment for \$251,000.00; safety and  
21 fuel clothing for \$462,000.00; equipment  
22 purchases for \$892,000.00; postage and telephone,  
23 \$195,000.00; and then other, \$81,000.00.

24 Q What about the costs for prosecuting this  
25 case, was that included in your figures?

1 A No, it's not.  
2 Q You're sure?  
3 A Yes.  
4 Q Did you check on that?  
5 A That's the Department of Law.  
6 Q Do you know if the Department of Law is going  
7 to claim that as part of the overall...  
8 MS. HENRY: Objection to speculation and  
9 relevance.  
10 MR. MADSON: I'll withdraw the question.  
11 Thank you.  
12 Q The money you just described, though, you  
13 expect -- or when I say expect, do you expect to  
14 make a claim against Exxon for all these  
15 expenditures, do you not, if you haven't already?  
16 A DEC make a claim?  
17 Q Yes. When I say "you" I mean DEC or the state  
18 of Alaska, to be more general. Or do you know?  
19 A No, I don't. As far as I know we're going to  
20 keep putting bills on their table.  
21 Q You're going to keep laying the bills on  
22 them, ...  
23 A Right.  
24 Q ...and hope they pay them, right?  
25 A Right.

1 Q They've paid some already?

2 A Yep.

3 Q Some are in dispute?

4 A That's correct.

5 Q That dispute centers on how clean is clean;

6 for instance, when is a beach clean?

7 A No, I don't think any of those have been

8 disputed yet. It's assessment and monitoring

9 costs that are being disputed.

10 Q I'm afraid I don't understand that. You mean

11 for the state of Alaska's expenses to monitor

12 whether the beach is clean or to their standards?

13 A Well, that's taking -- that's defining

14 monitoring a different way, yes. Obviously, when

15 we were cleaning the beach, we had people on the

16 beach, monitoring Exxon cleanup efforts. They

17 paid those costs.

18 Q Can you explain what is in dispute? 'Cause I

19 really don't understand it.

20 A For example, the fish inspection program that

21 we funded last year, they haven't reimbursed any

22 of those costs.

23 Q What fish inspection program?

24 A During the fishing season in Prince William

25 Sound there were fish inspection stations

1 established to inspect fish that were being  
2 delivered, gear that had been in the water. We  
3 monitored those to see if there was any  
4 contamination.

5 Q Regardless of what is considered assessment or  
6 monitoring, as far as you know, DEC will expect  
7 or does expect to at least bill Exxon in hopes  
8 that they get reimbursed?

9 A Yes.

10 Q And if they are fully reimbursed, then DEC is  
11 in fact out no money, but they're reimbursed for  
12 all their expenses?

13 A For 100%?

14 Q Yeah, for 100%.

15 A Yes.

16 MR. MADSON: Thank you, sir. I don't have any  
17 other questions.

18 REDIRECT EXAMINATION OF MR. THORSON

19 BY MS. HENRY:

20 Q Would any of the money that you've talked  
21 about been expended if there had not been an oil  
22 spill?

23 A No.

24 Q And do your figures include the Exxon's costs  
25 of their own cleanup?

1 A No.  
2 MS. HENRY: Thank you, sir.  
3 MR. MADSON: No other questions.  
4 THE COURT: May the witness be excused?  
5 MR. MADSON: Yes.  
6 THE COURT: You're free to go.  
7 MR. COLE: Your Honor, at this time the state  
8 would call Mr. Paul Myers.  
9 (Pause)  
10 THE CLERK: Sir, you'll find a microphone  
11 that's on the countertop. If you'll go ahead and  
12 attach that to the lapel of your jacket or your tie and  
13 remain standing, and raise your right hand, please?  
14 (Oath administered)  
15 A I do.  
16 THE CLERK: Please be seated.  
17 PAUL BAXTER MYERS  
18 called as a witness in behalf of plaintiff, being first  
19 duly sworn upon oath, testified as follows:  
20 THE CLERK: Sir, would you please state your  
21 full name and spell your last name?  
22 A Paul Baxter Myers, M-y-e-r-s.  
23 THE CLERK: And your current mailing address?  
24 A 817 Contada, C-o-n-t-a-d-a, Circle, Danville,  
25 California, 94526.

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THE CLERK: Your current occupation, sir?

A I work for Exxon Shipping Company.

(Tape: C-3632)

(0026)

DIRECT EXAMINATION OF MR. MYERS

BY MR. COLE:

Q Mr. Myers, what do you do for Exxon Shipping Company?

A At the moment I'm the project manager for the repair of the Exxon Valdez.

Q Would you tell the jury what your background is in the maritime industry, how long have you been involved in the maritime industry?

A I'm a graduate of the United States Merchant Marine Academy. I went to sea for three years, and from 1970 to the present I've worked for various affiliates of Exxon.

Q What have you done for Exxon?

A The positions I've held have been technical assistant, which is a training position/entry level position; repair superintendent, dealing with repairs as well as operating matters with vessels; operations superintendent; marine superintendent, which are more -- go more toward the administrative aspects of marine operations;



1 I was a repair planner, that's like an analytical  
2 position dealing with repairs and the like; I was  
3 superintendent/engineer and a senior  
4 superintendent/engineer on two new building  
5 programs, one in Louisiana and one in San Diego  
6 when these vessels were built; then I was a ship  
7 group coordinator in the -- oh, excuse me, port  
8 engineer in the West Coast fleet office having to  
9 -- dealing with the vessels on the engineering  
10 side that operated on the West Coast; and then a  
11 ship group coordinator in that same office, up  
12 until the time of this incident; and then I was a  
13 salvage coordinator; and now the project manager  
14 for the repair of the Exxon Valdez.

15 Q Would you tell the jury what kind of an  
16 educational background as far as degrees?

17 A I have a BS in marine engineering, master's  
18 degree in business administration from Fairleigh  
19 Dickinson University.

20 Q What was -- would you explain again your  
21 position just prior to the grounding of the Exxon  
22 Valdez?

23 A As a ship group coordinator and had  
24 responsibilities -- I guess you would call them  
25 primarily stewardship, dealing with the -- with

1 the vessels, the officers on the vessels and the  
2 dollars and cents involved with operating the  
3 vessels.

4 Q And what vessels did you have under your --  
5 that you were responsible for?

6 A Exxon Valdez, Exxon Long Beach, Exxon Benicia  
7 and Exxon North Slope.

8 Q And after the grounding what had you been  
9 involved in?

10 A Once the vessel was -- or actually before the  
11 vessel was lifted, I was working closely with our  
12 contract and salvage master, and from that time  
13 until the vessel -- until the 5th of May I was  
14 on-board the vessel coordinating all the  
15 activities for the...

16 Q Do you remember when the vessel got lifted off  
17 the reef?

18 A I think it was the 5th of April.

19 Q And when was it taken to San Diego?

20 A It left here the 23rd of June, I believe.

21 Q And arrived in San Diego when?

22 A Off San Diego around the 11th of July -- 10th  
23 or 11th of July.

24 Q Would you describe for the jury what position  
25 -- how is it sitting right now?

1 A It's in the dry dock.

2 Q How did a damaged vessel like the Exxon Valdez  
3 get into a dry dock? Maybe you could start with  
4 explaining what a dry dock is.

5 MR. CHALOS: Your Honor, I object to  
6 relevancy.

7 MR. COLE: The relevance is there's going to  
8 be some photographs showing the damage to the Exxon  
9 Valdez at the dry dock, Your Honor. I think the jury  
10 needs to understand how those photographs were taken.

11 MR. CHALOS: I'll withdraw my objection.

12 A The dry dock is -- you might call it a big  
13 hole in the ground, and there's a door. The door  
14 opens and the vessel comes in, the doors close  
15 and water is pumped out. There are blocks  
16 underneath the vessel so as the water is pumped  
17 out the vessel -- the water level comes down and  
18 eventually the vessel rests on the blocks.

19 Q Is it important to know where to place those  
20 particular blocks?

21 A Yes, sir.

22 Q Why is that?

23 A Because a ship weighs a certain amount and if  
24 you put one block here and say another block over  
25 there, the distribution of weight might cause

1 damage to the ship if it's not supported  
2 properly.  
3 Q And what are those blocks made of?  
4 A Concrete with wood as well as the sand.  
5 Q Can you give the jury about approximately how  
6 high those blocks were underneath the Exxon  
7 Valdez -- or are?  
8 A On this particular ship they're about 43  
9 inches high.  
10 Q And does it make a difference whether or not a  
11 ship has been damaged in determining where to put  
12 those blocks?  
13 A I would think it would.  
14 Q Were you involved in that at all, in the  
15 placing of where the blocks went?  
16 A No. The naval -- naval architects and  
17 engineers from the shipyard are the ones that  
18 placed the blocks, based upon calculations.  
19 Q Now, going back to March 24th, 1989, did you  
20 receive a call that the Exxon Valdez had been  
21 grounded that morning?  
22 A Yes, sir.  
23 Q And where were you at that time?  
24 A I was home in bed.  
25 Q And where would that have been?

1 A At my address in Danville, California.

2 Q What time did you receive a phone call?

3 A It was roughly 2:30, local time.

4 Q Do you know the difference between California  
5 time and Alaska time?

6 A It would be roughly 1:30, the local time here.

7 Q And after receiving that phone call -- who did  
8 you receive it from?

9 A Mr. Harvey Borgen.

10 Q Who is that?

11 A The West -- at the time he was the West Coast  
12 fleet manager.

13 Q After receiving that phone call from him what  
14 did you do?

15 A I called the ship, Exxon Valdez.

16 Q How can you do that?

17 A Mari-Sat system. There is a Mari-Sat system  
18 on the vessel, satellite communication.

19 Q Where did you call from?

20 A My home.

21 Q And what was the purpose of you calling the  
22 Exxon Valdez?

23 A To find out what had happened, if indeed the  
24 ship had gone aground or was leaking oil.

25 Q What time did you call the Exxon Valdez that

1 morning?

2 A I believe it was around 2:40 in the morning.

3 Q Do you know whether the Mari-Sat telephone

4 conversations, there's a log made, at what time

5 those phone calls occur?

6 A On-board the ship?

7 Q Yes.

8 A I believe on most ships there is a log.

9 Q And do you remember how long you talked with

10 -- well, how long you were on the phone that

11 morning?

12 A Actually I was quite surprised when I got my

13 telephone bill, that it was 53 minutes. I

14 brought -- the total length was much less, but...

15 MR. CHALOS: Your Honor, I think the script

16 isn't going the right way here. Mr. Cole asked one

17 question and the witness is refining it to a different

18 question.

19 MR. COURT: I think he said 53 minutes is how

20 long he was on the phone.

21 MR. CHALOS: Was that how long you were on the

22 phone?

23 THE COURT: Was that the question, how long

24 you were on the phone?

25 A Yes.

1 THE COURT: I think you were just surprised it  
2 was that long; it was 53 minutes. That answered the  
3 question.

4 Q Now, who did you talk with when you called up  
5 the Exxon Valdez that morning?

6 A The operator and Captain Hazelwood.

7 Q When did -- who did you talk to first?

8 A The radio operator.

9 Q What did you ask him to do?

10 A I asked him, "Could I speak to the captain?"

11 Q Did you know Captain Hazelwood prior to this?

12 A Yes.

13 Q How well did you know him?

14 A I think I seen him maybe 10 or 12 times in a  
15 professional relationship. He was the captain of  
16 -- one of the captains of one of the vessels I  
17 dealt with.

18 Q When he began to talk, did you recognize his  
19 voice?

20 A I believe so.

21 Q What did he tell you about the condition of  
22 the ship at that time?

23 A He indicated that -- that there was water in  
24 the fore peak, water in two starboard, some water  
25 in four starboard, the port side was intact,

1           there was oil in the water because he could smell  
2           it.  There was no danger now, he did have some  
3           concerns about stability of the vessel.

4    Q           What about the center tank?

5    A           There was no specific mention, that I can  
6           recall, of the center tank.

7    Q           How about the cargo -- the starboard cargo  
8           tanks?

9    A           There was no mention, to my recollection,  
10           specifically of those tanks.

11   Q           Did he indicate to you...

12   A           One other thing he mentioned is he could not  
13           tell the extent of damage without a thorough  
14           survey.

15   Q           What's a survey?

16   A           I imagine in simplest terms, looking  
17           specifically at what your concerns are.  Say if  
18           there was damage on the bottom, it would be by  
19           diver or other means looking at it (coughs)...

20   Q           Okay, go ahead.  I couldn't hear over the  
21           rustling.

22   A           Oh, I'm sorry.

23   Q           Would you say that again?

24   A           Basically looking at what you were trying to  
25           survey.  Maybe it means taking measurements or



1 maybe it just means looking, maybe it means  
2 taking pictures.

3 Q What did he tell you that happened; why was it  
4 sitting on the reef?

5 A He indicated that the third mate zigged for  
6 ice and the ship went aground.

7 Q Did he indicate whether or not he was on the  
8 bridge at the time?

9 A Yes, he did.

10 Q What did he say?

11 A He said that he wasn't on the bridge.

12 Q Did he indicate to you whether or not he was  
13 responsible?

14 MR. CHALOS: Objection, Your Honor. No  
15 foundation and leading.

16 MR. COLE: I'll rephrase it.

17 Q What else did he indicate to you?

18 A He indicated that this had happened and that  
19 it was his fault, he was to blame, he had just  
20 gone down to do some paperwork when this had  
21 happened and that he should have been on the  
22 bridge.

23 Q Did he indicate -- did he talk to you at all  
24 about the Coast Guard in this conversation?

25 A Yes.

1 Q What did he tell you?

2 A He indicated that the Coast Guard was on their  
3 way; they had not yet arrived.

4 Q Did he indicate to you what actions he had  
5 taken at all up to that point since the  
6 grounding?

7 A No, sir.

8 Q What did he say his intentions were as far as  
9 getting the ship off the reef?

10 A I had asked him specifically what the tide  
11 situation was, and he indicated that it was an  
12 hour to high tide and there was a 13-foot swing  
13 in tide.

14 There was no specific discussion about getting  
15 the ship off other than after our conversation I  
16 spoke to Harvey Borgen, my boss, and relayed  
17 everything while Captain Hazelwood stood by.  
18 Mr. Borgen indicated that in the event that tugs  
19 aren't necessary that -- do not worry about  
20 salvage because there is a fixed rate for the  
21 tugs, and after I had indicated that to  
22 Captain Hazelwood, he indicated -- I think it was  
23 the last thing we said, that we'll be able to get  
24 her off.

25 Q This salvage agreement, is that -- do you know

1 -- are you familiar with that?

2 A No, I'm not, and I imagine Mr. Borgen knew I  
3 was not because he had not previously told me --  
4 had told me.

5 Q Mr. Myers, you have an attorney. Is that  
6 correct?

7 A Yes, sir.

8 Q You hired that at Exxon's expense?

9 A Yes, sir.

10 Q And before agreeing to testify what did you,  
11 through your attorney, ask for?

12 A Immunity.

13 Q I'm showing you a copy of what's been  
14 previously identified as Plaintiff's Exhibit 104.  
15 Do you recognize that document?

16 A (Pause) Yes, sir.

17 Q What is that?

18 A It's a letter to Mr. Greenberg (ph) from the  
19 District Attorney, granting me immunity.

20 Q Is that an accurate copy of the agreement?

21 A It is, to the best of my knowledge.

22 MR. COLE: I would move for the admission of  
23 what's previously been identified as Exhibit 104.

24 MR. CHALOS: No objection, Your Honor.

25 THE COURT: It's admitted.

EXHIBIT 104 ADMITTED

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Q Were you shown this by your attorney,  
Mr. Myer?

A Yes, sir.

Q And did he discuss with you the consequences  
that were involved in immunity -- receiving  
immunity?

A I believe so.

Q And you understand that you do not get  
immunity for perjury testimony?

A That's correct.

Q And this immunity was done with the advice of  
your attorney?

A Yes, sir.

MR. COLE: I have nothing further.

CROSS EXAMINATION OF MR. MYERS

BY MR. CHALOS:

Q Mr. Myers, you say that you are a graduate of  
Kings Point?

A Yes, sir.

Q When did you graduate?

A 1967.

Q And you've sailed for three years?

A Yes, sir.

Q What licenses do you hold?

1 A At the moment I don't hold any. I let it  
2 \_ expire.  
3 Q What license did you...  
4 A Second assistant engineer.  
5 Q Second assistant engineer?  
6 A Yes, sir.  
7 Q Did you sail as a second assistant?  
8 A Yes, sir.  
9 Q For how many years?  
10 A About a year and a half.  
11 Q And the previous year and a half you sailed as  
12 a third assistant?  
13 A Yes.  
14 Q You don't hold any mates licenses, I take it?  
15 A No, sir.  
16 Q You never sailed as a master?  
17 A No, sir.  
18 Q As a chief mate?  
19 A No, sir.  
20 Q As a second mate?  
21 A No, sir.  
22 Q Or as a third mate?  
23 A No.  
24 Q So you really don't know about shipboard  
25 operations from the deck standpoint, do you,

1 other than what you might have observed when you  
2 were sailing as an engineer?

3 A I've been on a number of foreign flagged ships  
4 as well as Exxon ships and I've been involved  
5 with repairs as well as, like I say, riding  
6 ships.

7 Q Yes, but you don't know anything about  
8 navigation, for instance?

9 A Wouldn't say don't know anything, but I'm  
10 certainly not an expert and I would not attempt  
11 to take -- to serve in that capacity as a mate.

12 Q I take it that you've never sailed as a  
13 licensed officer on a ship the size of the Exxon  
14 Valdez?

15 A That's correct.

16 Q What's the biggest ship you ever sailed on as  
17 a licensed officer?

18 A Gosh, I don't know. Maybe 20,000 tons.

19 Q Twenty thousand?

20 A Maybe.

21 Q The Exxon Valdez is about 200,000 tons bigger,  
22 is it not?

23 A That's correct.

24 Q As a ship group coordinator who was your  
25 immediate boss?

1 A Harvey Borgen.

2 Q And who was his immediate boss?

3 A Frank Iarossi.

4 Q He's the president of Exxon Shipping?

5 A That is correct.

6 Q And he's the man that fired Captain Hazelwood?

7 MR. COLE: Objection, Your Honor.

8 THE COURT: Don't answer the question.

9 Approach the bench.

10 (0791)

11 (Whispered bench conference as follows:)

12 THE COURT: (Indiscernible - away from  
13 microphone) open this door and it may be opened wider  
14 than you expect it to be.

15 (0811)

16 (End of whispered bench conference.)

17 MR. CHALOS: Judge, I'm going to withdraw the  
18 last question.

19 THE COURT: Ladies and gentlemen, disregard  
20 that question. Questions of counsel are not evidence.  
21 They're only evidence insofar as they supply meaning to  
22 the answer. There was no answer here and any inference  
23 that may have arisen as a result of that question is  
24 improper. You are not to consider that.

25 Q (Mr. Myers by Mr. Chalos:) Mr. Myers, you say

1           that you made the call from your home to the ship  
2           at about 2:40 local time, California time?  
3       A           Yes, sir.  
4       Q           And that would be about 1:40 ship's time?  
5       A           Approximately, yes, sir.  
6       Q           Now, you said you were surprised when you  
7           looked at the log, that the call took 53 minutes.  
8           Is that correct?  
9       A           That's correct.  
10      Q           It's true that you didn't speak to  
11           Captain Hazelwood for 53 minutes?  
12      A           That is correct.  
13      Q           As a matter of fact you were on the telephone  
14           for a long period of time where there was just  
15           silence and no one was at the other end. Is that  
16           right?  
17      A           That is correct.  
18      Q           The radio operator testified here that the  
19           conversation with Captain Hazelwood took about  
20           two to three minutes. Does that concur with your  
21           recollection of your discussion with  
22           Captain Hazelwood?  
23      A           I think it would have to have been a bit  
24           longer than that.  
25      Q           A couple more minutes than that?



1       A           I -- I'd say it had to have been -- a good  
2       \_           conversation with Captain Hazelwood, I would say,  
3           the absolute minimum would have been about 10  
4           minutes.

5       Q           Now, were you talking continuously or was this  
6           call interrupted from time-to-time with other  
7           calls you were making?

8       A           The call to the ship -- I called the ship, I  
9           talked to Captain Hazelwood, he spoke, I spoke.  
10          I asked Captain Hazelwood to hang on, I relayed  
11          all the information that I had received from  
12          Captain Hazelwood to Mr. Borgen and then  
13          Mr. Borgen mentioned the business about the  
14          salvage and the tug, and I relayed that to  
15          Captain Hazelwood, and then Captain Hazelwood  
16          went back to the bridge and I kept the line open  
17          for a while in case I thought of anything else or  
18          anything else had come up, and at one point I  
19          said, if I want I can call back, this is \$10.00 a  
20          minute and doesn't make sense.

21       Q           Who did you tell that to?

22       A           I was talking to myself and then I finally  
23           mentioned to the radio officer, I was going to  
24           hang up.

25       Q           All right. Do you have two telephones at

1 home?

2 A Yes, sir.

3 Q And so you were talking on one phone, one in  
4 one ear and one in the other?

5 A Right.

6 Q Now, you mentioned that Captain Hazelwood gave  
7 you some information about the damage that he  
8 perceived as having been sustained.

9 A That is correct.

10 Q And you said that he told you that the vessel  
11 was in no danger at that particular time.

12 A That is correct.

13 Q When you indicated he said something about  
14 stability...

15 A He said he...

16 Q ...did he say that he was stable at that time?

17 A No, he said there was no danger at the  
18 present, however, he was concerned about the  
19 ship's stability.

20 Q But he didn't elaborate any further?

21 A No, sir.

22 Q Did you understand him to say that the vessel  
23 was on the reef, hard aground at that point?

24 A The words he used were hung up on Bligh Reef.  
25 My perception was that the ship was hard aground.

1 Q Now, you said that the Captain told you that  
2 he felt responsible. Did you take that to mean  
3 that he felt responsible as a captain of the  
4 vessel?

5 A Yes, sir.

6 Q Did you take that to mean that he felt  
7 responsible criminally?

8 MR. COLE: Objection. Speculation.

9 THE COURT: I don't see how this answer can  
10 assist the finder in fact. I'm going to sustain the  
11 objection.

12 Q Now, when Captain Hazelwood told you that he  
13 felt responsible and he was going to take the  
14 blame, did you understand that as a senior  
15 officer he was taking the blame for something  
16 that one of his crew member's did, the third  
17 mate?

18 MR. COLE: Objection. Speculation.

19 MR. CHALOS: Your Honor, I'm asking for his  
20 state of mind. He said that certain things were said.  
21 I'd like to know how he interpreted those things.

22 THE COURT: Objection sustained on  
23 speculation, on relevance also. You can inquire as to  
24 what Captain Hazelwood told him, but as far as what his  
25 interpretation of that, I don't think that's

1 (indiscernible - away from mike)

2 Q (Mr. Myers by Mr. Chalos:) Now, I'd like to  
3 turn to that conversation that you had with  
4 Mr. Borgen about the tug boats and the open  
5 salvage. You spoke to him and then you came back  
6 to Captain Hazelwood and that's when you told  
7 Captain Hazelwood Mr. Borgen says we have an open  
8 salvage agreement?

9 A Yes.

10 Q And if you need to get tugs, you can go ahead  
11 and get them?

12 A And not worry about salvage.

13 Q All right. And then I think you said that's  
14 when Captain Hazelwood said that we can get the  
15 tugs off?

16 A Yes, I...

17 Q Or we can get the ship off?

18 A There was no question in my mind that this was  
19 not a statement of we're going to get the ship  
20 off, but it was, you know, this has happened. It  
21 was a positive type statement, like keep your  
22 chin up type thing, and certainly not one of  
23 intent that come hell or high water the ship is  
24 going to be taken off.

25 Q Did you understand that getting off meant

1 getting off with tugs, since you had just spoken  
2 about...

3 MR. COLE: Your Honor, objection, speculation  
4 and relevance.

5 Q Was there any mention about...

6 MR. CHALOS: I'll withdraw the question, Your  
7 Honor, and rephrase it.

8 Q Was there any mention about getting off with  
9 the use of tugs?

10 A The only thing I can say, there might have  
11 been an inference because the Captain said tugs  
12 were on their way and so were the Coast Guard.

13 Q Just the last thing. Is there any particular  
14 reason why you asked for immunity in this case?

15 A Advice of counsel. My counsel is a previous  
16 lady that was a prosecutor. She suggested as  
17 being a prosecutor not to come in without  
18 protection.

19 Q You don't believe that you've done anything  
20 wrong in this particular case, do you?

21 A No, sir.

22 MR. CHALOS: May I just have one second, Your  
23 Honor? (Pause) Your Honor, we have no further  
24 questions at this time.

25 THE COURT: Mr. Cole.

1 MR. COLE: Your Honor, I have nothing further.  
2 THE COURT: May the witness be excused from  
3 further participation?  
4 MR. CHALOS: Yes.  
5 MR. COLE: Yes. Can we approach the bench,  
6 Your Honor?  
7 THE COURT: All right.  
8 (1125)  
9 (Whispered bench conference as follows:)  
10 MR. COLE: I just wanted to tell you the next  
11 witness is going to be a long one.  
12 THE COURT: Who is your next witness,  
13 Hawkinson?  
14 MR. COLE: Yes.  
15 THE COURT: Well, I will go ahead and break  
16 for the day and (indiscernible - away from mike)  
17 MR. COLE: (indiscernible - away from mike)  
18 THE COURT: You bet.  
19 (End of whispered bench conference.)  
20 (1136)  
21 THE COURT: We're going to recess for the day.  
22 We have a matter to take up then with counsel. We'll  
23 see you back here at 8:15 tomorrow morning in the jury  
24 room with the instructions not to discuss the matter  
25 among yourselves or with any other person, nor form or

1 express any opinions pertaining to the case, and please  
2 remember my media admonition. It's been a real long  
3 day and I appreciate that. See you back tomorrow, and  
4 be safe.

5 (Pause)

6 THE COURT: Would the last person out close  
7 the door? Oh, we've got somebody doing it. Thanks.  
8 Thank you.

9 (Jury not present.)

10 MR. MADSON: Your Honor, a little update, if I  
11 can call it that, on the notice of experts that the  
12 state filed the other day with regard to the  
13 psychologist that purports to be able to tell whether  
14 somebody's intoxicated by reviewing tapes. I believe  
15 the state is still intent on doing that. I haven't  
16 received much more information other than I believe a  
17 research paper that was done by this, another  
18 individual, in a memorandum from Mr. Adams that I got  
19 yesterday.

20 So, I can only assume the state is still  
21 intent on proceeding with trying to call this  
22 particular person or persons. I might note that across  
23 the hall in Judge Katz's trial the defendant is trying  
24 to use a voice print expert just to show  
25 identification, or lack of it, and the state is taking

1 a position that this is not admissible, that it's some  
2 kind of voodoo, and here across the hall we're -- the  
3 state's taking the position, they cannot -- only can  
4 show identification about the subtle differences that  
5 exist in a person's voice to show that he's  
6 intoxicated. I find that position a little bit...

7 THE COURT: I don't consider what Judge Katz  
8 does across the hall to have any bearing on this case,  
9 Mr. Madson.

10 MR. MADSON: Your Honor, I'm talking about the  
11 state's...

12 THE COURT: It's not precedent. Let's just  
13 deal with the issue here.

14 MR. MADSON: I just find the position to be  
15 kind of contrary, but...

16 THE COURT: It often happens that way, but  
17 we'll deal with this case today.

18 MR. MADSON: Anyway, with regard to this case,  
19 we've done some checking around and we know of no court  
20 nowhere in the United States where this has ever been  
21 admitted. So if it's going to happen, we have to have  
22 a Fry hearing first to determine whether or not it  
23 meets the scientific reliability test. That's going to  
24 involve experts from around the country that even get  
25 over that threshold question.



1           And then I might mention, Your Honor, with  
2 regard to the other problem with something like this  
3 is, if it's to show intoxication, which is one of the  
4 charges here, intoxication to show recklessness, the  
5 statutes involving operating a motor vehicle or a  
6 vessel, the jury instruction that's given, the  
7 definition of being impaired, it is noticeably  
8 impaired. That's the term the jury has to decide.  
9 Now, that means that the perception by an average  
10 person looking at someone could tell whether or not  
11 he's under the influence from the way he speaks, the  
12 way he walks, the actions, his judgment, all these  
13 things have to be noticeable.

14           It seems to me rather strange if that  
15 noticeability -- or a notice is required by some means  
16 of experts looking at a particular chart and deciding  
17 whether or not this little blip indicates he's  
18 intoxicated or not. That isn't noticeable.

19           Again, I guess I want to alert the court to  
20 what the problems are here. We would have a real  
21 difficulty with the Fry hearing and getting witnesses  
22 here in a short period of time to get over that  
23 question, and then, of course, if the court decided  
24 that it was scientific and reliable, that it could be  
25 used in court, like a polygraph test or breath analysis

1 test or something like that, then we have to have the  
2 tapes that these individuals use to send to an expert  
3 to have them reevaluate it.

4           And on this topic, there's another potential  
5 problem and that is the original tape, one of them that  
6 was used, no longer exists. The in-bound tape for the  
7 Exxon Valdez taken by the Coast Guard was erased. It's  
8 my understanding, from looking at what was furnished to  
9 me, was that these experts were given a cassette tape,  
10 which was a copy of a little mini-cassette Lanier tape,  
11 which that recorder was held up to the speaker when the  
12 original tape was played, and so we've got a copy of a  
13 copy, of probably what is a very bad copy on a little  
14 tiny recorder. We have no way of knowing how that  
15 compared to the original.

16           THE COURT: How do you know that the original  
17 has been erased; is that something that's undisputed?

18           MR. MADSON: The Coast Guard told us that,  
19 Your Honor.

20           THE COURT: The original has been erased?

21           MR. MADSON: The original in-bound  
22 transmission. Now that was on the...

23           THE COURT: Oh, the in-bound. All right.

24           MR. MADSON: The in-bound, yes. See, these  
25 experts...

1 THE COURT: But the out-bound transmission is  
2 still in existence?

3 MR. MADSON: That's still there.

4 THE COURT: Okay.

5 MR. MADSON: So, I guess I'm only telling the  
6 court...

7 THE COURT: Have you asked Mr. Cole, or Mr.  
8 Cole, have you advised Mr. Madson if you still intend  
9 on this course of action?

10 MR. COLE: Well, Judge, I understand the  
11 position that Mr. Madson is in. I don't intend on  
12 using this unless I can confirm in my own mind the  
13 validity of these tests. I'm doing that right now, and  
14 that depends on knowing exactly what tapes he used.

15 What this gentleman does is he takes tapes and  
16 he runs them through a computer and he measures the  
17 length of time it takes it takes to say certain words,  
18 and he's doing nothing more than confirming what  
19 troopers testify all the time, that people with -- that  
20 are impaired have trouble pronouncing words. They slur  
21 their voices. Ss become SHs, Ls become Rs and Rs  
22 become Ls; it's a scientific method. And they do it by  
23 three ways: They look at errors in the speech. You  
24 can just note it from errors like misnaming things,  
25 things like that. He looks at the pronunciation

1       itself, and then the third area they look at it is the  
2       length of time that it takes to say certain words and  
3       the pitches. Research has showed that people that are  
4       impaired take longer to say certain words.

5               There are words that are consistently used by  
6       Captain Hazelwood through the transmission, both prior  
7       to the grounding -- or prior to the coming into Valdez,  
8       prior to right at the time the pilot had gotten off,  
9       right after grounding and the time after that.

10              THE COURT: What do you have to support this,  
11       to pass a Fry test?

12              MR. COLE: Well, I have the following: The  
13       instrument that he used is, and the computer that they  
14       use has been used in voice automation for the last 20  
15       to 30 years. The...

16              THE COURT: What do you mean by voice  
17       automation?

18              MR. COLE: Well, this science was designed  
19       when they were studying voice replication through the  
20       use of instruments. In other words, talking cars. You  
21       know, you hear people -- the cars talking and make  
22       voices. This scientific instrumentation was evolved  
23       through that type of stuff. This particular doctor has  
24       done a controlled study where he took people, he  
25       brought them up over .10, he took reading samples, both

1 before they were intoxicated and during the course of  
2 their intoxication, and he did studies that show that  
3 people, they confirm just what we think, that people  
4 have trouble speaking when they are impaired, and the  
5 reason is because their bi-motor skills, the muscles  
6 that you use to speak, it's actually a very complicated  
7 way that you pronounce, say for instance, the letter F.  
8 It's a very difficult thing to do, and it takes very  
9 fine motor skills to do that.

10 This study confirmed that people have  
11 difficulty doing that, and he did it through a  
12 computer, taking voice pitch analysis, length of time  
13 in which to say certain words.

14 I think that we can pass a Fry test if  
15 presented with it.

16 THE COURT: My question was what was the  
17 basis. Do you have other experts who are prepared to  
18 testify that this is something that's readily  
19 acceptable within the scientific community that would  
20 validate it...

21 MR. COLE: Well, yeah...

22 THE COURT: ...towards reliability?

23 MR. COLE: Yes. We believe that we will be  
24 able to present that evidence. Now, Mr. Madson is  
25 right, this has never been accepted, but it's never

1       been tried.

2                   THE COURT:   But why are you trying it at this  
3       late date?

4                   MR. COLE:   I...

5                   THE COURT:   Excuse me, Mr. Cole, let me finish  
6       my question.  You've had this tape since the accident;  
7       you've had access to it since the accident.  The  
8       position has been, since the information and since the  
9       original charging document, that Captain Hazelwood was  
10      operating a watercraft under the influence.  Now, can  
11      you explain why you would wait until the middle of the  
12      state's case to notify, or close to that, to notify the  
13      defense counsel when you know that it has not been  
14      accepted in any court in this United States, you say  
15      and Mr. Madson say, knowing full well we'd have to have  
16      a full-blown hearing to determine its validity and its  
17      reliability.  Why did you wait so long?

18                  MR. COLE:   Judge, I had no tapes after the  
19      grounding of the Exxon Valdez until January 22nd of  
20      this year.

21                  THE COURT:   Well, you are not the only person  
22      in the District Attorney's Office that had information.  
23      Mr. Linton has had information, I believe Ms. Henry's  
24      had information, Mr. Adams had information.  When I say  
25      you, I'm not referring to you personally, I'm referring

1 to the state.

2 MR. COLE: Only Mr. Linton did. Ms. Henry,  
3 Mr. Adams and myself were kept from all the information  
4 until January 22nd; we got it that weekend. As to the  
5 report itself, we weren't made -- we weren't even aware  
6 that it was out there until we found out about it. I'm  
7 willing to say, look, we won't put it on in our case in  
8 chief. I would like to reserve the right to put it on  
9 in rebuttal if Mr. Madson puts on a forensic  
10 toxicologist who opens up the door to us.

11 THE COURT: Well, before you're going to put  
12 it on, Mr. Cole, you're going to have to present some-  
13 sort of a document to this court of points and  
14 authorities that would support its admissability and  
15 you'll have to provide a summary, a written summary, to  
16 the defendant's attorney so they can get geared up to  
17 meet this if we have to have a Fry test.

18 I'm very reluctant at this time to open up  
19 this trial to a Fry test for information that could  
20 have been sought long before today. So, without making  
21 any final ruling on this, if you do intend on using  
22 this, the longer you wait to provide information to the  
23 defendant in this court to assist the court in a Fry  
24 determination, the farther away you get to  
25 admissability.

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I think Mr. Madson has brought up very legitimate points at this late date to have to consider this. So far you haven't given us any kind of an idea. You don't know what the defendant is going to put on and you want to wait until the last minute. I'm not going to let you wait till the last minute for something like this, Mr. Cole.

MR. COLE: Fine.

THE COURT: Is there anything else we can...

MR. MADSON: I don't believe so, Your Honor.

THE COURT: We'll stand in recess now.

THE CLERK: Please rise. This court stands in recess.

(Off record - 1:30 p.m.)

\*\*\*CONTINUED\*\*\*