

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1381 SCOMM 51; BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

1 UNIDENTIFIED VOICE: Yes, we did; in all
2 areas.

3 MR. KUHN: In all areas.

4 MS. SCHUHMANN: At least at this point
5 in time, it's my understanding that you don't plan to provide
6 any training specifically directed at qualifying women for
7 pipeline jobs, the way that you plan to qualify natives, the
8 native training?

9 MR. KUHN: Our training -- the -- our plans,
10 very honestly, haven't jelled yet in this area. And it's
11 not going to be a unilateral decision on the native training
12 thing anyhow. That has to be an agreement with two government
13 agencies. But our basic thinking at this time is that any
14 efforts along these lines would be nondiscriminatory among
15 females, Alaskan natives, other minorities.

16 MS. SCHUHMANN: If I understood your
17 statement, one thing that you mentioned was that these
18 Affirmative Action goals for the most part are going to be
19 carried out by your contractors rather than you; your
20 employment through you is going to be fairly minimal in
21 comparison to your -- the numbers --

22 MR. KUHN: That's correct.

23 MS. SCHUHMANN: -- through your contractors.
24 So I guess I'm a little bit confused about the numbers or
25 the goals that you're setting. It seems to me that the higher --

1 it's no skin off your nose necessarily if you make them a
2 little higher than what you have because it's really your
3 contractors that are going to have to carry them out. The
4 majority of the employment is going to be through your
5 contractors; not through you.

6 MR. KUHN: Well, no, we commit, in the
7 first instance, to the Project Affirmative Action Plan. And
8 we approach the goal setting very objectively and documented
9 it and in accordance with the regulations. The -- we didn't
10 just arbitrarily, you know, change numbers without reason.
11 And sure, there are judgements that came in based on, you know,
12 experienced people knowledgeable about the various job groups
13 and the different craft areas, all of that sort of thing.
14 But the goals are, in all cases -- in all cases -- the goals
15 that we have set are in excess of the number that you would
16 get strictly looking at the available, qualified workers in
17 a given category.

18 MS. SCHUHMANN: Yeah, I guess that's part
19 of the problem from the Commission's standpoint is that we're
20 not satisfied with some of the studies that have been under-
21 taken to show what the available female work force is. And
22 that's why we were questioning Commissioner Lundell earlier.
23 We would like to see that kind of study undertaken. Apparently,
24 the State Department of Labor doesn't intend to undertake it.
25 We've asked for money to do it ourselves, and have not been

1 funded to do it. It probably would be quite expensive.
2 But how can you really gauge a goal unless you really have
3 that information, unless you really know the available
4 work force; the women that are interested that are qualified,
5 that may never have worked before and would not show up on
6 the unemployment lists or, you know, the union lists right
7 now. This is a problem that the Commission has, anyway, with
8 the goals. We question the data base upon which they, you
9 know, were formed. And we also question, looking at the last
10 oil pipeline here, why the figures aren't higher anyway;
11 because apparently on the last pipeline the percentages were
12 much higher than what your goal is for 1981, in any case.

13 MR. KUHN: Well, I'd -- that -- I would take
14 issue with that. I went through those numbers, the numbers
15 that you have in the record, on the peak -- the very peak in
16 the Alyeska employment, the breakdown, for example, of crafts,
17 1.1 percent. The categories may not be exactly comparable.
18 But we have -- some of our numbers are way up there; officials
19 and manager, 17.8 percent; professionals, 20.5 percent. These
20 are not inconsiderable numbers. A lot of these crafts, as I
21 understand it, do have experience requirements. There's
22 certain...

23 MS. CALLAHAN: Does your table of page 5
24 include crafts, operatives, and laborers; or is it simply
25 crafts?

1 MR. KUHN: Crafts would include the --
2 all of the trades; the building trades, the pipeline unions...

3 MS. CALLAHAN: In the labor statistics,
4 crafts is 1.1 percent, but there are others such operatives
5 at 6.9, --

6 MR. KUHN: That's correct.

7 MS. CALLAHAN: -- and laborers at 9.7. If
8 the categories aren't exactly the same, then those may all
9 be included in your figures in crafts.

10 MR. KUHN: Um-hm, but their bottom line
11 was -- I don't -- those are percentages, and you'd have to
12 go by the -- look at the absolute numbers and multiple it to
13 see what you really were getting as an overall total. There
14 may be -- some of those categories may have been small.

15 MS. SCHUHMANN: I wonder, would you be able
16 to come back at 1:30 to finish up the -- for some more questions?

17 MR. KUHN: I'd be glad to.

18 MS. SCHUHMANN: Okay.

19 MR. KUHN: Now, I, like several others, am
20 on that 3:55 plane, so...

21 MS. SCHUHMANN: Um-hm.

22 MR. KUHN: But I'd be pleased to.

23 MS. SCHUHMANN: What is the feeling of
24 the Commission, do you want to break for a quick lunch and
25 try to get back here at 12:30 (sic). Since everybody's

1 going to have to leave fairly shortly after we come back,
2 maybe we could make the questioning as short as possible so
3 nobody misses a plane or anything. We do have at least
4 one other -- two other speakers that we didn't get to from
5 the morning. Okay, Mr. Behlke, I understand, came in. Is
6 Mr. Behlke -- oh, would you be able to come back at 1:30?
7 (No audible response.) And the Human Rights Commission people,
8 would you be able to come back at 1:30? (No audible response).
9 Thank you. We'll try to start just as quickly as we can at
10 1:30, then. Thank you.

11 OFF THE RECORD

12 ON THE RECORD

13 MS. SCHUHMANN: I'd like to call the meeting
14 back to order. And I wonder if we could ask the 3 people
15 that spoke already this morning, all 3 of you maybe, to come
16 up to the table. And then that way get the remaining questions
17 that have not yet been answered. Mr. Alexander, could you
18 also join the front table, and we could maybe...

19 MR. ALEXANDER: Sure. Do you want
20 (indiscernible).

21 MS. HURLEY: And pass -- if you wouldn't
22 mind passing the mike back and forth so that the recorder
23 can pick it up.

24 MS. SCHUHMANN: One of the questions that
25 I wanted to follow up with you, Mr. Kuhn, was on what

1 reporting requirements you're going to have for your
2 contractors. Will you ask them to keep their statistics by
3 job description instead of, you know, an overall -- like
4 female hire, that could be clerical, craft, or whatever?

5 MR. KUHN: The answer is yes. We have
6 in our Affirmative Action Plan, in one of the appendices, the
7 original December submission, set forth the forms that each
8 contractor will be obliged to send into us, I think it's
9 monthly. It may be more frequent than that, I'm not certain
10 offhand. And it is a -- it's an extensive breakdown.

11 MS. SCHUHMANN: Will it have -- will it be
12 broken down even by the hours worked so that if someone's called
13 out, but only works, say, 1 hour of the day --

14 MR. KUHN: We do collect information by
15 hours, that is correct.

16 MS. SCHUHMANN: Okay. Yes, Herb?

17 MR. BERKOWITZ: Mr. Alexander, I take it
18 your title is the Director of the Office of Equal Employment
19 within the Office of the Federal Inspector?

20 MR. ALEXANDER: You take it correctly.

21 MR. BERKOWITZ: So that means it's your
22 responsibility to see to it that Mr. Kuhn's company lives up
23 to its responsibilities under the federal permit?

24 MR. ALEXANDER: Yes.

25 MR. BERKOWITZ: And that includes their

1 equal employment opportunity responsibilities?

2 MR. ALEXANDER: Let me explain. I'm
3 responsible for seeing that Mr. Kuhn lives up to -- you know,
4 permit or no, lives up to his Affirmative Action responsibilities,
5 period.

6 MR. BERKOWITZ: Now, Mr. Kuhn has indicated,
7 if I understood his testimony correctly, that during the time
8 of peak pipeline construction when, if I understand the
9 statistics correctly, there will be over a 3 year period
10 a minimum of 7,000 positions filled and as many as 12,000
11 positions filled; that during that 3 year interim Northwest
12 is going to be dedicating 7 of its own employees to see to it
13 that Northwest, as the federal government's permittee, is
14 living up to its responsibilities in the area of equal
15 employment opportunity; and that includes both women and
16 minorities. So that's 7 to cover both women and minorities.
17 Do you consider that to be an adequate number, Mr. Alexander?

18 MR. ALEXANDER: I don't think I'd prefer to
19 answer that question at this time because we don't know what's
20 adequate until they do get to that peak. If it isn't
21 adequate, then we certainly will so advise Mr. Kuhn, and I'll
22 certainly have to beef my own staff up. I just don't think
23 that that's a fair question at this point.

24 MR. BERKOWITZ: Well, Mr. Alexander, if --
25 a simple division. If you have 7 employees monitoring both

1 with respect to women and minorities 7,000 positions, which
2 is the low number over the 3 year period. That's 1 employee
3 per 1,000 positions. Now is -- can you conceive of a basis
4 under which that would be considered an adequate ratio?

5 MR. ALEXANDER: I don't -- again, I can't
6 answer that question at this time. If it isn't adequate, then
7 we'll have to make adjustments. What --

8 MR. BERKOWITZ: Is there something you
9 don't know, Mr. Alexander, that if you knew it --

10 MR. ALEXANDER: No, I'm not going to say
11 that I don't know it. Let me explain it to you further.
12 There will be other people involved in monitoring and enforce-
13 ment, which will raise that number considerably. We have,
14 at present, enforcement regulations that have been caught
15 in the President's hold on regulations that include a memo-
16 randum of understanding between our office, the State
17 Human Right's Commission, the EEOC, and in addition to the
18 monitoring that will be done by the company's themselves.
19 So at this time I can't give you any information because it's
20 caught in that freeze. I can't give you any further
21 information. I don't know how many people that EEOC, for
22 instance, is going to dedicate to monitoring. I don't know
23 how many Neil Thomas will have for monitoring. So I really
24 can't say at this time. I would if I could.

25 MR. BERKOWITZ: I'm still not sure I understand

1 the thrust of your -- what you're saying is, Mr. Alexander,
2 that if a sufficient number of federal and state bureaucrats
3 are employed to deal with this problem, then that will make
4 the seven private sector employees of Mr. Kuhn's company a
5 sufficient number?

6 MR. ALEXANDER: No, what you're overlooking
7 is that the federal and state bureaucrats, as you refer to
8 them, have also a certain responsibility for enforcement.
9 In fact, the prime responsibility lies in my office. So,
10 you know, I will be looking over Mr. Kuhn's shoulder, so to
11 speak.

12 MR. BERKOWITZ: Well, Mr. Alexander, it's
13 the project of Mr. Kuhn's company. They have conceived it;
14 they presumeably will engineer it; they will contract for it;
15 and they will see to it that it is constructed. No one
16 will have better or more intimate knowledge of what this
17 project is going to consist of than Northwest Alaskan. Now,
18 I still can't understand why it would not be a major concern
19 of your Department to see to it that Northwest Alaskan itself
20 lives up to its responsibilities by hiring sufficient
21 personnel to monitor that area of endeavor.

22 MR. ALEXANDER: You are -- you're chopping
23 the whole problem of enforcement up into segments. It will
24 be my responsibility to see that he hires a sufficient
25 number, as you say. Right now I'm not prepared to give you

1 what will be a sufficient number. I will certainly be talking
2 with Mr. Kuhn or anyone else with the company who has
3 responsibility in that area if I see that they don't have a
4 number of people in the field to see that these responsibilities
5 are carried. But, you know, it's not a two part problem, just
6 like the training is not a two part problem where you're
7 doing your thing over here and I'm doing mine there.

8 MR. BERKOWITZ: It strikes me, Mr. Alexander,
9 if you'll forgive me for saying this that you're being
10 remarkably unassertive in asking Northwest Alaskan to live up
11 to the terms of their permit.

12 MR. ALEXANDER: You don't -- you're not
13 aware of what we've asked them at this point. That's what
14 I'm trying to say, that negotiations on certain things here
15 are still going on. So you can't say that we haven't asked
16 or demanded or requested. I'm just not at liberty right now
17 to go into the whole thing in detail with you.

18 MR. BERKOWITZ: And you have no theories,
19 no philosophy, no thinking --

20 MR. ALEXANDER: I don't want to theorize --

21 MR. BERKOWITZ: -- on whether or not seven
22 is a sufficient number of people to honor this contract?

23 MR. ALEXANDER: No, I don't --

24 MR. LUNDELL: Madame Chairman, I think that
25 Mr. Alexander is being pursued beyond what would be the norm.

1 And I'd like to ask Mr. Berkowitz a question as a person
2 that's not involved in the enforcement or the administration
3 of it. What does he mean by monitoring? Does he mean 1
4 person watching 10; or does he mean a review of figures; or
5 does he mean a plan that encompasses outreach and training,
6 and encompasses working with the unions to see that women
7 and minorities do come through those channels? Those are
8 far more important than how many people are monitoring on a
9 project line. And I guess the question -- the answer to his
10 question is a question, what is monitoring to you, Mr.
11 Berkowitz?

12 MR. BERKOWITZ: Well, as best I can respond,
13 and once again, Mr. Kuhn knows Mr. Kuhn's project better than
14 I do, so to that extent I deal from ignorance. It sounds like
15 there's going to be a substantial volume of paper produced as
16 part of this equal opportunity employment effort. It's going
17 to be involved in the contracting process. After the contract-
18 ing process apparently there's going to be some form of
19 fairly frequent reporting. And this reporting is ultimately
20 going to involve these seven to twelve thousand positions over
21 this period of time. I have difficulty of conceiving of how
22 these 7 people are ever going to be able to get out from under
23 that mountain of paperwork to get out into the real world and
24 deal with the questions of whether real people are getting
25 real jobs rather than whether numbers on pieces of paper are

1 the numbers that people want to see.

2 MR. ALEXANDER: I see where you're coming
3 from, really. It's just that I'm saying I can't give you the
4 solution to the entire problem at this point because I feel
5 that enforcement and monitoring are very important aspects of
6 the whole thing. If you don't have that, then we're just
7 talking about an exercise. I just am not able at this time
8 to tell you exactly whether 7 is sufficient, or 47, or whatever.
9 You know, I don't -- I can't give you a number, I could just --
10 I'd only be speculating. We got into a terrible problem with
11 speculation on the other 2 legs, and I'd like not to do that.

12 MR. BERKOWITZ: Let me ask you this
13 question, Mr. Alexander. Do you believe that Northwest
14 Alaskan in and of itself, putting aside its contractors, and
15 putting aside your office, has an independent responsibility
16 and a legal and more obligation to see to it that a program
17 for appropriate female hire is carried out?

18 MR. ALEXANDER: Certainly, and they will be --
19 they have that in their draft Affirmative Action Plan.

20 MR. BERKOWITZ: Well, it says that.

21 MR. ALEXANDER: Yeah.

22 MS. SCHUHMANN: Mr. Kuhn, you had --

23 MR. ALEXANDER: They're required to do that.

24 MR. KUHN: Miss Schuhmann, I just want the
25 record to be clear. I made a prior statement that in addition

1 to the 7 Northwest Alaskan employees there will be 42 full
2 time employees under their -- under the direction supervision
3 of those 7 engaged exclusively in affirmative action matters.
4 In addition, our contracts require certain additional people
5 to be provided working exclusively with them on equal
6 opportunity matters. There is a comprehensive program. Each
7 of the execution contractors, moreover, must prepare his own
8 affirmative action plan. And he is going to be held liable
9 for his enforcement of that -- his performance of that.

10 MS. SCHUHMANN: Will the affirmative action
11 goals that you eventually reach agreement upon, will they
12 apply both to the -- what you have been calling pre-construc-
13 tion as well as the construction?

14 MR. KUHN: There's really no -- we make
15 no distinction there. I mean, it flows 1981 through '86,
16 the work -- in the hiring area. It changes somewhat as you
17 use up certain minorities, so to speak, and there are few
18 available from a ... But the percentages do not radically
19 change. Insofar as the contracting is concerned, all we have
20 at this point is projections and obviously you're going to have
21 an awful lot more as you move toward the peak.

22 MS. SCHUHMANN: Does Northwest plan, at this
23 point, to have any support services, for instance, in your
24 training of natives which is, I understand, required. Do you
25 anticipate any, say, child care services. It's going to be

1 difficult for people to leave the village if they're the only
2 person that's in charge of the family to come into town for
3 training as well as to go to work. Do you have any antici-
4 pation or any plans for any kind of support services?

5 MR. KUHN: We haven't really addressed that
6 level of detail yet.

7 MS. SCHUHMANN: What influence will you have
8 over the unions? Will you be directly contracting with the
9 unions or will your contractors?

10 MR. KUHN: There -- we anticipate an agree-
11 ment with the unions, directly with the unions. And I want
12 to emphasize that'll be the local unions. We'll be heavily
13 involved in that at some point.

14 MS. SCHUHMANN: Do you have any plans to try
15 to make sure that the unions have affirmative action plans?

16 MR. KUHN: Well, it's not our task to, you
17 know, insure that they have an affirmative action plan per se.
18 But our -- what we would hope to come out of the -- and we
19 would expect that the government will be involved in these
20 negotiations, would be an understanding that the unions will
21 provide minorities in the requisite number and females in the
22 requisite number to meet the affirmative action goals set
23 forth in our plan.

24 MR. LUNDELL: Excuse me Madame Chairman,
25 there's one thing missing in the middle of that answer and

1 to your question itself. There is no possible legal way that
2 a private company can have any sway over that union dispatch
3 thing except in accordance with rules that are established
4 by the federal government, because it's strictly a National
5 Relations Board to Equal Employment Opportunity Commission
6 or Office of Federal Contracts Compliance program type
7 relationship. The unions have reporting requirements as well to
8 those federal agencies. As long as they dispatch in accordance
9 with an agreement and follow the terms of an agreement, a
10 private company doesn't have anything it can do to that union.
11 And that should be understood, I think, as part of that
12 answer.

13 MS. SCHUHMANN: Barbara.

14 MS. DALE: Did I understand you to say, Mr.
15 Kuhn, that you will expect the unions to come up to bring
16 your requirements -- to bring up the requirements set forth
17 by your Affirmative Action Plan. Are you depending on the
18 unions to fill up your quota for women on your Affirmative
19 Action --

20 MR. KUHN: In the craft area, there is
21 no alternative.

22 MS. DALE: Okay. Just exclusively in the
23 craft area, the 5 percent that you have listed on your...?

24 MR. KUHN: Well, the craft area is the
25 unionized employment areas.

1 MS. SCHUHMANN: Yes, Herb.

2 MR. KUHN: Predominately.

3 MR. BERKOWITZ: Mr. Kuhn, do you anticipate
4 that the project labor agreement will deal with the question
5 of female affirmative action?

6 MR. KUHN: It will deal with the question of
7 dispatch of females as much as it does dispatch of minorities
8 to meet the goals in the plan. I would have to answer that yes.

9 MS. SCHUHMANN: Are there any other
10 questions the Commissioners have?

11 MR. BERKOWITZ: I'd just like to make one
12 comment, and I think my concern has been pretty obvious from
13 the outset. I think we would like to know where the buck
14 stops on this issue. And it's sometimes a little bit hard to
15 pin down with lots of people delegating responsibility to
16 others or looking to others to carry out the responsibility.
17 I think that we would like to see some more certainty in that
18 regard so that we know who to turn to as who's responsible
19 rather than to have it turn out to be an Alfonse Gastone (ph)
20 routine where everyone points the finger at someone else and
21 says that that person is the one that laid down on the job.
22 We don't -- we want the job done, not undone.

23 MR. ALEXANDER: Madame Chairman.

24 MS. SCHUHMANN: Yes.

25 MR. ALEXANDER: If I might respond to that

1 in part. I will see that you get a copy of the regulations
2 that -- immediately, that govern what we're supposed to be
3 doing. It should fairly clearly outline who will be doing
4 what, who has this responsibility for what. You asked the
5 question earlier about goals. There is a provision in the
6 regulations that the sponsor may say that I will set a 25
7 percent hiring goal, period. If that sponsor is hiring 6
8 contractors, he may assign a portion of that goal to be
9 reached by that contractors. If it appears in the contract,
10 it's his responsibility. And, you know, the responsibilities
11 are spread around, and I could go on and on with them. Just
12 like enforcement falls -- it starts with my office and flows
13 through the system. I will give you a copy of the regulations.
14 Some of the answers are vague at this point. I will tell you
15 that I would be willing to come back to a meeting of the
16 Commission when the plan is completed and approved and
17 lay it out for you and perhaps clear up some of the areas that
18 you have questions about.

19 MR. BERKOWITZ: I, for one, will be more than
20 happy to follow up on this.

21 MR. ALEXANDER: I would also immediately,
22 if not sooner, provide you what information my office can as
23 to what we're doing without violating any confidences at this
24 point of what we expect to be doing, what we have done, and
25 so forth so you'll know a little bit about what operation

1 is; where some of our responsibilities lie; who we will be
2 looking to to provide this type support. For instance, I
3 could speculate that we will be hiring "X" number of
4 contractors to assist in the monitoring effort. That's been
5 a plan, but it hasn't been finalized at this point. But I
6 will send you the information I can and I have at this time.
7 It may clear up some of the areas where the Commission has
8 questions.

9 MS. SCHUHMANN: Thank you. That would be
10 very helpful

11 MS. DALE: I just wanted to -- my concern
12 lies in this -- and I don't feel totally comfortable with the
13 information I have, the area of training, of -- you know, we
14 have our figures of women that are in -- already trained and
15 available. If -- there's an increasing number of women who
16 are becoming heads of households. I think we could take the
17 people who are already trained and put them to work. But I
18 think what I'm interested in doing is increasing the training
19 opportunities so that more women will be, -- you know, will
20 be trained and be able to get something out of this.

21 MR. ALEXANDER: I understand your concern,
22 but I can't say that the training issue has not been fully
23 addressed, either. The reason for -- you know, so many of
24 these things are not finalized at all, and some haven't even
25 begun for one reason or another. In the middle of all this,

1 we have a freeze on hiring, which limits my staff; a freeze
2 on regulations, which holds my enforcement regulations that
3 were ready to come out. You know, these are the type things
4 that we have to face. So a number of the things have not
5 been set in concrete yet and allowed to flower. They will
6 be -- again, I'll -- we can start the information flow to
7 keep you posted on where we are and what we're doing.

8 MS. DALE: Good.

9 MS. SCHUHMANN: Mr. Lundell, in the -- is the --
10 are the state apprenticeship programs worked out so that they
11 track the union apprenticeship programs? In other words, if
12 you go through the Seward Skill Center, is that going to help
13 you get a union position, you know, get union hire...?

14 MR. LUNDELL: Pursuant to existing statutes,
15 there is no state apprenticeship program. The apprenticeship
16 programs that are run by the labor and management trusts that
17 operate them jointly, hire a director of the school or program,
18 exist under the Federal Department of Labor Apprenticeship and
19 Training plans. Some states have -- where they have huge
20 work forces have also adopted state apprenticeship plans;
21 that is, where there is a formal program. And the actual --
22 the term apprenticeship is a rather formal one. It means a
23 certain thing. An indentured apprentice enters into the
24 program under certain ground rules, stays in for a certain
25 period of time at certain wages, percents of wages per hour

1 of a journeyman level and moves through the program that
2 way. And they're under very strict rules as to how they
3 are operated. And these, again, are the Federal Bureau of
4 Apprenticeship and Training standards. The state doesn't
5 happen to have any. When you make reference to the Seward
6 Skill Center, in a sense that's like your Hutchinson Career
7 Development Center here except it's a residential one; and
8 it has a little more flexibility; was set up on that basis.
9 I think there was recently set up on the northwest part of
10 the state, Kotzebue, a small training center to deal with
11 certain things there that is residential, I believe. Those
12 are the only ones that are residential. Others are in the
13 community college system or private schools, such as the
14 Anchorage Business College, you know, things like that. In
15 the area of the crafts they are run under the Bureau of
16 Apprenticeship and Training programs. And a group can apply
17 to them and then they can follow the same rules. But that's --
18 so it's -- there isn't a direct answer; the state apprentice-
19 ship doesn't link because there isn't one.

20 MS. SCHUHMANN: The training that you might
21 receive, though, say at Hutchinson or at the Seward Skill
22 Center would not necessarily qualify you for ...?

23 MR. LUNDELL: It won't qualify you for
24 journeyman status, generally speaking. Those schools are one
25 of the best means of insuring success once you enter an

1 indentured apprenticeship program. They also suffice for the
2 creation of what someone might make a living, not as an
3 apprentice but working for a company that is not affiliated
4 with organized labor by agreement. They might produce some
5 people that can build some houses and can do some work and
6 things, but are not fully trained as is a full fledged
7 apprentice, that's the basic difference that's involved there.

8 MS. CALLAHAN: This is a question for any
9 or all of you. Do you know if it's anticipated at all that
10 there might exist some kind of a clearing house of information
11 for women and minorities to help in matching up interested
12 people with available training programs with available jobs.
13 It's a maze of information with the involvement of so many
14 different agencies and companies. I just was wondering if
15 that had ever been discussed in any of your negotiations of
16 some kind of a possibility.

17 MR. ALEXANDER: Not specifically. However,
18 in the area of training there has been talk of that type
19 situation, how to disseminate information and so forth. So
20 maybe in our deliberations that could be tied in somehow,
21 or could be an adjunct somehow. It has not been addressed,
22 but I don't see that there'd be any problem with it.

23 MR. LUNDELL: If you're talking outside of
24 the jobs that we dispatched by organized labor, I think you
25 could say that the cooperative effort, that it does exist

1 now; not with respect to this pipeline project, but in
2 general between the CETA program and the Job Service program
3 does provide a great deal of what you're asking. And, in fact,
4 we have had discussions among the sponsoring company, the
5 Federal Inspector, and the State Pipeline Co-ordinator's
6 Office about doing some type of co-ordinative activity like
7 this. And it's very likely that something like that will
8 occur. There's a question of where, what's it cost, how does
9 it tie in, and what real benefit can it give other than making
10 someone feel good by being on a list. If it will actually
11 achieve putting them in a job somehow, then we'll proceed.
12 If it isn't, then there's no real benefit to be gained from
13 it.

14 MS. SCHUHMANN: Um-hm. Any further questions
15 or comments; any further from your folks?

16 MR. KUHN: I have one, Miss Schuhmann. I
17 gave you one incorrect number this morning and I want to
18 correct it for the record. I said that our total Alaskan
19 employment was 530, and I quoted certain percentages. All of
20 the percentage numbers that I quoted were exactly right, and
21 they're as reflected on the written statement. The actual
22 correct total for our employment in Alaska is 641, which
23 is also reflected on the sheet you had. I just picked the
24 wrong column off one of the tables.

25 MS. SCHUHMANN: Thank you. On behalf of the

1 Commission I'd like to thank all 3 of you for your testimony
2 and your graciousness under fire. We -- I want to assure
3 you, on behalf of the Commission, that we do want to work
4 together to try to see that women do have a fair opportunity
5 on the -- to get jobs on this project as well as other
6 construction projects. But I think you do have to understand
7 our concern and what we consider to be rather low affirmative
8 action goals; declining percentages for the female business
9 contracting; and the lack of training in any -- in your
10 stipulations or -- you know, I'm sure a lot of this was done
11 under federal law. And there's not a whole lot that any of
12 you can do about it now except that we would, in the best of
13 all worlds, like to have seen it be included.

14 MR. LUNDELL: We hope you're all pleasantly
15 surprised when the project is going on.

16 MS. DALE: So do we.

17 MS. SCHUHMANN: Katie.

18 MS. HURLEY: I just wanted to say is it
19 possible that before final decisions are made that the
20 Commission, you know, could be consulted and, you know, asked
21 whether this meets the kind of goals that the Commission has
22 before finding out afterwards that the goal has been set and
23 it's low. Is that unrealistic to ask that kind of chance for
24 input?

25 MR. ALEXANDER: I'll take that under serious

1 consideration remembering that the goals are very likely to
2 be -- or let me not say very likely because that implies
3 certainty, but the goals could possibly be adjusted as a
4 result of the census information later on. What I want, and
5 I'll reiterate, are reasonable obtainable goals. I want --
6 in the best of all worlds, I'd like to see them exceeded.
7 I'm not giving -- attempting to give the sponsors that charge,
8 but I certainly would like to see them exceeded; and I think
9 we all would. But I'll reiterate that I certainly will be
10 in touch with you. I certainly will be talking to you. I'll
11 be giving you the information that I can. I don't want it to
12 be a one-way street. If there's something that you want to
13 get, some information you need, Mr. Roy Rule ^(Ph) is here in town.
14 If you can't reach him, then you can reach me in Washington.
15 And we'll certainly see that it's provided. I'm going to leave
16 this copy of the regulations now. I do realize that later
17 on we probably will come under fire for one reason or another,
18 just because somebody's mad or whatever. There may be
19 disagreements and so forth, but the one thing that I'd like
20 not to get any fire for is these; they're in place and there's
21 nothing I can do about them. You know, I would like to have
22 seen some other things included or maybe excluded or amended
23 or whatever, but --

24 MS. SCHUHMANN: Thank you.

25 MR. ALEXANDER: -- we can't do that now. So

1 the best we can do is try to do the best job under the
2 regulations we have. And, you know, the next time around
3 we'll do even better. We don't want to make the mistakes that
4 were made on the oil line. But if there were good things
5 that happened, we want to build on those good things.

6 MS. SCHUHMANN: Thank you very much.

7 MR. LUNDELL: Thank you. Miss Schuhmann?

8 MS. SCHUHMANN: Yes.

9 MR. LUNDELL: I wanted to mention one thing.
10 And since the subject of apprenticeship and things like that
11 came up, I did ask one of the people from our Department to
12 come down here today; and she would be available if you needed
13 if you wanted some explanation of that or if people wanted a
14 1 on 1 discussion of what is apprenticeship, how do you go
15 into it, how does it work. I'm speaking of Adele Bagin (ph)
16 who is an inspector with our Division of Wage and Hour and
17 Mechanical Inspection. She was an apprentice plumber, is
18 a journeyman plumber, and is a full fledged inspecting plumber
19 at this time. And if she could be of help to you in describing
20 these things, she has offered to do so. I asked her if she
21 would mind coming down, and she said she'd be happy to come
22 down and see you.

23 MS. SCHUHMANN: Thank you. What is her
24 name again? Adele?

25 MR. LUNDELL: Adele Bagin.

1 MS. SCHUHMANN: Thank you. Mr. Behlke,
2 I know that you've been waiting. I saw Mr. Lawson earlier
3 this week downtown, and I think he was being teased while
4 he was on vacation that your office had told -- had planned
5 on him coming unbeknownst to him. He found it --

6 MR. BEHLKE: Well, really we had, yeah.
7 You've heard I think most of what's important for you to
8 hear about female women hire on the pipeline. The State is
9 pretty largely pre-empted by the federal government in relation
10 to EEO and MBE on this pipeline and by federal law. It doesn't
11 mean we intend to ignore it, but we feel that the prime
12 responsibility is with John Alexander's group and their
13 promulgating regulations and so on for that.

14 MS. SCHUHMANN: We don't have a public
15 announcement system, so if you could speak up. That's just
16 for the transcript, that microphone.

17 MR. BEHLKE: Okay, yeah. I think that --
18 I wasn't here this morning for very long, but I think that
19 it's important for everyone who is hanging his or her hat
20 on the pipeline to know what the status of the pipeline is
21 because I think there's a good deal of speculation; perhaps
22 some misinformation. I think people are telling each other
23 this and that. And after they've told each other this for
24 several go-arounds they begin to believe it.

25 At present, the pipeline is under very, very heavy

1 design. And it's in a very heavy design and planning stage.
2 The Northwest Pipeline Company has, as Mr. Kuhn told you,
3 several hundred people working in Alaska, many of them in
4 the field.

5 Last week I drove down from Prudhoe with my deputy and
6 we stopped in each of the 4 fly camps that Northwest has between
7 Prudhoe and here. And those are 78 person camps, and one of
8 them was not running full, but the others were pretty full.
9 So they're in the field doing a lot of bore hole work, doing
10 stream studies, stream flow studies; doing pipeline alignment
11 studies and so on. But this is only the design phase. And
12 so far there's only money in hand for design. There isn't
13 money in hand for construction. I think it's extremely
14 important that everyone recognize this. This is different
15 from Alyeska where the sponsors could write out the checks,
16 and they were only too willing to write out the checks; and
17 it didn't appear that the overruns worried them at all.

18 Northwest Pipeline Company is working valiantly and has
19 been working for a number of years now attempting to line
20 up the total financing package for the pipeline. This is
21 rather complicated because first, a conditioning plant is
22 required at Prudhoe Bay to condition the gas before it can go
23 into the pipeline. That's a three or four billion dollar item.
24 Then financing has to come together for roughly eight billion
25 dollars worth of pipeline. That's eight billion up front.

1 We don't know what it ultimately will go. That's in 1980
2 dollars.

3 At present that financing is not in place. So Northwest
4 isn't going ahead right now, today, with the project. They
5 haven't ordered pipe; they have not yet put into operation the
6 Alyeska construction camps and so on. And I would caution you
7 that you not get your aspirations too high on an immediate
8 basis. I'm quite certain the pipeline will probably be
9 constructed. But I'm not absolutely certain that darn thing's
10 going to begin next summer. It's possible that it could slip
11 a year. It depends upon financing. And if that financing
12 isn't in place probably by summer it will, indeed, slip a
13 year. And you should be aware of that. Don't run out and
14 quit your jobs and go out and attempt to get a pipeline job,
15 because I think by the end of summer if there isn't financing
16 in place, the pipeline jobs could, indeed, dry up very
17 considerably because the field work will be pretty much done
18 on the design basis.

19 With regard to camps, I -- and field activities, I have
20 our people give me verbal impressions of what they see in the
21 field in regard to EEO and MBE. And I have the perceptions
22 that, and my own observations are that, Northwest is doing
23 fairly well in regard to female hire, native hire, and so
24 on. I haven't kept track of it, but I know in all the camps
25 that I visited and stayed in there were 3 or 4 women out of

1 approximately 78 people who showed up at that camp that
2 night.

3 The federal government and the state government have
4 females on our field crews. So they're out there monkeying
5 around in the snow and the mud and so on just the same as
6 the males are.

7 I've had something come through to me. I'm a Fairbanks
8 resident, and I've had something come through to me which I
9 want to pass on to you that I think is extremely important.
10 I have long wondered why on a project of any consequence --
11 as the engineer -- I'm an engineer, so I wondered why the
12 engineering hasn't been done in Alaska. We have lots of
13 experienced engineers, how come. And I've been very -- and
14 since becoming involved in this project, though, I've been
15 very impressed and I suppose depressed to an extent, but
16 anyhow, impressed by the fact that large numbers of people
17 have to be mobilized very quickly for specific jobs on design
18 of a project this size. And I'll give you an example. The
19 conditioning plant; there was no design in operation last
20 summer. The design began this last fall. And it was necessary
21 for Northwest who represents the design and engineering board
22 to get to a large company which could mobilize 400, let's say,
23 400 engineers to go to work on this job within a week; get
24 the job finished; and then phase off of that job after perhaps
25 6 months work. Well, there's no place in Alaska where you

1 find any organization like that. There's just no way. So
2 you have to go out to America to have this happen.

3 Now, the unions are very similar to this, I think. We
4 would like to have certain quotas met in regard to minorities
5 and regard to females and so on through union hirings. But
6 I think we have to remember that Northwest has to hire through
7 unions. There is virtually no way -- that is Northwest
8 contractors; Northwest probably wouldn't do very much of this.
9 But there's virtually no way that Northwest can field a project
10 of this magnitude unless it's a union project; there's just
11 no way. And the unions, therefore, are similar to these large
12 design firms. They have a large body of people that they can
13 throw at the job, and they can get mobilized in a hurry. That's
14 a big plus for a union, really, or for a group of unions.

15 Now, Northwest doesn't run those unions, as you've
16 heard; Northwest doesn't run those unions. In the project
17 labor agreement, they can, indeed, get in and try to get as
18 much as they can out of those unions. But that's a negotiating
19 process also. One of the things that has concerned me since
20 I first came into this position is 798. I remember the stories
21 of 798 during the last pipeline. They came in from somewhere
22 out in America and they just really tore up the State as far
23 as I was concerned and as far as many people were. And they
24 came in with white people from the south, principally. There
25 weren't blacks, there weren't natives, there were very few

1 women as I understand it, that had anything to do with 798.
2 And I've asked the question since I came onto my job, what
3 about 798. Is 798 going to have 15 percent natives, and so
4 many percent blacks and so on. And I really haven't gotten
5 an answer. I've raised hell about this, I think, in various
6 federal meetings. And it's easy for me to do that because
7 I'm not responsible for EEO and MBE, but I certainly can
8 ask the questions. And I don't really know, is John still
9 here?

10 MS. SCHUHMANN: Yes, he is.

11 MR. BEHLKE: I guess I could toss the question
12 back to you, John. What do you think about 798, is it going
13 to get black or...?

14 MR. ALEXANDER: Not much. They certainly
15 will have to be dealt with. I can't tell you how, at this
16 point because the labor issue (inaudible) I can't give you
17 a master plan.

18 MR. BEHLKE: Well, you begin to see the
19 point here, I think. Politicians don't want to deal with
20 labor unions if they can help it because labor unions are
21 large; and they're, of course, a political entity. That's
22 the working man. And yet Northwest has to deal with those
23 labor unions. And Northwest doesn't really have all that
24 much control over labor unions. It's easy to say that the
25 federal government has control over Northwest; and Northwest

1 is spending the money so it has control over labor unions and
2 can call the shots. But I think Northwest is going to have
3 a -- it's my perception they probably will have a tough time
4 with that. And I think we have to recognize that and realize
5 that maybe it's not all Northwest's fault that this happens.

6 Mr. Kuhn in relation to that mentioned that there would
7 be 7 Northwest people and 42 or 44 project management people
8 who would be dealing with EEO-MBE. I think it is fair to
9 say that it's 7 plus 42 or whatever, rather than just 7 because
10 the project management and Northwest have to work very closely
11 together. And that's the way it's been working on the pipeline
12 so far as far as the quality assurance and quality control
13 is concerned. We have difficulty who's Northwest and who's
14 the project management, Fluor, because they work together very
15 well and we don't see -- I'm sure Northwest sees some differences
16 but we don't see a lot of differences in this. So I think
17 they have a team there that -- you may not agree it's large
18 enough, but anyhow I think that's really what it consists of
19 is 7 plus rather than just 7.

20 The State is in a bit of a strange position on the
21 pipeline in that it is a project in which the federal govern-
22 ment rattles into very heavily. Northwest has to cross State
23 lands, it has to cross native lands, some private lands,
24 and a lot of federal lands with its pipeline. Northwest does
25 have a federal right-of-way grant from the Department of

1 Interior for the pipeline. It doesn't have permits yet for
2 any other sites, such as material sites and so on. But for
3 the pipeline and compressor stations it has a permit on federal
4 lands. It has not approached the State yet for a right-of-
5 way lease from the State of Alaska for the pipeline itself.
6 It has approached the State for a land lease for the condition-
7 ing plant at Prudhoe Bay. It's presently the State's position
8 that that is a pipeline system, and that the two probably
9 should go together. But we don't know whether that will be
10 the ultimate outcome or not of that.

11 Northwest has, I think to an extent, ignored the State
12 in certain matters and really paid a lot more attention to the
13 federal government. And we've sort of felt that in many things
14 we're perhaps being strung along a little while. And then
15 when the right time comes and Northwest needs something very
16 quickly, it will be the State's responsibility to give it to
17 them quickly; otherwise, the State will be responsible for
18 holding up the project. Now, I don't think that has much
19 credibility in Alaska, because we've all waited for a long
20 time and not much has happened on the actual construction of
21 the pipeline. But we still have not been approached for our
22 right-of-way lease yet for on State lands and the federal
23 government was approached last summer.

24 The State has prepared a set of socio-economic -- draft
25 socio-economic stipulations to attach to the right-of-way

1 lease. These have not been negotiated with Northwest yet.
2 Some of the salient features, though, of those draft stipulations
3 are indeed some precipitation -- precipitation, I'm caught
4 in my own misnomer. Some participation by various interested
5 public groups and by various interested and involved State and
6 federal agencies into Northwest's socio-economic plans for its
7 activities.

8 One of the things that we have put into those stipulations is
9 that Northwest would fund impact information centers at various
10 locations along the pipeline. These have not been negotiated
11 yet. I'm sure Northwest will probably not want to be involved
12 in those impact center anymore than it needs to be. But we have
13 felt that that is a very important aspect of socio-economics
14 for the pipeline; that impact centers be in place in Barrow,
15 in Tok, Fairbanks, and various other places along the highway
16 route in order that information can flow as quickly as possible
17 to the impacted people; and information can flow back to us
18 and to Northwest as quickly as possible from impacted people.
19 This is something that we feel is extremely important and
20 we'll hang in a long time on. I think I've come to the end
21 of the line on -- yes.

22 MS. JONES: One of the -- I missed a few
23 minutes, and this may have been discussed, but one of the
24 problems that you've talked about is that the recruit -- the
25 goals for female hire are based on what might be available

1 and that Northwest has to contract with the unions. Is
2 it within the State's prerogative to establish legislation
3 that could eliminate some of the union requirements that
4 discriminate against women? For example, age requirements
5 so that women re-entering the labor market are ineligible for
6 apprentice -- John Alexander's shaking his head.

7 MR. BEHLKE: Which way is he shaking it,
8 yes or no? He probably knows the answer to that --

9 MR. ALEXANDER: (Inaudible) because I
10 think Glen Lundell mentioned earlier that unions are under
11 federal jurisdiction, so the State wouldn't have that
12 prerogative.

13 MR. THOMAS: I'd appreciate me answering
14 the question.

15 UNIDENTIFIED VOICE: Do you want to answer
16 it? Neil would like to --

17 MR. THOMAS: Well, I'll wait until I get
18 up there.

19 MS. SCHUHMANN: Well, why don't you answer
20 it now. This is Neil Thomas with the State Human Rights
21 Commission.

22 MR. THOMAS: Well, this issue has come up
23 in the Legislature already.

24 MS. SCHUHMANN: Could you come up to a
25 microphone so that we're sure to catch this.

1 MR. THOMAS: This issue of women in the
2 apprenticeship programs came up in the Alaska Legislature just
3 a couple of years ago, and it came up in this context. Women
4 and minority group people typically may be trying to get into
5 an apprenticeship program at an older age. You know, they're
6 coming into the job market typically at an older age and
7 running up against an age barrier where a union's apprentice-
8 ship committee, by its own rules, will not admit anybody into
9 an apprenticeship program who's over a given age; and that
10 tends to be a pretty young age, 27, 28, 29. And so allegations
11 were brought before the State Human Rights Commission to the
12 effect that this constitutes sex discrimination. It's a kind
13 of an effect analysis. The effect of that rule is more
14 disadvantageous to women than to men. It's the idea of the
15 effect of different policies being discriminatory is something
16 that's been inshrined in equal employment law for basically
17 the last 8 years.

18 As those cases were being considered administratively
19 before the Human Rights Commission, even before findings had
20 been entered or cases had reached the hearing stage, a bill
21 was introduced in the Alaska Legislature to exempt union
22 apprenticeship programs from the Alaska Human Rights Law.
23 The Alaska Human Rights Law prevents age discrimination as
24 well, so of course, inherent in this case in addition to the
25 effect argument that could be made about sex discrimination

1 was that it was on its face age discrimination. So the bill
2 created an exemption to the general principal of age
3 discrimination specifically for union apprenticeship programs.
4 And it's important to remember how narrow that is. That is
5 to say, it did not create an exemption for any other type
6 of employment in any other context by any other type of
7 employer from the general provisions against age discrimina-
8 tion. That bill passed overwhelmingly.

9 About a year later, the issue came up again. And
10 one of the people who had the most to say about it was a former
11 member of the State Human Rights Commission who was then
12 representative Lisa Rudd. And when that bill was pending
13 before the House -- it may have been in the same year now that
14 I think about it, but I do remember Representative Rudd
15 speaking very forcefully on the House floor against a bill of
16 that type, and I think garnered about 14 or 15 supporting
17 votes in the House. It wasn't enough to keep the bill from
18 passing. Since that time there have been various requests.
19 I remember one Senator Orsinni (ph) writing us a couple of
20 years ago asking why that law was on the books. Now, the
21 argument that gets made in support of allowing this kind of
22 legislation or this kind of practice is that it all falls
23 within the federal jurisdiction and the State of Alaska can't
24 say a thing about it. That issue has been coming up at the
25 federal arena. And when you really get down to the bottom

1 of it, what you find is an administrative rule in the Federal
2 Labor Department -- that's really not supported by any federal
3 statute at all; we can haul those out for you -- which says
4 that it's okay for unions to have rules of this type.

5 Well, since that time, jurisdiction over age discrimina-
6 tion cases was transferred by the Carter administration to the
7 Equal Employment Opportunity Commission. And they now handle
8 all age discrimination complaints. And I've been seeing some
9 material recently where the EEOC is raising serious questions
10 about why this rule exists, recognizing that there's no
11 federal statute or anything that explains to it. And it's
12 one of those sort of motherhood issues where everybody sort
13 of says it's all federal and they control it; and the State
14 can't do anything about it; and it's all carved in stone;
15 and unions only answer to the Federal Labor Department. It
16 sounds good but it isn't true. It's one of those arguments
17 that gets raised before us from time to time. And again, once
18 you get down to it, the courts don't even listen to it. It
19 was argued a couple of years ago that the Alaska Human Rights
20 Law doesn't apply to labor unions because the National Labor
21 Relations Act does that. Well, the Supreme Court of the United
22 States wouldn't even listen to it. And the Lonzelle (ph) case
23 held very clearly that the regulation of labor unions through
24 a state law against discrimination is not contrary to the
25 principles of the National Labor Relations Act.

1 MS. SCHUHMANN: Yes, Cathy?

2 MS. CARR-LUNDFELDT: I have some further
3 information on this if you want to hear it.

4 MS. SCHUHMANN: This is Cathy Carr-Lundfeldt,
5 also of the State Human Rights Commission.

6 MS. CARR-LUNDFELDT: In addition to being
7 the Assistant Director here in Fairbanks, I'm also a member --
8 sort of semi-active -- of a national task force on women in
9 construction. I'm semi-active because I don't get back to
10 D.C. as often as the task force tends to meet. But the fact
11 is that on the age discrimination issue, there are suits
12 pending against the U.S. Department of Labor on the age
13 discrimination issue, alleging again that it aids in sex
14 discrimination and bars women from participating in apprentice-
15 ship programs.

16 And as a result of that, the U.S. Department of Labor
17 issued a memorandum out to the Bureau of Apprenticeship Training
18 Programs a year ago in the fall which urged them to get unions
19 to rescind those specifications. You will find, if you check
20 with local unions that a number of the locals have rescinded
21 the age requirement. Some of them have considered it and
22 said they don't want to rescind it; it isn't in their best
23 interest. But some of them have taken that step. So it is
24 not something that's written in concrete; it's not something
25 which is federally pre-empted.

MS. SCHUHMANN: Thank you.

1 MR. BEHLKE: I didn't mention one
2 important aspect in the socio-economic stips; and that is
3 that we have worked for, oh, about a year in looking at
4 local hire. You'll recall that local hire was struck down
5 by the Supreme Court out in America some time ago. And we
6 wanted to know more about that. I couldn't accept that, you
7 know, that this thing just went dead and there was nothing you
8 could do about it. So I wanted to look at that pretty hard.
9 And we have attempted with our AG lawyers to look at it pretty
10 hard this last year. And I think we have a local hire provision
11 in there now which will probably fly in the big time. It
12 does not provide automatic employment for each and every
13 Alaskan. It has to do with unemployed Alaskans, chronically
14 unemployed Alaskans, and so on. So it's much more restricted
15 than any other local hire law. And the reason it is, of
16 course, is the other one did not fly. We think we know why
17 it didn't fly, and so we tried to take care of that in our
18 stipulations this time.

19 I think perhaps there will be a bill in the Legislature
20 that will be patterned on what we've done so far here; in other
21 words, the Legislator who's doing this has been working with
22 the AG's office in an attempt to get a local hire law that will
23 stand the test and will mean something to Alaskans. That
24 local hire law, however, doesn't relate specifically to women,
25 it relates to Alaskans of various other categories.

1 MS. SCHUHMANN: Herb?

2 MR. BERKOWITZ: Dr. Behlke, you mentioned
3 that the State and Northwest haven't really gotten together
4 yet on the subject of a right-of-way lease over the State
5 lands.

6 MR. BEHLKE: Right.

7 MR. BERKOWITZ: When that day comes, do you
8 anticipate the State including in that right-of-way lease
9 provisions regarding female employment and affirmative action?

10 MR. BEHLKE: No, I don't anticipate that.
11 I think that we'll use the federal regulations. The federal
12 government, I think, pre-empts us in this.

13 MR. BERKOWITZ: I think I'd like to question
14 that conclusion, Dr. Behlke, because I think the State has
15 as free a right to assert its jurisdiction over a lease over
16 its lands as the federal government has a right to assert
17 its jurisdiction of a lease over federal lands. Obviously,
18 a great deal turns on the performance of Mr. Alexander's
19 office in carrying out its mandate. But in this day of budget
20 cutting there can be no assurance that they'll be a large
21 federal presence over the next few years. I would urge you
22 to consider whether or not it might be desirable in the State
23 stipulations to have provisions that are not inconsistent with
24 the federal provisions; they ought to be consistent, but which
25 provide the State with a separate enforcement mechanism in the

1 event that the federal government, for one reason or another,
2 doesn't follow through. I don't think there's anything to
3 be lost by doing that; and I think there is something to be
4 gained.

5 MR. BEHLKE: I agree with you. It's a good
6 idea. We can attach what he asked. It's a good suggestion.

7 MS. SCHUHMANN: Barbara.

8 MS. DALE: You were talking about a draft
9 of you socio-economic plans that you're working on now --

10 MR. BEHLKE: Yeah.

11 MS. DALE: -- that have not been negotiated
12 with Northwest.

13 MR. BEHLKE: No.

14 MS. DALE: And you were talking about getting
15 input from different groups or organizations.

16 MR. BEHLKE: No, in the -- not for the
17 socio-economic plans as they exist today. Let me go through
18 the process now of a right-of-way lease. We negotiate --
19 Northwest has to apply for the right-of-way lease. When
20 Northwest applies for the right-of-way lease, we began -- we
21 begin, in the Pipeline Co-ordinator's Office, to develop the
22 lease. We've done a lot of development, obviously, already.
23 But anyhow, in the normal course of events we develop the
24 right-of-way lease with the various stipulations, technical,
25 environmental, socio-ecio, whatever special provisions;

1 negotiate these with Northwest on a preliminary basis. And
2 then we have to go to public hearings with such a right-of-
3 way lease.. At that time, the public has a crack at whatever
4 stipulations and what have you that it wants to. Now, within
5 the existing stipulations we have, on a draft basis, required
6 Northwest to do certain things in relation to its pipeline.
7 And there's working groups on this, and working groups on
8 that, and so on. And within these working groups to develop
9 Northwest's plans for the handling of various phases, socio-
10 economic phases of their pipeline, we would then get some
11 public participation -- qualified people who really are into
12 something; in a specific area; not just someone who comes off
13 the woodwork or out of the woodwork -- but anyhow, someone
14 who's qualified to give information or discuss in a specific
15 area; someone who has some experience in that area; and the
16 various State and federal agencies that are into that; not
17 just every State and every federal agency.

18 MS. DALE: Is --

19 MR. BEHLKE: Actually, this process has worked
20 out extremely well, I think, in the technical and environmental
21 stipulations that were developed for the federal right-of-way grant
22 and which will probably be attached to the State right-of-way
23 lease almost verbatim.

24 MS. DALE: Is it possible when it's appropri-
25 ate that the Commission have an opportunity to give some

1 of the information that they've gathered to these plans?

2 MR. BEHLKE: Oh, yeah.

3 MS. DALE: Good.

4 MS. SCHUHMANN: You have an advisory
5 committee or group that you're already working...?

6 MR. BEHLKE: We've had -- again, one of the
7 stipulations which we would attach to a right-of-way lease is
8 that there be a socio-economic committee. We have had an
9 interim committee of about 6 people working, 2 from Barrow;
10 2 from Tok; 1 from Delta; and the remainder from the Fairbanks
11 area, 3 people from the Fairbanks area, working on a permanent
12 charter -- or charter, I should say, for a permanent socio-
13 economic committee in relation to the pipeline. And they
14 develop that charter and this group has worked very hard in
15 assisting us in development of socio-economic stipulations.
16 This has been a very good group because it's been one way we've
17 been able to gather information from the local communities
18 about what are your problems; and what are you worried about;
19 and so on and also to feed some information back. It's been
20 very effective. And it's an interim group that has worked
21 very hard. Leslie Corvola (ph) is the -- I'll call her
22 chairman, I don't know if she wants to be called that of the
23 group, anyhow.

24 UNIDENTIFIED VOICE: I hope not.

25 MS. SCHUHMANN: Chairperson. Yes, Herb?

1 MR. BERKOWITZ: I wonder if I could ask
2 Mr. Kuhn, since he's still here, whether he anticipates
3 there'd be any difficulty from the Northwest Alaskan side with
4 including female hire provisions in the State right-of-way
5 lease when that lease is finally negotiated?

6 MR. KUHN: I think it's a legal question,
7 pre-emption by federal law or not.

8 MR. BERKOWITZ: But if it turns out that
9 your counsel tell you that it's lawful to do so, do you
10 anticipate that you'll do so?

11 MR. KUHN: It's -- if it's, in essence, the
12 same requirement. I might add that the -- I think you're,
13 perhaps, missing the point on that. The EPO regulations, the
14 Affirmative Action regulations, our plan, applies without
15 regard to land ownership. It applies regardless of whether
16 you're on State land or federal land. There are certain other
17 things as far as a right-of-way lease or a right-of-way grant
18 from the federal government; that is land related. The Affirma-
19 tive Action Plan is not.

20 MR. BERKOWITZ: The reason I raise the point,
21 Mr. Kuhn, is that we've had a very mixed experience in Alaska
22 with looking to the federal government to protect our rights
23 in various areas. And therefore, I think we'd feel more
24 secure with another arrow in our quiver with the State
25 government having the same parallel responsibility. And I'm

1 glad to see that Northwest appears to be forthcoming, and
2 if it's lawful to do so apparently will.

3 MR. KUHN: Let me say that's a question to
4 be resolved between the lawyers in the State, and the lawyers
5 of the federal government; and we don't want to be involved
6 in that sort of a...

7 MR. BERKOWITZ: But you will be a party to
8 the lease, won't you? Won't Northwest be a party to the
9 lease?

10 MR. KUHN: We're going to do the same thing,
11 not matter what, so far as the Affirmative Action Plan goes.
12 We're going to implement it either way. So it really isn't
13 going to make any difference from our viewpoint.

14 MR. BERKOWITZ: So it doesn't really matter
15 to Northwest that the State has an independent enforcement
16 possibility, if not actuality?

17 MR. KUHN: Well, we, you know, have to see
18 the specifics of what's involved.

19 MR. BERKOWITZ: Well, what if they were
20 essentially the same terms that you've agreed to with the
21 federal government?

22 MR. KUHN: You're asking, you know, a
23 hypothetical question about the -- insofar as the legal things
24 not yet resolved. I think that -- my own opinion, I'm not
25 a lawyer, is that there would be considerable difficulty in

1 entering into a field that is already well established by
2 federal statutes and regulations. That's an opinion; not
3 a legal opinion.

4 MR. BERKOWITZ: Do you have any policy
5 difficulties with that?

6 MR. KUHN: Well, we wouldn't want to see
7 conflicts between the State government and the federal
8 government that would in some way cause difficulties or
9 unnecessary litigation just because we've got two different
10 governmental enforcing agencies. If I thought about it long
11 enough there might be, you know, considerably other problems
12 with it. But it's really not an issue for, though. Whatever
13 is legal and is worked out between the federal and State
14 government is -- we'll live with that.

15 MR. BEHLKE: I might say that our group,
16 the State Pipeline Co-ordinator's Office, and the State
17 agencies that work with us, all we do is co-ordinate State
18 agencies. We don't have a super agency like the Federal
19 Inspector, who takes permits and then supervises them. We
20 have Fish and Game; DEC; DNR; AG; we'll have the Department
21 of Labor; we have DOT-PuF representatives right in our office
22 and we just work together as one group; so the agency gives
23 the permit. And then in essence, that agency really
24 surveils its permit under our ages (ph). But we have had
25 awfully good working relationships with the OFI, the Office

1 of the Federal Inspector, very good. And in some areas we've
2 said we'll stay out of it; you go ahead and do it; you have
3 better expertise. And in other areas, we're taking the lead
4 as far as pre-construction design survey, and this sort of thing
5 is concerned. So our relationships have been very good.
6 It's been almost like one government rather than two.

7 MS. SCHUHMANN: Mr. Kuhn, did you have
8 another comment?

9 MR. KUHN: Yeah. The more I think about it,
10 if there are parallel or duplicate enforcement structures set
11 up, where the heck does an employee go, to the federal, State?
12 I can see some practical problems on that.

13 MR. BERKOWITZ: I wouldn't anticipate the
14 State having any enforcement structure at all. I would antici-
15 pate that the federal government will live up to its
16 responsibilities, and you'll live up to your responsibilities,
17 and you'll meet your goals. My only concern is if the
18 federal government completely falls down on its enforcement
19 responsibility and you don't meet your goals in which case
20 I expect the State -- if it is deemed to be in the public
21 interest of the State -- will create the necessary enforcement
22 authority who would only be a last resort. As I say, it's
23 a question of retaining some measure of local control over
24 what is essentially a local problem, and that is the hire
25 of female Alaskans.

1 MS. SCHUHMANN: Do the Commissioners have
2 any other questions?

3 MR. BEHLKE: Thank you.

4 MS. SCHUHMANN: Thank you. The next people
5 scheduled on the agenda are the Human Rights Commission
6 representatives, Neil Thomas and Cathy Carr-Lundfeldt.

7 MR. THOMAS: Thank you. Cathy and I are
8 going to share the time today, and try not to trench on the
9 time of -- I know you have quite a considerable group of
10 witnesses you probably have coming.

11 I'm in a position to share with you some statewide
12 concerns and issues. But Cathy's office was the one that
13 was on the scene during the Alyeska project. And to the extent
14 that -- anything that happened during the Alyeska project is
15 instructive as to what should not happen during the gas line
16 project, Cathy has that information.

17 I'm going to paint for you a fairly optimistic picture,
18 I think, of the ability of the State of Alaska under its laws
19 against discrimination to deal with whatever problems of
20 discrimination may come up under the gas line. But I don't
21 want to leave the impression by some of the things that I'm
22 going to say that discrimination has gone away in the State
23 of Alaska.

24 In fact, I just heard a story at breakfast this morning
25 about some company evidently that announced to a women that

1 it had a firm and unfailing policy against hiring women to
2 run chain saws. When the woman pressed the point, it seems
3 that they did back down a bit and offer to let her work a
4 10 day trial period for free.

5 Discrimination is alive and well in Alaska. And it
6 could very well surface during the gas line. But I think
7 Commissioner Berkowitz's point is well taken when he indicates
8 that there are a lot of things that appear to be underway, both
9 at Northwest Pipeline and at the federal level, which if it
10 all works could minimize the numbers of issues that would come
11 up; could minimize the numbers of complaint situations that
12 would happen. And I think we're all kind of sitting, at least
13 at the State level, hoping that there is nothing like the
14 Alyeska project mess that we found ourselves in late in 1974
15 when many of us came on the scene at the Alaska State Commission.

16 However, even as things do come up and come to our
17 attention, I think the State of Alaska is far better prepared
18 to meet any of these things than it was 6 years ago. Six
19 years ago, the State laws against discrimination had never
20 been interpreted in the form of an order by the State Human
21 Rights Commission. There had been no development of Alaska
22 case law because no case had ever found its way to court.
23 The agency administering law didn't even know how many
24 complaints it had and was being inundated by a new flood of
25 complaints right at the time it had only about 5 State funded

1 staff people and 2 people on federal funding to deal with
2 the issue.

3 In the meantime, in the last 6 years, virtually all of
4 the major questions of discrimination that sort of exist in
5 this body of law known as anti-discrimination law have been
6 addressed and resolved by the Alaska courts, by the federal
7 courts, and by opinions issued by the State Human Rights
8 Commission. We are about to publish a report which
9 summarizes how the law of discrimination has developed in the
10 State of Alaska in the next 6 years; it's a rather remarkable
11 article by the Commission's attorney; and with it the first
12 index to Human Rights Commission decisions that have been
13 issued which should be helpful to everybody practicing law
14 in this area. And the central point of the article is that
15 Alaska's laws against discrimination have been construed for
16 the most part as being stronger than federal law, broader than
17 federal law, and most of the legal jigsaw puzzle is now complete.
18 So just from a pure law sense, I think the State of Alaska is
19 very well equipped to deal with just about any issue of
20 discrimination that may come up under the gas line or anywhere
21 else, including most of the issues of women in construction.

22 We do owe this much, I think, to the Alyeska project
23 in that its sponsors and its labor unions played a very
24 important role in the development of this law. They were the
25 respondents, they were the cases. And so to that extent,

1 I guess we owe them a thank you.

2 Now, you can have a law in the books that says something,
3 and then the question is is there any way to respond to all
4 of that. And, again, I think I can give you a pretty optimistic
5 picture in terms of the administrative ability of State
6 government to respond to issues, to respond to complaints.
7 Again, I think much of that picture is now in place. You
8 have a State Human Rights Commission with a lot of experience
9 and people who have been there for some period of time who
10 know how to do this kind of a case; and an agency with 27
11 permanent positions plus a few CETA positions and other sorts
12 as long as those fundings still remain. You have an agency
13 which has passed muster in a very intensive audit, performance
14 audit, by the State Legislature with a favorable report coming
15 from that process with budget cuts having been restored for
16 the most part. You have federal performance measures that are
17 used for agencies of this type that show that Alaska Commission
18 is at or near the top of agencies of its type around the country.
19 And you have pretty sophisticated case processing systems.
20 The agency's legendary backlog is very close to being
21 eliminated. There is -- the total case load is back at the
22 level that it was at in 1974 as the pipeline boom was coming
23 up. And certainly by the time the gas line comes the case
24 load is going to have been well under control probaby for
25 some time. So just administratively, I think, the State of

1 Alaska is in a pretty good position to respond to that type
2 of thing.

3 The question of where -- whether this is awful or
4 wonderful, as one Commissioner said, needs to be answered,
5 I think, in the context of where things were back in 1974.
6 And the recognition that's inherent, I think, in some of your
7 questions that the State of Alaska really does have an
8 independent responsibility. It has taken that responsibility
9 seriously knowing full well that, for instance, during the
10 Alyeska project the federal response was very hard to come by
11 if not almost nonexistent. And so the State of Alaska did have
12 to carry the ball and did respond to the need.

13 Therefore, I think as a general rule we are in a good
14 position to respond as to specific and issues and things that
15 have come up. I can answer questions, and I think I'd prefer
16 to turn it over to Cathy and let her share with you some more
17 specific kinds of experiences.

18 MS. CARR-LUNDFELDT: I kept by me the list
19 of questions that you asked me in your letter. And I will try
20 to address them as briefly as I can, but as concisely.

21 MS. JONES: A little louder, please.

22 MS. CARR-LUNDFELDT? Speak up?

23 MS. JONES: A little louder.

24 MS. CARR-LUNDFELDT: Get the thing closer
25 here. The first question is what barriers exist for women

1 who are interested in obtaining employment on the Alaska
2 natural gas transportation system. Basically, the barrier
3 is tradition. And because of that stereotyping what should be
4 said is that there is now, coming into my office today,
5 complaints involving very traditional sorts of attitudes and
6 behaviors from women who are having difficulty with employment
7 situations on the pre-construction portion.

8 So, it is starting now. It is not something that's
9 going to start when the financing begins or whatever; it is
10 happening today. The attitudes are quite similar to what went
11 on before.

12 The other problem with this -- excuse me?

13 MS. DALE: Are those employed women or women
14 who are looking for employment on the pre-construction...?

15 MS. CARR-LUNDFELDT: Both, these are women
16 who have obtained employment and women who have not obtained
17 employment; and that's why they're talking about it.

18 There is also the situation involving apprenticeship
19 and access to the unions. The economic condition has necessarily
20 limited working opportunities in construction. So as a
21 consequence, you heard about the limitations in apprenticeship
22 opportunities. What no one is saying is that there are other
23 opportunities for gaining access to unions other than
24 apprenticeship programs. That's also traditional, but it's
25 not widely advertised.

1 Certainly labor agreements could be negotiated to
2 include access to those kind of programs. The other thing
3 you should know that in terms of attachment to the right-
4 of-way leasing, in other words land attachment which was
5 referred to, there are ongoing training programs for native
6 people. I specifically heard one mentioned the other day
7 involving the Teamsters, which already has graduates from last
8 year, and is employing the graduates in the program. So
9 although the negotiations are not complete for passage over
10 the native lands, the company has engaged in negotiating
11 training programs for native people through unions.

12 You asked what conditions can women expect to find when
13 they obtain nontraditional jobs on the pipeline. Well, let
14 me give you a couple of interesting examples. The first time
15 I ever got out on the line to investigate a case and to make
16 contact with people in the camps, I was housed in a women's
17 section of the dorms. It was the oldest section of the
18 trailers which were used for housing women. Women were doubled
19 up in that section when there were men who were in singles
20 throughout the rest of the camp. Over the doorway of the
21 trailer was a painted sign of a woman in a bikini. Women
22 were required to, in that particular instance, bullcook their
23 own rooms. They didn't have to bullcook the bathrooms, but
24 they did have to do their own rooms. In other words, change
25 their own sheets, empty the wastebaskets, that kind of thing.

1 There were other things that we encountered at
2 different times. One of them was, for instance, a meeting
3 held in a camp for women only involving instruction about how
4 to keep from spreading VD. No men ever attended those meetings.
5 And the women were under the impression that the meeting was
6 mandatory, even though it was denied subsequently.

7 You asked were there problems with such subjects as
8 housing and facilities. I doubt this arguments going to come
9 up again, but the first argument made on the line about hiring
10 women was that there were no facilities. And that wasn't
11 resolved until late '74, I think you may remember.

12 As far as sexual harassment, yeah, they can expect it.
13 They can expect to be harassed if they want to room with a
14 man on the pipeline, or they can expect to be harassed if
15 they don't want to. They can expect it on the job. There
16 were numerous instances of testimony from women who said that
17 the way they got to keep their jobs was to sleep with the
18 superintendent, the foreman, and so on. And one particular
19 charge we had a superintendent who was charged individually
20 with harassing 11 different women. And then they were
21 criticized because they didn't take the complaint through
22 the company, and he was the highest level employee in that
23 camp.

24 If women encounter such problems in the future, what
25 are their options? Well, the option I'm most familiar with,

1 of course, is the agency for whom I work. And I would urge
2 women who have those kind of problems to come to us. We
3 don't act quickly in the sense of tomorrow because that's not
4 the way we operate. We're required to investigate impartially.
5 But we're much better skilled at what we do than we were back
6 then. I was brand new. And we are familiar with issues and
7 problems and situations. We've seen them before. We've even
8 heard some of the names before. So we're in a much better
9 position to investigate this time around.

10 There are other options I would like to see. For instance,
11 women be able to make constructive use of union grievance
12 programs. There should be more action on that line. Unions
13 are more aware--we understand, by working with them upon
14 occasion, more aware of their responsibilities in this direction.
15 And we have had some cases solved through direct intervention
16 by union B.A.'s. It's not consistent, but it's much better
17 than before.

18 What constructive suggestions would you make for employers
19 and unions to avoid such past problems? Well, the first one
20 would be for this to be a key issue in the negotiation of the
21 labor agreement process. There isn't any reason why this
22 can't be made a key issue. It won't be if it isn't made one.

23 The other thing I would like to see is a real commitment
24 to go out and to recruit, hire, train, and employ women and
25 minorities rather than the viewpoint that we must do it because

1 we have to. If there is the real commitment to do so, then
2 there will be -- develop management systems and personnel
3 responsibilities.

4 Recently the Commission saw a wonderful memo come
5 through from a construction type firm specifying two foreman
6 on the line that evaluations of their job performance would be
7 based on whether they could meet their goals of recruiting,
8 hiring, training, and retaining women and minorities. Now,
9 when you have that kind of specification for performance
10 evaluation from the top to the bottom, you get results. That's
11 true for any management question, any business question. If
12 you attach money and incentive to do it, and specify that that
13 is the goal, it will happen.

14 And I would like to speak specifically to a union program,
15 which I had no idea -- I was not involved in encouraging
16 them to do this, they did it on their own. It could be used
17 as a model for other unions and for getting women into
18 programs. Dave Rasley of the Operating Engineers observed
19 that they'd had some difficulty in recruiting and retaining
20 natives as members of the Operating Engineers. He worked
21 specifically with a man over at the Tanana Chiefs Conference
22 by the name of Richard Frank. The two of them, using union
23 funds and Tanana Chiefs' funds traveled to villages to meet
24 with potential apprenticeship applicants to explain union
25 procedures, to urge persons who had been members to reinstate

1 membership, to explain that instead of quitting on the line
2 because conditions became tough to stay there and make use
3 of the union grievance process. That certainly could be
4 used as a model if there was a real commitment to increase
5 membership.

6 Based on your knowledge of the difficulties some women
7 may have experienced with previous pipeline employment, can
8 you suggest any alternative and future construction efforts
9 that would alleviate these conditions. I think I did that.
10 But you specifically ask, for instance, should there be an
11 EEO officer or counselor at each construction site in whose
12 employ. If it is to follow the pattern that was followed on
13 the oil pipeline, I would recommend that there not be such
14 an arrangement because it was our experience for the most
15 part -- there were exceptions, I will allow that -- but for
16 the most part the EEO office or personnel who were generally
17 employed by the subcontractors, there were some by the major
18 contractor, spent a great deal of time investigating situations
19 in order to protect the company image rather than to determine
20 whether or not something fair, unreasonable, or discriminatory
21 had gone on. But that was simply to be expected because they
22 were in the employ of a person who had an interest in doing
23 that. Now, on the other hand, I'm not sure that it would be
24 effective at all to have an EEO type person in each camp hired
25 by anybody else because who would do the monitoring, what would

1 be the process for training. Many of the EEO people on the
2 line didn't have any prior construction or oil line or camp
3 experience either. And many of them had very limited experience
4 as far as exposure to enforcement of discrimination law.

5 It is still not widely understood that discrimination
6 law also is based on the theory of the effect of an act
7 rather than a specific -- in other words, people understand
8 that you can discriminate by doing it overtly; they understand
9 that you can discriminate by treating people differently.
10 But they don't understand that by establishing a neutral rule,
11 say, such as having a high school diploma, you can arbitrarily
12 bar certain people of certain groups from employment opportun-
13 ities. And, of course, the age in apprenticeship programs
14 is one of those types of things. I think I've answered your
15 questions.

16 MS. DALE: Are there any questions of the
17 Commissioners? Herb.

18 MR. BERKOWITZ: Neil, I ask you this question
19 because you live in the Human Rights enforcement world every
20 day, and I see it very much from a distance. Also, have you --

21 MR. THOMAS: Not on some weekends.

22 MR. BERKOWITZ: Right. Also, you are
23 responsible for the interests of women and minorities, while
24 this Commission's legislative mandate is to deal with women's
25 issues. In looking at Northwest Alaskan's projections with

1 respect to, for example, minority and female business
2 enterprise goals -- and the reason I raise this point at all
3 is that the words minority and female seem to be treated as
4 they're almost one word, they always seem to be lumped
5 together. In Mr. Kuhn's discussion of how enforcement was
6 going to be handled, it was all going to be handled by one
7 group. But when you look at the relative breakdown between
8 minority and female in the contracting area, the female is
9 4 million dollars and the minority is 31 million dollars,
10 which is greater by a factor of 7, a number which seems to
11 recur today. I guess my question is do you think that females
12 and minorities are, to a certain extent, competing with each
13 other for opportunities in these projects? And do you think
14 that this commission has an independent responsibility to be
15 the sales force for the needs as perceived on the female;
16 and rather than to relatively passively be lumped in with
17 minorities in an overall equal opportunity context?

18 MR. THOMAS: Well, there's several questions
19 inherent in that. But let me give you a general answer and
20 some specifics. I think competition among out groups generally
21 is unhealthy and is definitely to be avoided. And for that
22 reason, if minority business enterprises and female business
23 enterprises were lumped together and one goal were established
24 for the whole group, you run into that potential problem. And,
25 in fact, that happened in the first year of the federal Public

1 Works Act Program, which was the first of those federal
2 statutes that had this minority - female business enterprise
3 concept built into it with a fixed percentage of the total
4 federal Public Works Act money supposedly going to female
5 minority owned businesses. What happened during the first
6 year was that a lot of white owned contractors rolled the
7 titular ownership of those same companies over to some
8 female relative; billed themselves as a minority business
9 enterprises, and gobbled up the whole quota, so to speak,
10 thus shutting minority business enterprises out of the picture
11 almost exclusively.

12 Well, Congress wised up to that pretty quickly. And
13 in the second year of the program, and in general, in programs
14 of this type ever since, it's been thought essential one set
15 of goals for minority business enterprises and separate
16 goals for female business enterprises. And from what I can
17 see, I'm not terribly familiar with their methodology, it
18 looks like Northwest is doing that and I think should be
19 encouraged to.

20 As to whether or not the dollar level for female
21 business enterprises is appropriate, again, I think you'd
22 have to go back and see -- double track over Northwest's
23 methodology to see whether it's sound. It looks like what
24 they have done is to get a computer to tell them how many
25 businesses seem to be available; and they're setting goals

1 more or less in proportion to that. That's probably an
2 appropriate methodology in which case they are probably in
3 order by coming in here, as they did today, and say that's
4 an acceptable methodology. But there's the possibility that
5 we don't know where those firms are and who they are; and so
6 they come here to a public forum and say let's get those
7 names in here. It's just like an employer recognizing an
8 under-utilization of women in an executive level, for instance,
9 and doing affirmative recruitment to try to find qualified
10 people to bring them into -- applicants. And I think North-
11 west has a duty to recruit, much in the fashion that we, to
12 an extent, saw them do here today by saying we need to know
13 who the female business enterprises are because the more of
14 them we know about, the higher we can set goal levels. I
15 hope that answers what you're -- does that get to what you
16 were asking?

17 MR. BERKOWITZ: Well, let me ask you this.
18 Don't you think that a factor of 7 to 1, when you have on
19 the one hand groups that are denominated as minorities -- we
20 know that they're a minority of the population -- versus
21 another group that is probably a numerical majority of the
22 population or anything pretty close to a majority of the
23 population, don't you think that that's inherently suspect?

24 MR. THOMAS: I would make the comparison
25 between, you know, the 4 percent figure and the total

1 population. Now, I think that's saying the same thing that
2 you're saying in much the same way. I mean, if over half
3 the population is female, how come only supposedly 4 percent
4 of the known businesses that are available to do work on the
5 gas line -- and that's what they're saying their definition
6 of it is -- is female. I wouldn't express it in ways which
7 imply that there's some competition for a limited piece of
8 the pie between minority owned firms and female owned firms
9 because I don't think that's what happens. I think Northwest
10 has a duty to set a goal level for female owned businesses
11 that's rational. And I think it's rational to set that at
12 a level which is proportionate to that dollar volume of
13 businesses which female owned businesses are prepared to do.

14 Now, if they don't know who those businesses are, and
15 they haven't done an adequate job of finding that out, you know,
16 they've opened themselves to criticism.

17 MS. DALE: Yes.

18 MS. JONES: Along these lines, and I think
19 it came out both in terms of setting quotas for employment and
20 for contracting, there seems to be an inherent tautology.
21 We say we need to increase the employment of women and the
22 contracting to women because they are under-represented. We
23 then use the status quo figures of that unrepresentativeness
24 to determine what the quota should be. So it strikes me that
25 we go around in a circle on that.

1 MR. THOMAS: That, I think, is inherent
2 in the kind of questions we were asking earlier today about
3 to what extent availability can be used as that level.

4 MS. JONES: Yeah.

5 MR. THOMAS: Well, that's a constant fight.
6 The courts generally accept, unless you can put something better
7 up there in the context of discrimination cases, reasonable and
8 rational availability figures. There's not a body of EEO law
9 yet which says that an employer has a legal duty to prepare
10 people for occupations for which they're otherwise unqualified.
11 Now, how you define qualifications gets you into another body
12 of law, because a lot of qualification standards are question-
13 able and flat out illegal. But if you accept that certain
14 qualifications are consistent with the needs of a position,
15 the body of EEO law at this point does not create upon an
16 employer a legal duty to bring people up to a level where they
17 can perform. And employer does not have a legal duty to take
18 someone and give them a typing course, and subsequently hire
19 them for a typing job. An employer does have a duty not to
20 discriminate among people who are capable of typing for a
21 typing job. And so you're going into the next logical step
22 in this whole social area; but you're raising a question that's
23 socially logical and has equities on your side when you say,
24 you know, society has disadvantaged certain people and therefore
25 society collectively, including private employers, has some

1 moral obligation to help people along. Unfortunately not all
2 of that concept is, you know, enshrined in the legal principals
3 of this country at this point. But I think it's a direction
4 it's going and is inherent in a lot of our activities.

5 MS. SCHUHMANN: Barbara?

6 MS. DALE: What happens, then, when -- and
7 maybe you can answer this question for me, I haven't gotten it
8 answered yet -- what happens, then, if they have not -- if,
9 let's say Northwest does not comply, can they come up -- with
10 their affirmative action goals, can they come up and say well,
11 there just weren't enough people qualified. I mean, who has
12 the responsibility to make sure that, at this point in time
13 in the planning stage, you know, that there are people who
14 are qualified?

15 MR. THOMAS: That's where the big if's
16 come in in these availability studies. In the EEO court fights,
17 almost -- in the big pattern and practice cases, it frequently
18 comes down to an availability question. It's happening with
19 us in our negotiations with different companies in context
20 of class action complaints we might file. And we're negotiating
21 something that we think is reasonable and they're coming back
22 and saying the availability isn't there; you can't force it
23 on us and so on. So, you know, the same process occurs here.
24 There's a certain amount of guesswork involved, there's --
25 particularly at this point right before our new census is going

1 to come out. And therefore, it is a negotiating process.
2 Now, sometimes you can pin it down. I had a case once where
3 an employer didn't reach a particular level. And because of
4 the records that were set up under the agreement were such
5 that they were, we could go back and discover literally every
6 single person who applied and make a determination about
7 whether every person who was qualified was, in fact, offered
8 a job and whether they turned it down or not. That's because
9 that whole system had been set up in the context of an agree-
10 ment, and we could go back, track and see whether the agreement
11 had been lived up to.

12 MS. CARR-LUNDFELDT: Can I speak to your
13 question, too? The thing that you need to remember above and
14 beyond the EEO standards, because that is one set of things
15 that's being considered, you're also talking about affirmative
16 action. Availability statistics is only one element in that
17 so-called 8 factor analysis. I am assuming they're using the
18 one from the revised order #4 put out by the Office of Federal
19 Contract Compliance. One of the elements in that 8 factor
20 analysis is population. So certainly you could lobby for
21 higher statistics on that basis.

22 I also wanted to add there's a historical reason for
23 those low female goals. They started back on the pipeline.
24 I don't know whether you were aware of the fact that there
25 were no federally prescribed goals or project goals for women

1 signed off on on the oil pipeline. None, I mean zero. They
2 talk about the percentages, but there were no goals to begin
3 with. And so those percentages would come up without goals.
4 There was a great deal of lobbying. There were groups that
5 tried to get goals formulated. There was an agreement drawn
6 up which had goals of about 7 percent specified. But the thing
7 was never signed off on by the U.S. Department of Labor,
8 which apparently had the authority to do so.

9 Now, one of the things about the task force that I was
10 involved with -- or am involved with is that some women's
11 groups, including the National League of Women Voters sued the
12 Secretary of Labor and said you have a responsibility under
13 law, it's right there in your responsibilities, to set those
14 goals in construction. And this was nationwide. It was not
15 just the pipeline. And they had to sue the secretary in order
16 to get the U.S. Department of Labor to look at those kinds
17 of goals. So what you are looking at essentially is goals that
18 would have been established back in 1974, and yet were sat
19 on, neglected. And as a consequence, women in construction
20 throughout the nation have been victimized by those low goals.

21 MS. SCHUHMANN: Yes, Herb.

22 MR. BERKOWITZ: Neil, this is another question
23 which I ask for the benefit of your experience. It seems like
24 the EEO process can pretty much function as an independent
25 game bearing a limited relationship with what's going on in

1 the real world of any given project with huge reams of paper
2 flying back and forth and ultimately no outcome. Do you have
3 any feelings for what it takes in a practical sense to get
4 the people you're dealing with to do the right thing? In
5 other words, how do you break away from this paper chase and
6 mold the people in the direction of doing something which they
7 ought to feel is the right thing to do and to help them believe
8 that and carry it out in that spirit, because I think that's
9 in everyone's best interest.

10 MR. THOMAS: There's a couple of things,
11 and it runs to what I sort of call our theory of the business,
12 at least where I work. I think the reason people pay their
13 taxes is because they think they'll get caught and they think
14 it'll go hard on them if they get caught. In other words,
15 the enforcement process is visible, near at hand in the sense
16 that that great computer in the sky is near at hand. And it's
17 credible. And one of the theories of the business of people
18 like me who work in this business is to create that same kind
19 of client about EEO; to make enforcement a credible, nearby --
20 not in Seattle or Washington, D.C. -- reality. And I think
21 that sort of what is developing here in Alaska, and has
22 developed maybe farther than many of us since in the last
23 6 years. I think there's far more discrimination that doesn't
24 happen these days than would have happened in the past. And
25 I think the reason it does is because people generally know

1 that there's some discrimination laws out there and they
2 read about it in the paper all the time. And Cathy-Carr
3 Lundfeldt goes around to meetings; and her office is right
4 down the street. It's not the EEOC in Seattle or some
5 acronym full of letters off in Washington, D.D. someplace.
6 And these stories get around. And Alaska's one big small
7 town. And I think that kind of credibility is really what
8 does it. And I think that's basically where we're headed with
9 it. It's making the enforcement process credible and close
10 at hand.

11 Now, I think there are still some links to establish
12 credibility, and in that regard I'd like to say something about
13 798, which came up for discussion earlier. 798 will be,
14 apparently from statistics we've seen here, one of the major
15 dispatchers of people to the pipeline. A portion of 798's
16 work force is basically not that complex welding job which
17 takes a certain amount of certification and such. Over half
18 of those people, if it goes like it did during the oil line,
19 will be known as helpers, which is described as basically
20 monkey see monkey do kind of work; carry coats, welding rods,
21 and that type of thing. There is a case now pending before
22 the State Commission very close to a decision. We think that
23 the examiner, Joan Katz (ph) who has already circulated a
24 preliminary opinion of some 78 pages or something -- we had
25 oral argument on that case yesterday and we think there's

1 an opinion going to be forthcoming from her very shortly which
2 is in the form of a recommendation to a three member panel of
3 the State Commissioners.

4 That puts the State Commissioners in a position, and I'm
5 guessing here, to put an order out involving 798's future
6 dispatching practices in the next few months; an order which
7 is appealable to Superior Courts, but an appeal process which
8 arguably can be completed to the Alaska Supreme Court or to
9 possibly the Supreme Court of the United States within a time
10 frame that still would encompass 798's dispatching practices
11 on the gas line.

12 The staff which has argued this case -- my staff which
13 has argued the case before the Commission has basically been
14 advancing a remedy which would put something of a quota
15 involving females as well as blacks into 798's dispatching
16 practices in the future. Oral argument yesterday focused on
17 at what level that quota should be fixed, which goes right
18 back to this availability question with the Commission staff
19 arguing that since 798's membership is drawn from the deep
20 south, that availability should be in consideration. And
21 this goes not to the female quota which is easier to reason
22 with, but the quota for blacks; and 798 predictably arguing
23 that the Alaska black population is what's relevant. We
24 don't know what the final order's going to be, but I think the
25 7-- and when I filed this class action case against 798

1 years and years ago, it was with the clear understanding that
2 this case was going to take a long time; raised some very
3 heavy issues; be hotly litigated; and ultimately show that
4 when you want to get down to making the enforcement process
5 credible in a real way, as you say, you want to make things
6 happen. State law can do it. It's not going to do it overnight.
7 But it will establish a body of principles, which in a period
8 of time will have to be uniformly respected. That's why I
9 think you rarely hear the argument anymore, and it doesn't
10 last for long, that an employer can get out of hiring women
11 by simply claiming they don't have any facilities. Now, those
12 first cases started in 1974 with women picketing the Culinary
13 Union hiring hall here; and with the Alaskan Ferry System
14 claiming that they couldn't rebuilt the boats to accommodate
15 women working on the deck. It took years for those cases to
16 get pinned down, but at least in 1981 that's not really a
17 serious issue anymore.

18 I think cases like 798, even though they may take a
19 total of 8 years, and that's really what we could be looking
20 at altogether maybe, will establish certain kinds of principles
21 about union dispatching practices and about how State law can
22 regulate the dispatching practices of labor unions that will
23 get to what everybody had been saying up to that point was
24 an issue that nobody could face. Labor unions are controlled by
25 the federal government; the employers can't control labor

1 unions; and all of these kind of arguments that you hear.
2 I don't believe their true. I think the State law can reach
3 these issues; I think it will. It's just going to take time,
4 but we're getting there.

5 MS. CARR-LUNDFELDT: One of the things that
6 was interesting to me to hear today was a suggestion that there
7 would be a problem with the contractors trying to handle
8 State law -- State enforcement versus federal enforcement if
9 they're different. Well, they already are. Our State law
10 covers a number of areas that are not covered specifically
11 by federal law. Our State law specifies that you can't
12 discriminate on the basis of pregnancy, on the basis of marital
13 status, on the basis of parenthood, on the basis -- other
14 basis; age, the age section is open-ended. So they're going
15 to have to be dealing with those differences to begin with.

16 The other interesting thing that has come up recently,
17 and I don't know that anybody's tried it out yet, but there has
18 been a legal opinion out lately that suggests that an employer
19 may, under Title 7, sue a union for engaging in practices which
20 cause it to discriminate by not employing the people which is
21 an interesting idea.

22 MR. THOMAS: The other remedy is, of course,
23 the principle that an employer can't use a recruitment source
24 that's discriminatory; so the employer has to recruit more
25 broadly. If my recruitment source is only people living in

1 that part of town, all of whom are white -- picture a city
2 down in the South 48, say, where neighborhood patterns are
3 clear -- and I recruit only here, I can be legally enjoined
4 from recruiting in that fashion. I can be ordered to recruit
5 in a rational way around my place of business; in a way which
6 includes black neighborhoods, hispanic neighborhoods, and
7 such. Well, as a matter of law, there isn't any difference
8 between that principle and the idea that an employer using
9 this labor union can be ordered to broaden the recruitment
10 base. Now, labor unions hate to hear that, and you'll always
11 have people jumping up and down about the National Labor
12 Relations Act, and their contract and so on and so forth.
13 Well, you and I can't enter into a contract to do something
14 that's illegal. Well, an employer can't enter into a labor
15 agreement which is illegal; and it's illegal to discriminate.
16 I mean, these issues have come up in the courts for years.
17 And there's no court in the country that's ever said that a
18 labor agreement which is discriminatory can be enforced. So
19 as I say, that's one of those arguments that gets thrown up
20 that sounds kind of logical on its face, and it's just -- it's
21 legal nonsense, really.

22 MS. SCHUHMANN: Any further questions from
23 Commissioners? (No response). Thank you very much. Why
24 don't we take a break for just about -- only 5 minutes. And
25 then we come back, we're going to have an open session, and

1 any member of the public that wishes to testify about -- and
2 in particular we have asked the women who worked on the last
3 pipeline might share some of their suggestions with us on
4 suggestions on how to avoid problems that women found in
5 working on the last pipeline. Could I -- could we have a
6 show of hands of the number of people that intend to testify
7 this afternoon that were planning on it, if we twist your arm?
8 Okay.

9 OFF THE RECORD

10 ON THE RECORD

11 MS. SCHUHMANN: I'd like to call the meeting
12 back to order and invite whoever would be interested in
13 addressing the Commission to come forward and announce your
14 name; and if you could spell your name so that we get it for
15 the record; and maybe give us your address as well. (Pause)
16 Don't be bashful.

17 MS. WIKE: Well, I know I only raised my hand
18 halfway, and someone was counted three times.

19 MS. SCHUHMANN: You could start.

20 MS. WIKE: My name is Linda Wike, and I'm
21 from Fairbanks. Do you need a home address?

22 MS. SCHUHMANN: A mailing address would be
23 fine.

24 MS. WIKE: P.O. Box 73824.

25 MS. SCHUHMANN: And how do you spell your

1 MS. WIKE: W-i-k-e. And I don't have a
2 prepared statement, and I came here not -- I wasn't even going
3 to testify or anything. I really came just to see what the
4 condition on the status of women is all about; and the
5 first time I'd ever even heard about it. And after listening
6 to what has been said by the gentlemen earlier and the lady,
7 I found out that I'm in the position where I think -- Miss
8 Jones kept making statements that would kind of poke a pin
9 in my head over here, and Dale, too -- also Miss Dale, and
10 found out that I'm in that position of being a 40 year old
11 lady that doesn't have any craft skills; and in prior years
12 was kept out of any training in the construction trades
13 because of being female. Now I find I'm kept out of any
14 apprenticeship programs because I'm 40.

15 It seems to me like when I was younger and had to raise
16 children I was allowed to do traditional female clerical work
17 if I had a high school diploma, which I didn't have so I
18 was thrown into the manual labor market of which I couldn't
19 get a job that would pay me enough to support children; because
20 even though I was perfectly qualified to do strenuous manual
21 labor a lower wage scale, for some reason when it came to
22 higher wage scales that would afford me an opportunity to
23 support children I either became -- I don't know what happened.
24 I could do it when they didn't want to pay very much, but
25 when they wanted to pay a living wage well then suddenly I

1 wasn't capable of doing it.

2 I found out that when I talked to people who are in
3 union position -- not union management positions, but people
4 who are generally in the union, and I find that most of the
5 ones I run up against -- in fact, all of them I have come in
6 contact with happen to be male. And it's very hard to get them
7 to tell you how to join -- get into the union, how to join
8 it. It's either an apprenticeship program, which I've been
9 excluded from for the reasons I have, or they -- or I don't
10 have any experience. If I don't have any experience, then I'm
11 on some obscure list where I'll never have a chance of getting
12 to the top to get into the job force.

13 And when you were talking about training now, I'm
14 wondering -- they keep saying we haven't discussed that yet;
15 we haven't discussed that yet. Well, when they finally do
16 discuss it, is there enough time to train someone like me to
17 get into a position. If so, when will that be; where will it
18 be; how do I find out about it? What do I do? I'm sitting
19 around here trying to get somewhere.

20 I have applied to a union. My main goal for applying
21 to the union was to learn a trade so that when I once learned
22 it, that I could become a contractor and hire people that
23 would probably be hired through a union and proceed onward
24 and get someplace. And I find out that I'm stymied wherever
25 I go. Now, I may stymie myself by saying I don't know exactly

1 what to do so therefore I'm scared to do it. But I don't
2 know where to take the first step. This, today, has been
3 my second step. The first step was to go to the market and
4 try and find a niche and realized that I either cannot ask
5 the correct questions; or I'm not coming to the right people;
6 or there's nobody inbetween them and me to go -- to follow any
7 steps through. And I think that's about all that I have to
8 ask.

9 They keep talking about contractors, women contractors,
10 how do I get the experience to become a contractor. At that
11 stage in the game, is right now, I have to do what they have
12 frowned upon. I would have to do what they frowned upon; go
13 out and say George, or somebody else, do you have the skills
14 to know whether something's, you know, being done right or
15 wrong; and if so, would you merge with me as I take my life's
16 savings and we'll proceed to bid on a contract or going on a
17 joint venture with seven or eight smaller companies and go on.
18 It seems like time is... Maybe I want to run before I can
19 walk, but I've been walking for 40 years trying to figure out
20 how in the devil I'm going to run. You know, that's the whole --
21 that's where I'm sitting. And I guess that's all I have to say.

22 MS. SCHUHMANN: I'm not sure that we have
23 much of an answer.

24 MS. WIKE: Yeah, I know; I don't, but I
25 figured, you know I might as well say it.

 MS. SCHUHMANN: I think, though, that one

1 of the problems that we've identified today is that the next
2 step would be to approach the unions that will be involved
3 with this project and other construction projects around the
4 State and try to get an answer to questions like that were
5 asked this morning by the Commissioners and questions that
6 you're raising.

7 MS. WIKE: I agree that the way it appeared
8 to--and I'm not at all learned in what is really going on --
9 and from the feedback I've got and what the way my mind shows
10 me now -- and you see, our problem is with the union in general.
11 It seems like it kind of got passed around and passed around,
12 and now it's over there with the union who -- or unions who
13 are not represented or are not here so we couldn't direct any
14 questions to them. And I thank you for allowing me to voice
15 my...

16 MS. JONES: I think what you're describing
17 is a system that has all of these parts that prevent you from
18 getting there. And my only regret would be to see anyone take
19 that personally, because it's beyond a person's initiative;
20 the system is set up and operating.

21 MS. WIKE: I have gone past it.

22 MS. JONES: Okay, good.

23 MS. WIKE: I have gone past taking it really
24 personally and realized that it definitely is the system. But
25 I can only relate it to myself, you know. Thank you.

1 MS. SCHUHMANN: Thank you.

2 MS. ANDER: I'd like to say (inaudible).
3 My name's Karen Ander, and I have been living down in Homer
4 for the last 5 years.

5 MS. SCHUHMANN: How do you spell your last
6 name?

7 MS. ANDER: Ander, A-n-d-e-r.

8 MS. SCHUHMANN: Thank you.

9 MS. ANDER: And my P.O. Box number is 768.
10 I thought there were gonna be a lot more women here who had
11 real complaints and accounts of vicious occurrences going on
12 during pipeline construction. But I worked on the pipeline as
13 a Teamster surveyor, just being a chainperson on a four or
14 five-man crew. And let's see, I started work in 1975 and
15 worked for about 5 months. And then I went back on the job
16 in 1976. And I worked for a couple of different contractors
17 in different capacities as a chainman.

18 I didn't really had any bad experiences while I was
19 working. I found that everything that occurred while I was on
20 the job was basically positive in regards to employee-employer
21 relationships. There was some politics involved, but they were
22 mostly of a personal nature that you're going to encounter
23 in any job situation, men or women. And I think I was real
24 lucky being around in the State at the time that the pipeline
25 started up. And I had a few friends who joined the Teamsters

1 Union and decided to become surveyors because at the time
2 they needed people to do the survey work; and there wasn't
3 enough qualified people to go around, so they were hiring
4 anybody. All you had to do was pass a test. And the test
5 that they gave was a 25 question multiple guess thing. And
6 my friends, when they took it, it was open book. You could
7 take books, notes, you know, everything. And they give you
8 an hour or so to study all the questions and look them up
9 and write down the answers. And so --

10 MS. CALLAHAN: Who gave the test?

11 MS. ANDER: The Teamsters Union.

12 MS. CALLAHAN: The Teamsters.

13 MS. ANDER: Um-hm, the Business Agent for the
14 tech engineers, as they're called. So...

15 MS. SCHUHMANN: How did you hear about the
16 opening, to begin with? How did you know to join and...?

17 MS. ANDER: My friends. They -- I had
18 friends just in town or in Anchorage who had been working
19 surveying the haul road when it was constructed. And they'd
20 come into town and they'd be just loaded down with money,
21 you know. And I was pretty poor, and they said oh well,
22 gee, you should go sign up and take the exam and you'll get
23 out no problem. And the only thing I had to overcome in
24 myself was sort of intimidation by the whole construction
25 world, you know. I mean, it was all men; you'd have to

1 somehow work up the courage to go out there and be a single
2 woman. And you know that you're going to get hassled -- or
3 you expect it because you do in any phase of life, you know.
4 So -- but I decided that it would be worth it for the money.
5 And I just didn't have any problems. I went and took the
6 test. And the day that I took the test they decided it wasn't
7 open book anymore. So I lucked out and passed it anyway.
8 But I'd done my homework.

9 And when I finally got a job I went up north to Happy
10 Valley. And the day that I arrived, the Chief of Parties --
11 that's the person who is head of all the survey crews --

12 MR. BERKOWITZ: It's not what it sounds
13 like.

14 MS. ANDER: I realize that. You have
15 party chiefs and then you have chief of parties. And he
16 delegates the different portions of the work to the different
17 survey crews. He was out of camp for the weekend. But somebody
18 told me right away that he didn't like women on the job and
19 that I was the first woman to come work for Arctic Constructors,
20 at least at that camp; and that if he'd been around, he would
21 have sent me right back because he insisted on having very
22 qualified people, you know. But he wasn't there. So the other
23 men who were in the office just took me out to a crew out in
24 the field. And there I was, I was a chainman. And I was
25 introduced to the other guys on the crew. And we started