

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

AUGUST 2013 MEETING MINUTES

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**Research Set-Aside Committee
August 13, 2013
Double Tree by Hilton Wilmington
Wilmington, DE**

Steve Heins: Good morning and welcome to the Research Set-Aside Committee. Pres Pate couldn't be with us, so I'll be the chair for this afternoon's session. I'll run down the agenda real quick since it's a very short agenda, and it should be a fairly short meeting actually. We're supposed to cover a review of the research priorities for 2015, discuss Council policy for future RFP development, and then any other business. And the other business I can assure you is gonna be—have to do with enforcement, at least some of it. In case anybody has anything else that they want to bring up, we'll bring it up then.

So with that I want to turn it over to Rich to talk about our research priorities for 2015.

Rich Seagraves: Thanks, Steve. The information that we're gonna be looking at is behind Tab 1 of the briefing book, and we have the agenda there. And then we have the laundry list of research priorities for the Research Set-Aside Program that was sent out to Council members and various other folks to get their comments on. And typically the way this process has worked is at this meeting, the August meeting in the cycle of the Council's business is where we set the research priorities for the—it's actually a one-year lag, so this would be for 2015.

Now this year is a little unusual in that, as you know, normally at the August meeting we've had our SSC meeting for summer flounder, scup, black sea bass, and bluefish prior to the August meeting where we would have considered and got input from the SSC on research needs as they've just finished up setting ABCs and making recommendations to the Council. Since that's been delayed—our SSC meets September 17th through the 19th, and so we would be missing the input from the SSC on some really important species.

So—and that fact, and as well as with the new procedure that we're implementing this year where we've integrated the SSC into the technical review of proposals—we're actually reviewing proposals for 2014 within the last month. And as we had implemented our new procedure, it was to involve the SSC as technical reviewers. Traditionally we had relied on staff and basically an ad-hoc methods of trying to get folks together that had

some expertise to review these. And so this time, this go-around we were requested to pick some SSC members to review certain projects. But it's really hit home to me the fact that—and what we had talked about at the last meeting, and this will be the second agenda item, is how we write the RFPs. I mean, we know that we only have money probably for the fund NEAMAP and maybe a small project right—in fact this year right now we're funding the NEAMAP project and the fixed gear survey for black sea bass and scup. And so, you know, I was having to track down folks to review, and working with John Boreman, the chair of the SSC, and we had some problems with conflict of interest. So we were gonna actually have to go outside to find technical expertise, and so this is where it really hit home to me that we need to be very transparent here about—it's a lot of work to review all these projects, and we're calling upon people to use their valuable time, calling in chips, if you will, when in fact they're reviewing projects that we know are not probably gonna—there's not gonna be any money to fund them. And so given that, I think that's the genesis for the second topic on the agenda.

In any event, back to the first one is the 2015 research priorities. Since we didn't have SSC input yet for summer flounder, scup, black sea bass, and bluefish, which were pushed back to the October meeting because of the timing of the SARC for summer flounder—and I talked to Cheryl Corbett and I said, you know, “Is this a hard deadline, October 1st for 2015?” and she said, “No, it's not.” And I said, “Well, what I'd really like to do is wait until we've got SSC input in September and then take up and finalize the research priorities at the October meeting,” and she said, “Well, that'll be fine.” This all happened basically after we set the agenda for this meeting.

So I am gonna go through just quickly—so there will be no Council action, not recommending any Council action on the 2015 priorities until the October meeting when we've had the benefit of the SSC input. It really would make very little difference in terms of timing, but we would then have the benefit of the SSC input.

Well, anyway, the 2015 Research and Information Priority List is there. In fact we got like zero comment from staff. I mean, everybody looked at it. I did have some more detailed discussions with Jason Didden about the interactions between longfin squid, butterfish, mackerel, and river herring. And there might be some wordsmithing in there, but basically the research priorities as they stood last year would be unchanged based on the input that we got, or lack of any serious input. And so the top priority is the

NEAMAP, conduct the Fishery-independent surveys for all mid-Atlantic species, especially the nearshore zone, i.e. NEAMAP. A NEAMAP costs about \$1.1 million to execute that--\$1.1 million, \$1.2 million, something like that. The RSA program generates roughly \$1.2 million a year. So if we have to pay totally for the NEAMAP program out of RSA funding, it really doesn't leave much for anything else.

Now in previous years the Cooperative Research Unit up there—John Hoey has been pretty innovative in leveraging funds from other sources—Gulf of Maine Research Institute, some Cooperative Research programs, et cetera, to shake a little money loose, help partially pay for the NEAMAP program, which then frees up RSA money for us to fund other projects. That apparently is not gonna be the case this year as far as I know, so it looks like we are gonna be funding the bill for NEAMAP pretty much 100 percent.

So, you know, I think we're fortunate in that when we go through all this research prioritization business, both at the Council level, at the SSC level, and other arenas, there's unanimous agreement that it's a valuable survey and that we should continue to fund it. So there's no argument that NEAMAP is where we want to put our money until such time as other funds are—other sources of funds are made available to pay for it, however—you know, wherever that comes from, Congress or wherever.

However, given the budget situation and talking with various folks, it's probably the worst climate that we've had in terms of ever finding any money. Now that could change. I think we've been pretty aggressive in trying to convince various people that control funding that it's an important survey, that it should be paid for not by RSA but by either something out of the general fund or whatever—other research monies. But the fact is right now we don't have—it doesn't seem to be that there's gonna be any other money available.

But we—and then—so Chris and I were talking about this. It's like, "Well, we're just gonna say that we're gonna fund NEAMAP and that's it. Do we need to go through this research prioritization process?" And my feeling was yes, we should continue to do it because if suddenly money does come available to fund NEAMAP, then we don't want to get caught flatfooted. We've got to be ready to go and, you know, tell the public about what our priorities are, and that would open up considerable sources of—quantities of money to fund research.

So NEAMAP remains the priority-ish—top priority for the Council, and we can—you know, if anybody feels different today we'd like to hear about that. But so far for the last couple years it's pretty much been unanimous that that's a valuable survey. It's yielding information that's been used in several stock assessments. I understand that it was used to—in the analyses for Atlantic sturgeon, and—because sturgeon basically live pretty much in the habitat that the NEAMAP samples, so it was very valuable for Paul Rago and his group at the Science Center when they were doing their evaluation of the population estimates and so forth for Atlantic sturgeon. No doubt for river herrings and other species that live in the nearshore zone for some significant part of their life history, it'll continue to be important.

So staff recommendation based on input from the SSC and what we've heard before would be no change in that prioritization. So if you guys—if there's anybody that has a counter view to that, I would probably want to hear it now.

Steve Heins:

Laurie?

Laurie Nolan:

Thank you—no counter. I'm just wondering if we continue to go through the prioritization process. Are we committing to say that for now to the general public RSA equals NEAMAP? Or are we still looking for projects to come forward in the near future years?

Rich Seagraves:

Well, that question I think—let's go through—and all I'm asking now is—it says "Top priority: NEAMAP." And so I think if there's anybody that disagrees with that we'd like to hear it. Then we'll go through the other—I'll quickly go through everything else, and then it won't be—we're not gonna take any action till we get the SSC input in September. We'll bring this back to the Committee in October—shouldn't take that long since we'll have some discussion today about it. And then after we're done with that, that's the second agenda item, how we want to write the RFP for 2015, if we want to put it out as we have been, saying that, "Here are our priorities." You know, and basically what the end result has been that we've only funded NEAMAP and the fixed gear survey. And so it's a lot of work for the Science Center to go through and—and the Regional Office to handle all these. You know, it's a competitive process, and all these rules sort of—competitive grants process would be followed, the peer review of the projects, and then the end all that is—if the end result is that we've only got money for NEAMAP, then we ought to give serious consideration, at least till that situation might change, that

we would just say it's gonna be NEAMAP only this year. And we'd have this list already developed. If something changed we could then put it back out again, but it would probably take a one-year lag before we could do that.

Steve Heins: Rick?

Rick Robins: Thank you, Mr. Chairman. I think—I did want to comment on the funding issue, because obviously the scale of the funding that we allocate to NEAMAP has essentially precluded pursuing a lot of other research projects within the RSA, and I think that's been a source of frustration for a long time. And the ASMFC and the Council have both tried to support seeking long-term funding for NEAMAP, and I would submit that we shouldn't give up on that because right now the current funding climate is generally adverse. I mean, Rich makes an important point. But right now the Senate does have a particular interest in the disposition of the SK funds and how those are being used. And it might create a little bit of an opportunity to make another run at trying to secure funding specific to NEAMAP in that context. So yeah, I would suggest that we follow up on that opportunity and continue to work to try to secure funding. I think it ought to be an ongoing objective that we have in the science section of our strategic plan. We'll be talking about that tomorrow, and we do talk about trying to expand and secure funding for cooperative research in there, but I would submit that this might actually be a good time given the interest in the SK fund to consider making a specific request along those lines. But that's something we can follow up on after this meeting; I just wanted to point out that it's not a dead prospect. And if we could secure long-term funding it would certainly give us a lot more potential here to take up some of these other research priorities within the RSA program.

Steve Heins: Thanks, Rick.

Rich Seagraves: Okay. So again we're not gonna take final action on RSA stuff until October, so that would give us two months to kind of find out the lay of the land, if any potential monies might be available.

Steve Heins: All right. Bob Beal?

Bob Beal: Thank you, Mr. Chairman. I agree with what Rick was just saying. I wanted to follow up on that, that seeking a long-term funding stream from Congress or some other avenue would be great. You know, I think there is some opportunity right now with SK funds, as Rick mentioned, and giving this group more flexibility to use

RSA funds to work with pilot programs and other proof of concept type programs, which I think is really what people had envisioned when they set up RSA. I think that would be a good thing. You know, there's always some risk, though, when we set up—you know, if we were able to get a long-term funding stream and that—you know, there's a ten percent sequestration cut; that means NEAMAP gets that ten percent cut as well. And you have to—you know, we may need to stay flexible in the future if we ever get to the point where there's a long-term funding option, that some RSA money may have to go over there to make up shortfalls and other things. So we—while a long-term funding stream would give this group more flexibility, it sort of takes away some of the control, if you want to call it that, that this group has right now with funding NEAMAP. So just—you know, long-term funding is the best option, but we've got to keep in mind we may have to be creative from now on—every once in a while on covering some gaps in federal funding if we end up in that position with NEAMAP.

Steve Heins: Thanks, Bob. Bill Karp?

Bill Karp: Thank you. I certainly support the comments that Rick made, and Bob as well. I think without being seen to stand behind any particular strategy for encouraging finding another funding stream, I think certainly at the Center we view this to be an essential part of the overall monitoring program. And we're frustrated to the extent that we are unable to bring funds forward to support it. Of course there's no such thing as a general fund anymore. Everything that we get is directed in some particular way through the PPA language, and we are subject of course to these kinds of cuts that Bob mentioned that make us—that reduce our overall ability to support programs that we would otherwise be committed to support. So there is always gonna be that problem, but since I think everybody believes that NEAMAP is an essentially sort of baseline part of our collective monitoring portfolio, the idea that we have to bring RSA money forward to support that really doesn't make sense in the broader perspective. So while we have to do it in the short term, we really do need to look for alternative in the long term.

Steve Heins: Okay, thanks.

Rich Seagraves: Yeah. So what I'm suggesting here is that—it sounds like there may be some opportunity for funding, so alternative funding sources for NEAMAP potentially, so I think we could wait till October to decide how we want that RFP to be written for 2015 since we've got a little time to see what reality is in terms of

available funding. We wouldn't necessarily have to make that decision today.

Steve Heins: Is there anything else in the priorities? I have a hand up in the audience. Anybody else? All right. Emerson?

Emerson Hasbrouck: Thank you, Mr. Chairman, Emerson Hasbrouck with the Cornell Marine Program. I don't mean to be or want to be critical of the NEAMAP survey. I think it's a great survey and they do a great job. They produce good work. But as has just been discussed the cost of running the NEAMAP survey pretty much utilizes all of the available RSA allocation with hardly anything left over for any other priorities or any other projects. And the NEAMAP survey was kind of necessitated when the Bigelow came online and could not occupy those inshore stations that the Albatross used to. And I know funding is short; people on the Committee have already mentioned that. But those—occupying those and finding those—or obtaining the information for those inshore stations should be the responsibility of NMFS, within their budget. They were doing it with the Albatross. If they can't do it with the Bigelow they should bear the expense of conducting that survey on those inshore stations.

Again I'm not criticizing the survey, but I think for those inshore species the fall survey is much more—is more critical, provides better information on those inshore species than the NEAMAP spring survey. You may want to consider if RSA really wants to fund both components of that survey, and is there greater utility out of the fall survey than there is the spring survey? Does the spring survey have to be done at the full extent that it's currently being conducted? Just some issues to think about. And it's also getting to the point where potential researches—myself and others who have participated and have been lucky enough to have been awarded RSA allocation in the past—we're not giving the RSA RFP a lot of consideration anymore because from our perspective, and as you've said here, it's pretty much NEAMAP, and we have a little bit of allocation left over for something else. And the something else right now is the fixed gear survey, which if it's gonna be useful would also need a series of years. The more years you've got in that survey, the better that data is gonna be as well.

You know, it's almost to the point—and I don't want to be too cynical, but you know, if you're just gonna fund NEAMAP and the fixed gear survey, why go through an exercise of priorities? But you're also discouraging a lot of people out there who might have some good ideas and might be able to help the Council and the

Fisheries Service address some issues that really need to be addressed. Thank you.

Steve Heins: All right, any other comments on the priorities?

Rich Seagraves: Well, I just wanted to just run through them pretty quick, Steve, because we did have some discussion and there was—with staff, even though there wasn't much markup. But for the interactions with—between Loligo, butterfish, mackerel, and river herring, the first one, test gear modifications, I question this one because the sense that I've gotten is that the industry has been very innovative in testing different gear modifications to try to eliminate bycatch in the Loligo squid fishery, in particular butterfish in that fishery, and they haven't met with much success. There's a lot of mixing. Morphometrics of butterfish are such that if you have a mesh small enough to retain Loligo you're gonna catch quite a few butterfish. And it doesn't seem like gear modifications has panned out, and so I was questioning—I asked Jason, you know, "Is this something that we want to give up on and start looking elsewhere?" But if you read that one closely it says, "Alternative gear types, i.e., jigging," so there could be the—so I think of that, when I first read it, was potentially modifying the current trawl gear. But what that really relates to is other ways of catching Loligo that doesn't have butterfish, so it probably makes sense to leave it in.

The second one, mortality rates have longfin squid to pass through trawl meshes. Loligo are pretty well-known to be very sensitive, delicate. This was brought to the fore back at the very first couple longfin squid assessments I attended in the '80s. Roger Hanlon, who is a fairly well-known squid biologist, said, "Well, if you're gonna manage squid, forget anything that allows—where the squid come in contact with the fishing gear. Once they come in contact"—'cause they were taking squid and moving them, trying to catch them alive and bring them into the lab and study them. And he said they're very difficult to keep alive.

So one of the issues is if we increase the mesh size for Loligo we're gonna see a reduction in the bycatch of butterfish to some degree. We're also gonna see a reduction in the Loligo catch 'cause a lot of the Loligo are gonna be passing right through the meshes, and if they get dinged on the way through the question is, "What are we doing?" We're gonna have to increase fishing effort to maintain the same level of catch. Mortality rates—total mortality of Loligo would probably increase, and it's uncertain exactly what the impact on butterfish bycatch reduction would be. So that still remains a pretty important issue because we have

considered systematic increases in the Loligo squid mesh size regulation, and it's uncertain what that's actually gonna accomplish. So I think that one stays in.

The next one is conduct spring exploratory sampling for squid, mackerel, and butterfish in deep water beyond the range of the current spring Science Center survey. This one still is very relevant. A lot of the discussions at the SSC meetings have to do with trying to say understand the dynamics of the Atlantic mackerel stock, for example. It's unclear how much of the actual stock is within the survey area. Obviously there's availability problems with many of the species where we are covering the species distribution habitat fairly well in the spring survey with the fall survey. And there's always availability issues because most of our species are migratory and temperature-dependent and the timing of the survey relative to where the fish are can impact—say for scup—very dramatically what the catch might be in any given survey. That's one problem.

The bigger problem is how much of the overall habitat we're actually sampling for some of these species, like spiny dogfish, Atlantic mackerel, where the stock may be well outside US EEZ, either in deep water or further north into Canada. And so one thing we can do is survey in deeper water to see what portion of the stock we're actually surveying. And that continues to be a major concern of the SSC so I think it makes sense to leave that one.

And then the other—the next one, potential surveys for butterfish and squid assessments, and we've had a squid workshop—real time management workshop, and there are lots of improvements that probably could be made in the management of that fishery, taking advantage of real time information about the abundance of say butterfish or Loligo in any particular year. So that one makes sense to leave in.

Mesh size is the next one—investigate mesh size and/or gear technologies to reduce retention of small mackerel and river herring in the mackerel fishery—still a problem.

Explore spatial distribution of stocks relative to mixing of the northern and southern contingents of Atlantic mackerel—this is a really important one. Our understanding of the mackerel stock is quite poor. We've seen a dramatic decline in the fishery itself; however, the survey indices of abundance are actually high compared to the historical record. So back when the fishery was producing in excess of a couple hundred thousand metric tons per

year, the survey index was very low. And then through time the fishery was Americanized. The fishery at one point, I think in the late—mid-2000s—Jason can help me out here—we caught something like 50,000 or 60,000 metric tons. And then since then the fishery has just virtually collapsed. All the while the survey index from the Science Center survey is high compared to the historical average. So we obviously don't have a fishery-independent index of abundance for mackerel, and as the SSC has deliberated over this and certainly the track, there were certainly questions about how much of the stock has just moved outside of the survey area and outside of US waters. So understanding the genetics for the management in terms—you know, whose fish we're catching. Are we catching Canadian fish? Are our fish migrating north into Canada and staying up there? Have they migrated even further than that? There's some suggestion that in the North Sea, the northeast Atlantic stocks, the European stocks have migrated all the way to Iceland. There's all kind of battles going on over there about who—you know, you're catching our fish. So there's something definitely dramatically changing, probably related to climate; it's unclear. But what is clear is our understanding of the stock structure, mixing, et cetera, is very poor. And so indices of abundance and trying to reconcile the basic population description of the mackerel remains pretty muddy.

Steve Heins: Chris Zeman, did you have something specifically about—

Rich Seagraves: Mackerel?

Chris Zeman: Yeah, I would just—I'm just wanting to ask a question as to, like, kind of why are we going through this, because I think we—weren't we just gonna table this to October? I mean, A, we have no funding for this stuff, and two, we're pushing off that decision. I'm gonna forget all this very important information by the time October comes here, and—

Rich Seagraves: As I said, even though—I think the strategy's gonna be even if we write the—if we decide in October that we're just gonna write an RFP for NEAMAP, we still need to have a research priority list if funding becomes available and opens the door back up. I can pick up the pace. The reason I wanted to go through them is to give you a chance—if you had anything right now that you want to add, I'm just trying to give you justifying of why they're staying in and why staff—and I'll definitely pick up the pace.

Chris Zeman: It's just that, you know—the only thing that this does for me is it just gets me more depressed because I'm really struggling here as to I know all these needs, that we have all these needs—

Rich Seagraves: Right.

Chris Zeman: And I—again, I'm tied—my hands are tied every year 'cause, you know, we're really just putting all the money into a survey that is really taking away from the real purpose of this RSA.

Rich Seagraves: Yep.

Steve Heins: Chris, I think that, you know, Rich had said earlier that we need to be ready, and I think we need to keep these needs current regardless, because who knows—you know, we could have money fall out of the sky. Who knows? Something could happen—we decide not to do NEAMAP, anything. But it's important that we go through these I think just to keep them current, and this is the time that we do that.

Rich Seagraves: Okay, so probably a good way to go here is we—what I've done is I've started off in the squid, mackerel, butterfish section. The SSC has already reviewed those species, made ABC recommendations, and you guys have taken action so we've got the benefit of the SSC review. So everything else under there relates to mackerel, questions about mackerel biology, so I'm not gonna belabor those points. I'll skip summer flounder, bluefish, black sea bass, and scup because we've got an SSC meeting in about a month and we will be reviewing everything, and then we'll make those determinations at that meeting. Then the only thing—and the same thing with spiny dogfish. And the only other one then—we can abbreviate this discussion—is Illex squid, and again Illex—it has not had a peer-reviewed assessment for quite some time. The last assessment that was done, they tried to model a conditional mortality rate in the population dynamics of that stock, i.e., being that they all die right about after they spawn. And so the question was if you model that into the population dynamics model, how does that impact your reference points, how much you—you know, what the availability yields are, et cetera, if you take that into account?

And so there was research that was done—Lisa Hendrickson worked with industry to collect the size, maturity at age, and all that good stuff, and the model went into Voora Hard who's done great work with scallops, who was their modeler. And it looked like Illex were very resilient to fishing. The problem was all the

samples were collected in May, and the fishery actually occurs principally in mid- to late-June through October. And so the reviewers had serious questions about what the outcome of the analysis would've been if they'd have used—had collected fish throughout the season. So it wasn't clear that the May fish really represented the true population metrics and biology of the stock.

And so since then that's still on there. This is something—until we have size, age at maturity, and growth parameters for *Illex* for the entire season, be it made clear that there's no sense doing another stock assessment on it, so it's just sitting there. So it still remains an important research topic, and especially given that *Illex* is an extremely important ecosystem service provider in that there's lots of things that eat *Illex* out on the edge of the shelf: marine mammals, pelagics—large pelagic fish, tunas—I mean, you name it. *Illex* is very, very important, and so that's one that should remain a high priority.

And then I'll just end our discussion at this point on this, or at least my presentation.

Steve Heins: All right, thanks, Rich. Any questions for Rich, comments? Rick?

Rick Robins: Thank you, Steve. Rich, I did have one follow-up question. We have had a lot of open questions I think about the status of Atlantic mackerel and the extent of the distribution of the stock, the structure of the stock, et cetera. Of those things that are in there—I mean, some of them involved like exploratory deep water surveying, but some of the others include things like tagging. Are there specific things that we could take up that would be relatively inexpensive as you go through your final prioritization in October that we might highlight to try to get done over the course of the next year? In other words, if there's a little bit of money left over after NEAMAP, you know, if we can identify some funding that would be available to cover that or otherwise find some outside funding perhaps or additional funding sources to try to answer that question, because it seems like every time the SSC gets together there's obviously a lot of concern about our understanding of that stock and a lot of it has to do with the spatial distribution of it. So could we consider some specific priorities within that that might be more cost-effective than the others or more affordable?

Rich Seagraves: I'm looking around. I can't find Jason to throw my lifeline to—call a friend here. Pardon?

Male: He's changing his clothes.

Rich Seagraves: Oh, yeah. Anyway, he could be best answer that in terms of the cost, you know, which things in that list would bring you the most bang for your buck to answer the questions about stock structure, mixing, and that sort of thing, both within our stock, the part that occupies US EEZ and Canadian waters. You know, again, Jason's been working with the Science Center biologists who are looking at this problem, and I think they've got some recommendations about perhaps a tagging survey or genetics. But to answer your question directly, I can't answer. I don't know the relative cost versus what the benefit would be in terms of answering these research questions for mackerel.

I know tagging—generally to get reasonable information can be a fairly extensive effort required. You have to tag lots of fish. In this case the fish are caught in a more or less industrial fishery, and unless you tagged a fairly significant number—of course it depends on the exploitation rate, what the probability of return is gonna be, so it depends on how heavy the fishery's exploiting the stock. That's one thing. And then when they're dumped into the hold and pumped directly and frozen, whether or not the tags could be recovered in an industrial fishery is an issue. There are lots of questions about tagging where it sounds good, but there may be some significant impediments. It would increase the cost, so I'm not sure that a tagging study would be the cheapest option. There are other genetic markers and so forth that might be available that could bring you more for your investment research dollars.

So I can't answer the question. Jason's not here, but maybe he comes back we can bring it up later. Certainly we've got till October; we'll bring that back up again.

Steve Heins: That sounds like a plan. Pete Himchak?

Pete Himchak: Yes, thank you, Mr. Chairman, and maybe this is transitioning into the next agenda item about the RFP development. But yeah, I think it's critical to maintain the list of priorities because, I mean, it's just been within the last three years that the black sea bass spawning survey—fixed gear—you know, hard bottom survey has been funded. So you never know when a gem of a project will come out and jump out at them, but at the same token I think the message has gotten around pretty clearly that NEAMAP first, and then—you know, if you've been submitting a project proposal for three years and it hasn't been picked up, you might save a lot of time on the reviews, because the likelihood of it jumping to the top of the priority list is somewhat remote. But keep the list, and I

think in the RFP just be very honest in the announcement, that the amount of funds that could be available, X percent of it is likely to fund the NEAMAP program. So you'd even have to consider that when you start thinking about like a mackerel survey. It's like, "Well, what can I do for half a million dollars?" And then you would start culling out potential projects, which isn't a good idea but it's reality when you have limited funds. But you could get a gem of a project for the remaining amounts of money, and unfortunately that's the way we're operating.

But I have a bigger fear when we get into actually funding NEAMAP and how the states are gonna react at the October meeting in supporting set-asides. But I'll let that go till later.

Steve Heins: All right, thanks, Pete. Before we leave the priorities, the staff's recommendation was to remove testing and gear modifications? No, no, no—

Rich Seagraves: That was my initial reaction, but since the jigging is in there I think we can leave that. We might wordsmith that a little for the October meeting—

Steve Heins: Okay.

Rich Seagraves: But other than that everything—you know, we didn't get any comments. And I said—with my discussions with Jason I was wanting to remove that, but after we talked about it, if we could find other gears—rather than modifying the current gear, i.e., trawls, if there's jigging or some other way that fishes cleaner that we set up, we promote that or have some research on it. So I would say leave it in, yep.

Steve Heins: Okay. Thanks, Rich. So anything else before now? I don't want to leave—**Ryan?**

Ryan Silva: I'm sorry if this has already been covered; I came in a little bit late. But I was just wondering as a point of clarification if the priorities that the RSA Committee establishes are the Council-wide priorities, or if there's any difference between the two? And the only reason I ask is a part of the solicitation component is the collaborative nature of the project, and that's reviewed favorably. And there's different priorities that are more conducive to cooperative relationships, so it's—I just want to make sure that that's clear, that that's part of the evaluation. Some of these are more analytical in nature and there may not be so much engagement with industry participating in the actual research. And

if that's one of the Council priorities, it may be looked at less favorably, I guess.

Rich Seagraves: Well, as far as I know, it represents Council-wide policy, whatever these research priorities—list, however that thing ends up, so. There is no other avenue to create or have a policy. This is it. Again, I agree that the whole gist of the RSA program initially was cooperative research. It was the idea that fishermen—people really supported it because the idea was to bring fishermen into the collection of data and prioritization and so on and so forth. And now we've gotten to a system where we're auctioning most of the fish off and it's been decoupled. But that's kind of a fact of life. That's the way it ended up, and it wasn't anything that the Council changed their policy or did anything overtly. It's just kind of the way the thing played out.

Steve Heins: All right, thanks. I'm sorry for my confusion on that one thing. I was under the impression that jigging had been tried and if it was really a viable way of catching those squid that somebody would be doing it now. I don't know if anybody has a similar opinion about that, or—do you have any experience with that, all right, so then—Laurie?

Laurie Nolan: There was a time when a Japanese boat came over. I mean, my husband happened to go out on it, and they tried the jigging, and it was a joke. I mean, they caught not enough for dinner. But it was—you know, they were professionals, the boat that came over, knew how to do it, was successful back home, and it worked really good but it didn't work at all here. So I mean, I would say that that's the only knowledge I have of anyone trying it on a level where you'd say, "Wow, those guys knew what they were doing," and it didn't work.

Steve Heins: All right, I had several hands that went up, but Rich, you wanna follow-up?

Rich Seagraves: Yeah, just to follow up to that, the—of course we have two species, longfin and Illex. The Illex fishery when it was at its peak was largely jig. The Illex are apparently very aggressive, can be jigged. There was a period where there was over 150,000 metric tons in the '80s, I think. Most if it was in Canada, and most of that came from small boats jigging them. But the problem is the Loligo apparently weren't nearly as aggressive, and so as you say—people will say, "Well, if they could be jigged, people would be doing it," but it hasn't worked for Loligo. But maybe there's some other way to make it work, I guess is their point.

Steve Heins: All right. I had Tony DiLernia?

Tony DiLernia: Yeah, we've—while tuna fishing offshore we've tried to—we've jigged some squid, quite frankly not enough at times to get us through the night bait-wise. We've had to actually bring bait besides what we've been able to jig, so it hasn't been successful enough for us, the sport fishing community. If we can't catch them on a sport fishing level, catch enough bait to fish with, I question the commercial value of it.

The Canadian fishery may have worked because the Illex are much closer to shore at that point and so the small boats with the low overhead and low costs, operating expenses, could afford to go a short distance from shore and catch them. But as far as the mid-Atlantic is concerned, to jig enough squid to keep us going, I can't see it happening. Thank you.

Steve Heins: All right. I had Chris Zeman? All right, and then Rich?

Rich Seagraves: Well, hearing this discussion we'll put that one up on the chopping block for October. I'll go back to Jason and we'll see. We may eliminate that one I think. But we were trying to leave the door open. If there was some innovative way to catch Loligo cleanly it'd be great. We didn't want to give up on it.

Steve Heins: All right. I have Jim Fletcher in the audience? Come on up ahead, Mr. Fletcher.

James Fletcher: James Fletcher, United National Fisherman's Association. To set the record straight, when the Japanese came over here they were working for National Marine Fisheries Service. Having talked to the mate on that Japanese boat, they begged for a certain frequency or luminescence of light. They were told to use what they had and that's all. The captain of that boat put a piece of basically Saran Wrap over the top of the lights until he burned it. That night he caught 50,000 pounds. So to put forward that, oh, we've tried jigging—no, we've tried jigging with a man's hands tied and didn't do it. But a suggestion for the Council: Put a number of permits, say five or seven, up that if somebody can get them jigging they can use a permit and get a full-time Illex and Loligo permit. Put a reward there if they do it.

When the jigging was done we did not know anything about fiber optic cable and how to use it underwater. That technology has now been and is being used in Japan and Argentina—exploratory.

To say it won't work here—but the research can be done with a reward, not these grants. But I am frustrated when I hear—and have talked to the man 20 years ago that he was frustrated to be hired to do something and then when he asked for the equipment it wasn't given to him. But don't cut down jigging. No. Give us a chance to jig, but give us a reward, the boats that do it. Let them have full-time moratorium permits and a reward—four, six, eight, ten. Maybe they can only use jigging to do it, but give them a reward. Thank you.

Steve Heins: Thanks, Jim. Tony DiLernia?

Tony DiLernia: Jim, you know what that frequency was or the wavelength? I'll send one of those suckers over the side in a minute, really. If you could tell me I'd do it. I'd give it a shot.

James Fletcher: [no mic] I'd have to get back up _____, Tony, but the thing of it is these illegitimate headlights that come from Germany, the _____ [inaudible].

Steve Heins: All right, yeah, you could have that discussion off the record. Thank you. Pete?

Pete Himchak: Yeah, I just wanted to point out the word videography gets kind of like lost in that sentence, and if you read it through videography was not recommended to reduce bycatch of butterfish. It was suggested to document clean catches of Loligo so that when the expansion of the bycatch—this goes back to when we had a cap of 1,500 metric tons or less of butterfish. So the idea recommended at that time was if you came in with a catch that was pure longfin squid and no butterfish, that the videography would document the cleanness of the catch and that the expansion of the bycatch through the total squid landings would not be inflated by having these pure catches. So it's not to reduce bycatch but it's to document the lack of bycatch. So if this item gets on the chopping block, I just want to make sure it gets saved, 'cause like, I came up with it three years ago. [Laughter] My only suggestion.

Steve Heins: All right, thanks. Rich?

Rich Seagraves: Yeah, and Jason, when we talked about that—the other useful thing for the videography part would be to try to exploit behavioral differences between butterfish and Loligo within the net or as the net was approaching them, that there was some difference in their behavior that you could exploit to then exclude the butterfish—which hasn't worked.

Steve Heins: Okay. Well, I think that we've been through this first agenda item and maybe we'll move to the second item on the agenda and turn it over to Rich.

Rich Seagraves: Okay. So, you know, we wanted to have some discussion about—which we've already had quite a bit, and I see Cheryl's here. And so do we want to—how do we want to approach the issue of—it sounds like we're gonna maintain this research list. I think it's important that we do. But in the interim, until we secure funding, how do we want to write the RFP for at least 2015? In other words do we want to just say this—you know, pending any big change that the number one priority—there's Jason just when we need him—write it for basically NEAMAP and perhaps the fixed gear survey, or just at least declare that they're the top two priorities and then we can leave work with the Regional Office and Science Center to how we might modify the RFP, with the understanding that the Council's making the decision that we're gonna just list the NEAMAP and perhaps the fixed gear survey as the two top priorities so we don't create false—or expectations that can't be met with the current funding.

Steve Heins: Okay, I've got Leroy and then Chris.

Leroy Young: Thank you, Mr. Chairman. So what happens to the—if you wouldn't use all the RSA funding—'cause it sounds like NEAMAP takes most of it—what happens to the—if you wouldn't use it, do you lose that? I mean, can you hold onto it?

Rich Seagraves: Well, it depends at what level. We set aside up to three percent for most all of our species, excluding some—surf clam, ocean quahog are not included in the program, and tilefish currently are but no—so there's potential for RSA set-aside for tilefish but we have not set any aside. So all the other species, when we go through the specification process, we have a line in there when we set the spec that says, "Up to some percentage is set aside." Then those numbers go to the Regional Office and the Science Center and based on the availability of those fish, it gets worked into the specifications. If there's any unused portion of it, it goes back to the general fishery, I believe. Is that correct, George? So at that level, if you've set it aside and it's unused, it goes back to the fishermen.

Now what happens if they're actually auctioned off and the money is not used? I'm not sure about that. I don't think that's happened. So once we've decided that there are certain amounts set aside, it

then goes to the auction. It creates revenue for the researcher. The monies are all obligated. I don't think—I think this actually was discussed at the review meeting that I attended about three or four years ago and there was some concern about, well, what if they don't spend all the money? I think the word is they get to keep it. Is that right, Cheryl? Yeah.

So basically it's in good faith that, say, whoever the researcher, it's gonna cost me \$250,000.00 to operate this. They put in a request for a certain amount of fish to cover their cost based on the predicted value per pound. So if they need \$100,000.00, you know, they've got to cobble together enough of the species at a certain value to fund everything and then they get the grant in the form of the fish. The fish are auctioned, the monies come back to the researcher, they conduct their research. If it turns out it only cost \$225,000.00, then there's not mechanism to recover the money. So there's kind of two levels of it.

Steve Heins:

Chris Zeman?

Chris Zeman:

Yeah, I really would not want to make it a top priority to have the fixed gear survey. I'm sorry; I'm not being clear. But I really don't want to have the Committee list the fixed gear survey as another top priority. The last thing I want to see is us committing to another survey and dedicating the last ten percent of the RSA to another survey. I frankly am opposed to putting 90 percent of—you know, basically 90 percent of RSA funding to NEAMAP. I really—it's—the last presentation I've seen in terms of Research Set-Aside was the VMS presentation on black sea bass, modified traps to reduce discard mortality, and that was at the Council meeting I attended before my first actual start on the Council, so back in 2009.

I think it would be a real tragedy for me if I go through my terms on the Council without seeing any money going to research, the intended research that this program was meant for. I frankly have fishermen that are able and willing to start and have submitted projects over three years and have just been denied, denied, denied when they have really viable—there's a real viability there for really promoting more selective fishing practices, less discard mortality. It's all in line. And the only thing that's happening is that we're all getting older and we're seeing none of this happen. So I frankly think that we should—we will not see any NMFS or NOAA funding until we affirmatively as a Committee set a maximum amount of RSA that goes to NEAMAP. That means that half of it, 75 percent—unless we set some sort of cap on how

much of our RSA goes to NEAMAP, let me tell you, it's all gonna go to NEAMAP every year. We should not even have this discussion. We should not have an RFP. And I think that the Committee really needs to—we need to really have a commitment to supporting the other—the real intended projects that RSA was meant to fund. Every time that we do not set a cap, again we're basically hurting those fishermen, and we're basically undermining the entire purpose of this process, which is cooperative research.

I really am hoping that by the time my term ends I will have an experience where I've worked with fishermen in a cooperative way and actually improved the understanding of fishery science. That's a great feeling to have. I mean, it was done with monkfish. It was done with scallops. I want to share that same experience, but right now I only have \$100,000.00 left out of \$1.2 million—or I'm sorry, what—yeah, \$100,000.00 left out of \$1.2 million to basically give out, which is really just nothing. It's basically zero. So, you know, to the extent that we can, as a Committee member I would recommend we pass a motion today saying that only X percent of RSA can be used for NEAMAP surveys.

And if there's a second for that I'd like to work with the Committee on it to see what their intent is on this. That would be the only impetus to get NOAA to actually say, "Hey, this is really valuable. The Council basically is contributing all of its RSA to help us improve our survey," which we did this survey, in-shore survey before the Bigelow, and we're basically now paying for that work, and there's not even a share or a percentage match from NOAA. You know, that's just—it's just not how the system was meant to work.

So, you know, again I stress that we really need to set a cap on how much money goes to NEAMAP. And again, if there's any other Committee members who support that, I'd like to hear some comments on that. Thank you.

Steve Heins:

So, why don't we wait on the motion if you're gonna make a motion, because you didn't put a percentage on it, but—all right. We'll have a little more discussion—

Chris Zeman:

Yeah, exactly. That's really what I want, 'cause I think I made a motion like this before. It didn't go anywhere, but I'm hoping maybe now it may. So if there's any interest I'm willing to work with Committee members on this.

Steve Heins:

All right. Laurie Nolan?

Laurie Nolan: Thank you. I think part of what Chris is saying is understandable. I mean, it's great we're having the discussion. I think Emerson's statement of the frustration of putting projects forward for multiple years and then at the end of the day, oh, NEAMAP comes first, NEAMAP costs a lot of money, there's not a lot left. But when you go so far as to say things like the program's not—it's not what it was intended for—you know, things change over time because they have to adapt to new situations. And I think that's what the RSA program has done, and that's just called progress.

As far as cooperative research goes, I do think with NEAMAP we have to remember it's a commercial platform, and it's got commercial fishermen onboard taking care of the fishing part of any survey. So I do think it still is a cooperative project, but I mean, I left the last RSA meeting thinking it is time maybe to commit and say NEAMAP equals RSA because of the way it fell out the last couple years, and not lead the public to believe there's gonna be room for other projects at this time because NEAMAP is so expensive.

But I just don't think it's fair to sit here and talk about the intent of the RSA and that we're going down such a wrong path right now by supporting NEAMAP. I do see it as the intent of RSA. It's gathering great information, it crosses multiple species, and it is something that's necessary. While there is frustration that surveys shouldn't be paid for long term under RSA, we've got money problems in the world right now and we're kind of caught between a rock and a hard spot.

Steve Heins: All right, I've got Pete Himchak and then I'm gonna go to Greg DiDomenico and then I'm gonna go back to Bob Beal.

Pete Himchak: Okay, yeah, I—yeah, these themes keep recurring. What scares me, though, is the fact that—now we have NEAMAP that we've invested an awful lot in. It's paying dividends. We keep fueling it—we're stuck fueling it. But if you start trimming, say, “Well, we only need one cruise versus the other cruise; which one pays more dividends?” and you stop the continuity of the program or you cut it back, the number of stations, you're doing a great disservice to what you've already invested into the survey.

And I think the sentiment or the mood—and I won't speak for the entire ASMFC, but I think you would get a different sense of support or much higher level of support for ASMFC's managed species because—maybe just because of the species involved we

see the potential for paying much bigger dividends for ASMFC's managed species. I'm sorry, Bob, if this is your point, but you know, yeah, we're not so much interested in Illex and mackerel issues at the Commission level. But NEAMAP is certainly being counted upon for many species managed by the ASMFC. So for better or for worse, I think we're in a trap here and we should continue without cutting back on NEAMAP, but keep it moving along. It's gonna pay bigger and bigger dividends. We don't realize that maybe now, but it will.

Steve Heins: All right, Pete, thanks for that. And Greg has declined, so Bob, you're next.

Bob Beal: Thanks, Mr. Chairman. I think it's risky to take any chances with the current stream of funding for NEAMAP. I think we need to work on the other streams of funding and longer-term solutions, but you know, to sort of call the bluff of the federal government in a sense and say, "Well, we're gonna cut it off now and hope for the best and now I'll show you guys we really need some federal funding," I think that's not the right way to do it. I think we have to keep going with the RSA approach until there's another option that's available.

And the second point is, you know, each year when the Council and Commission make the motions on the quotas for summer flounder, scup, black sea bass, et cetera, it always says up to three percent of the quota set aside for RSA. And my recollection is that, you know, three percent of those species is not always utilized for all the species that are available for RSA. So there is some additional fish available based on the way the motions are written or approved each year to fund some of these other projects beyond NEAMAP and the fixed gear scup, black sea back project. So I think if there are other projects that score really high through the technical reviews and through the reviews of this Committee, there is some room to fund some of those projects.

Steve Heins: All right, thanks. I've got Tony DiLernia and then Rich.

Tony DiLernia: Thank you, Mr. Chairman. When I returned back to this Council after my few years off, I was unhappy with what I saw as far as the way the RSA was being used, having been one of the original folks who voted for and created the original RSA and its intent. But having seen the way NEAMAP has functioned and has served our Council over the past few years, I have to agree with Mr. Himchak and Mr. Beal regarding their comments. Having been critical of the RSA and the way it was being used to fund NEAMAP, at this

point I would say we should continue to fund the NEAMAP. Yes, I agree completely with Mr. Beal that we should look for alternative funding, but to call the bluff of the federal government and risk losing and interrupting our time series and our data collection that has proven to become more and more valuable I think would be a big mistake.

And so I think we should look for an alternative source of funding. I believe we're the only Council that doesn't have an inshore survey being paid for by the federal government. I think in New England it's paid for by the feds, South Atlantic and the feds, Alaska is paid for by the feds. The Mid is one of the few regions where I think our survey is not as well-supported by NOAA, and so I think we should pursue that funding. But to risk interrupting that funding and to risk interrupting the collection of data and the time series that we're developing would be a mistake. Let's face it: Our fishermen trust the data generated by NEAMAP because it's collected by fishermen more than our fishermen trust the data that's collected by the Bigelow. Thank you.

Steve Heins: All right, Rich?

Rich Seagraves: Yeah. To Bob's point about trying to squeeze out some more money from other species—and maybe Ryan can help me here—but the problem in the NEAMAP—or in the RSA program—there you go; they're one and the same—is that only certain species can generate revenue. For some species we set it aside, but unless the fishery's closed there's no advantage to going after the RSA. So I believe we're squeezing out about every dollar of valuable fish—summer flounder, scup—not even scup probably, but sea bass—black sea bass and summer flounder are the big two that generate most of the revenues. The others get set aside, but unless you have a fishery closure there's no value to it. So I don't know that there's a lot of value that we have that we are not getting from the current system. Is that correct?

Steve Heins: Okay. Any other thoughts? Chris Zeman?

Chris Zeman: I just wanted to follow up with Tony's comment. I mean, is that accurate? Is that true that we're the only Council without an inshore survey that's federally funded? And I have a follow-up.

Steve Heins: I can't answer that, but—Tony?

Tony DiLernia: Yeah, I'll do some more research on it, Chris, but I think we are probably the last Council that's getting money on the detailed

survey work that's being done, say with the other Councils. Up in New England a lot of that is federal. With the problems New England's having a lot of money goes into survey work up in there. I also know down in the South Atlantic they get additional survey money. So—but I'll do some more research, but I believe I'm pretty accurate on that.

Steve Heins: All right. Bill Karp?

Bill Karp: Thank you, Mr. Chairman. I can shed a little bit light on it but not for the entire nation. For New England—and I suspect it's true in other regions—there are specific PPAs which are directed at survey evidence in specific regions, and so we don't have the flexibility to move money around. It's because of Congressional action that our ability to fund certain survey activities is allowed.

In Alaska there is no near-shore survey per se. It's all done with—the near-shore or an onshore survey is all one and it's all done—the multispecies groundfish surveys, bottom trawl surveys, are all done actually with chartered commercial vessels but with appropriated funds.

Steve Heins: I also know that the states of Maine and New Hampshire have an inshore survey that they do. The State of Massachusetts has an inshore survey. So some of the states are doing this work as well. Rick Robins?

Rick Robins: Thank you, Steve. I just wanted to follow up also—and I'm not sure if Chris was here when we started, but I was able to testify in the Senate last month on the reauthorization of the Act, and I just received written follow-up questions from that Committee concerning the disposition of the SK, the Saltonstall-Kennedy funds. And there is significant interest I think in how those are being used within the Senate right now. Those do fund some of the operations of NOAA, so to the extent that those are re-appropriated we want to make sure they don't undermine our core capacities for stock assessments. However, I think that does create an opportunity that we haven't had until this interest to possibly pursue funding through that type of mechanism. That is, when I submit written comments back to the Committee, I plan to highlight the potential to try to secure funding for NEAMAP because I think that needs to be one of our long-term objectives. That's been a continuing source of concern here with the Council and the ASMFC about how the RSA funds are used overwhelming to support NEAMAP.

But as Dr. Karp pointed out earlier, NEAMAP is becoming really a central part of our monitoring of our region's fisheries. And we're just getting to the point with the time series that it's gonna be increasingly important and probably increasingly informative in our decision making process, so I'd hate to see us jeopardize it at this point. But I think we can continue to renew our efforts to seek additional funding sources.

Steve Heins: All right, Chris Zeman?

Chris Zeman: I definitely agree with you regarding the benefits of NEAMAP, and I think my only concern—my only comment here and my concern here is that it shouldn't be an all-or-nothing thing where all we do is fund NEAMAP and we fund no other research for gear modifications, promoting selective fishing practices, other fisheries' interactions that we know little about. It's really an all-or-nothing. And one point I really want to stress here is that while NEAMAP can be argued to have a collaborative research side to it on the commercial side, where is the collaborative recreational research? Recreational fisheries support half of the funds that go to this. Where is one recreational collaborative effort, research effort that's funded by RSA? That's a real struggle, and I have to go back to fishing groups and they're saying, "Yeah, we're giving away three percent of our money, and what are we seeing? We're not really seeing anything directly improving our specific fishery," like summer flounder specifically, which is a major source of the monies generated from RSA, so.

Steve Heins: All right. Rich, do you have anything else on this topic? Oh, sorry. Pete?

Pete Himchak: But I would disagree because it's the enhancement of the stock assessment that NEAMAP is producing. The results are the enhancement of the stock assessment. So in black sea bass it's 51-49. In summer flounder it's a different percentage, but it's not benefiting one sector over another. It's providing information on weakfish. So I can't accept that logic that there's a differential benefit to the commercial—I mean, they buy into it more because of the platform under which the sampling is taken. So they think that the gear is being appropriately selective for what is present and then the results are generically used for every species. So it's neither recreational nor commercial, and I might say, you know, if it's benefiting striped bass with some information, then, well, in New Jersey we've got a game fish issue, so it's certainly helping us on that side of the ledger, so.

Steve Heins: All right, I'm gonna go out to the audience real quick. Jim Fletcher, did you have your hand up?

James Fletcher: As long as we have accountability and payback for the commercial side, and as long as the recreational does not have to pay back pound for pound, then this research is benefiting both groups. But the problem is that we still don't have accountability on the recreational for overages, and for the last ten years the Council has chosen not to put in accountability. So this one is one that you just need to leave alone and go forward. But both groups benefit from the NEAMAP. Thank you.

Steve Heins: All right, thanks, Mr. Fletcher. Greg DeDomenico? Never mind, okay. That's twice, Greg. *[Laughter]* Oh, actually that might be three, so you're done. All right, back to the Committee. First I had Tony—did you have your hand up? And then—

Tony DiLernia: Thank you, yeah. It does—the RSA does provide a benefit to the recreational community because many for-hire vessels purchase RSA to give their patrons an opportunity to fish for species outside of the traditional season. So it does expand recreational opportunities, because in the case of black sea bass where it's closed in New York, a number of for-hire vessels purchased RSA for black sea bass and the recreational fishermen were able to go aboard those vessels and fish for black sea bass even though the season was closed. So it does provide a recreational opportunity.

Steve Heins: Okay. Chris Zeman?

Chris Zeman: Well, I'm sure that's gonna be discussed in the other business part of this discussion about enforcement. But I want to go back to—the point I'm trying to make here is this, is that before the Bigelow the inshore survey was basically done by NOAA and the recreational fisheries did not put any of their catch aside to pay for that work. So the accuracy was done without any commercial or recreational buy-in. So you're basically saying we're now at a point where NOAA changed their vessels, so now we are paying to get back to that level of survey quality in the inshore areas. So what do recreationals get out of that?

Steve Heins: All right, I've got Bill Karp and then Rich, okay?

Bill Karp: Thank you, Mr. Chairman. I'm not sure that I can answer Mr. Zeman's question specifically other than just to reinforce Mr. Himchak's point that what this data is used for is to support the stock assessment, and it's the integrity of the data that supports the

stock assessment that is really important for us to provide the advice that you're using to manage all of these stocks, regardless of how they're apportioned among the various users.

It is true that with the arrival of the Bigelow and the loss of both the—of the two preceding vessels that the Science Center now only has one vessel, and we're disadvantaged in that regard. In the long term NOAA certainly hopes to bring a midsize vessel into service for the Northeast, but we are disadvantaged compared with the other regions relative to the amount of capacity—of wide ship capacity that we have available to use at the moment. And so that does require us unfortunately to rely more on NEAMAP.

On the other hand, the advantages of having this kind of cooperative arrangement have already been spoken to, and I think that those will continue to benefit us collectively, not just in the quality of the data but in the buy-in and the support that we get from the industries and the broader communities. So those are all things that need to be weighed I guess in this kind of a debate.

One other thing that I'd like to add is that last week we had a program review at the Science Center, and it was a program review on the fishery-independent and fishery-dependent data sources that support stock assessment. And I'll provide a little bit more detail when I give my report at the end of the meeting, but one of the things that was really emphasized by the reviewers was the importance of the linkage between cooperative research, and by extension, RSA and stock assessment, that there's a lot of very good work that's been done through RSA and through other cooperative research programs but we often lack the linkage between that science and stock assessment. And here in NEAMAP we have direct linkage, and that's something that I think again we all need to be mindful of in terms of how we can give the Council more tools, understand better the underlying science, but really improve our stock assessments. So that's just some input from last week's review that I thought would be useful.

Steve Heins:

Okay, Rich, you wanted to—

Rich Seagraves:

Yeah, just a quick follow-up to what Pete and Bill have said, and I would just point out that the SSC was strongly in support of NEAMAP because of the multispecies nature of the survey. It provides information across a broad range—so the cost is fairly high, but you've got to consider that you're getting information on a broad range of species.

The other thing I would add is that in that data review and looking at our assessments, and I've been working on prioritization of research with the SSC and trying to figure out how do we improve our stock assessments. The fact is that if five of the ten stocks that we're managing are in tier four, there are ad hoc methods to estimate or to specify ABC annually. And if you look across those species, the common theme is they lack a fishery-independent index of abundance. So any information that we get that provides fisher-independent information would be very valuable to us. I think it further makes the argument for NEAMAP.

And then finally I would say rarely we ever have a survey now that's not 100 percent globally supported. There are some factions within ASMFC that have come to this table and spoken against NEAMAP, but that's basically because they don't think that we should—that the Council should be funding it. It's a funding issue. But it's rare that you're gonna find all parties that support something, and that's pretty much what we have here.

Steve Heins: All right. Chris Zeman?

Chris Zeman: I just want to say I thought your comments were encouraging, and all of your points were absolutely accurate. I think one thing that would be much easier for me to accept this sort of funding is if, A, it wasn't at 90 percent of RSA funds, or B, if there was a sort of set time or plan that NOAA can sort of publicize of its plans to then sort of get that vessel, that inshore vessel, be it a three- to five-year plan. I'd be a lot more willing to then pay for—you know, have RSA fund this at such a high level if I knew there was a sunset or an end to this where there could be a transition or at least some sort of match.

Steve Heins: All right. Pete, did you have your hand up?

Pete Himchak: I'll wait till other business.

Steve Heins: Okay. I think—Bill, if you don't mind turning your mic—there you go. Thanks. It seems like we have two or three different ways we could go moving forward with this, either leave it the way we've been doing it, kind of call a spade a spade and just say we're funding NEAMAP, or as Chris suggested, that we set aside a certain percentage of the RSA quota and cap it there and say that's going to NEAMAP and then use the rest of it to fund other—so I'd like to know what the Committee wants to do. Rick? Rich, sorry.

Rich Seagraves: Yeah, I'd make a suggestion that I think you've laid out those three options, and maybe—we have two months before we have to make a decision on this, till the next meeting. So perhaps you should task staff to kind of come up with a white paper of what the pros and cons are of those three options, and then also give us some time to see whether or not—what the reality of additional funds might be to make some of those more viable that we keep—you know, if you put a cap on NEAMAP and you say, "We're only gonna fund 70 percent of it," and we end up with 70 percent of what we have now, we might've been better off just not doing it if we—to get to Pete's point about eating away at the survey. So it would give us some time to evaluate the various options and give you a little firmer ground to make a decision.

Steve Heins: And you can consider yourself tasked, I guess. *[Laughter]* Pete?

Pete Himchak: I'm sorry, I didn't think we had that many options to produce a white paper. I just thought the RFP would be very honest and say, you know, typically the program generates X number of dollars, the Council's committed to funding the NEAMAP program in its entirety, and not express any other preference for any other study and leave it to the prospective researchers to see, well, how much money is there, and do I have a project that falls underneath that cap, and is it likely to match up with the priority, and will I get lucky. So I don't see the need for the white paper. *[Laughter]*

Steve Heins: Yeah, it's up to the Committee, 'cause this—do we un-task Rich now? *[Laughter]* Or do we—Jeff?

Jeff Deem: As a contractor who doesn't do a lot of open bids, I would go with number two and say call a spade a spade. Don't let these people—don't make these people waste their valuable time. Tell them we'd love to have their research if we can find somebody to fund it, and if there's anything we can do to help them, that would be great. But the idea that we continue to give these—to request these proposals that aren't gonna go anywhere, it's almost criminal. Thank you.

Steve Heins: Laurie?

Laurie Nolan: When we discuss this, is this strictly 2015 or are we talking about multiple years down the road?

Steve Heins: Rich?

Rich Seagraves: And again, that's the unknown unknowns. You don't know what the future's gonna bring. I mean, if things change, then obviously we would switch back. But I would say until such time—I would recommend wording it, "Until such time as the funding climate changes, this is our policy." And then we can certainly revisit it, but it would be kind of open-ended until such time as the funding climate changes.

Steve Heins: All right. Laurie?

Laurie Nolan: Thank you. Well, I think I'm with Jeff and Pete on this. You know, going through the process every year of reading through the proposals and having the PIs work hard on putting it all together, knowing at the end of the day NEAMAP is the one that's gonna get it, I don't feel we're sending the right message to the public. I think we should call a spade a spade for now. I think the percentage issue—if you're gonna set a percentage on NEAMAP, then you have to set a percentage on any other project that comes in and not let any one project override the majority of the RSA funds. I think for now call a spade a spade.

Steve Heins: Tony?

Tony DiLernia: Yeah, I'm gonna join the chorus of Jeff, Pete, and Laurie and agree with what they've said. I mean, I've had researchers come to me at the university and say, "What about this?" and I've actually discouraged them from applying because I felt that it was—the exercise—well, they would put a lot of effort into putting together a proposal. I really felt that the funding was gonna go to NEAMAP, and so I've discouraged researchers from putting in proposals.

Steve Heins: Anybody else? Do we need a motion and a vote on that? I know that there's differences of opinion out there. Pete?

Pete Himchak: Well, rather than give Rich a white paper exercise, why don't we craft a motion that in the 2015 RFP the Mid-Atlantic Council specifically states that the NEAMAP program, currently the number one priority of Mid-Atlantic Council and its SSC will receive full funding, and any money—and maybe we could estimate the amount of money generated by the auction—would be available for any additional projects as listed on the priority list. So that—in that case if you have a project that's worth \$300,000.00 and \$300,000.00 isn't left over, or if you have something that's \$600,000.00, you're not gonna submit it. But if you have a couple proof of concept type pilot programs, they may

prove pretty valuable. You never know what people are thinking of doing that could bear some fruit. So I mean, yeah, I'd just be really honest, and you know, the fiscal climate's not gonna change. So that's a long-winded off-the-cuff motion, but you know—
[Laughter]

Steve Heins: All right. I think Rich is gonna try to get something up on the board. Meanwhile, Rick?

Rick Robins: Yeah, I had a question for Rich or for the regional office. And given the fact that this is a grant award program and that's how it's set up, I don't know that we can write the RFP like that. In other words you may be able to get at the same point, but it may have to be structured—you know, I'm outside of my expertise, but it may have to be structured in such a way that identifies a nearshore multispecies survey program as top priority, as opposed to saying we will fully fund the NEAMAP program. I think it's—because it is a grant award, it would have to be structured accordingly. And I'll see if Rich or the regional office have comments.

Rich Seagraves: No, my first reaction would be you're correct. I think we can't _____. It's a competitive grants process. That said, there could—I don't know that there—we've been talking about having contractual agreements for multi years, which would mean that you'd have to prescribe who was gonna get the money. So I'll throw it back to the regional office and see what they say.

Ryan Silva: Well, it's true, and Cheryl's here and she's spoken with folks at the Federal Assistance Law Division, that it is a grant program. That's something we've reaffirmed on a couple of occasions. So it needs to be a competitive process.

You know, I understand the Committee's interest in making it clear that NEAMAP is the overriding research priority, and currently for the 2014 (inaudible) the highest priority. I think there's things we can with the announcement that just makes it clear how important it is. We can show how—what the funding history has been over the last several years. It's been funded each year since 2008 with an additional one or two projects funded on top of that. So I think we can make it readily apparent that NEAMAP has been funded; it continues to be the highest priority. And I don't know if we can get into numbers relative to dollars in the actual announcement, but I—yeah, so I'd leave it at that. I don't know if we need to say it's going to be funded to the full amount, because we don't know what the full amount of the

NEAMAP survey is going to be, or if the set-aside's going to be sufficient to cover it. So just a couple comments.

Steve Heins: I'm just gonna say something on this. NEAMAP is an entity. It's not necessarily someone who gets funding. And the Southern New England/Mid-Atlantic Inshore Trawl survey is a trawl survey that's currently being conducted by VMS, but it could be conducted by anybody. So we can use terms like NEAMAP and Southern New England/Mid-Atlantic Trawl Survey in our documentation without compromising the competitive bid process. And I had—Pete, did you have—

Pete Himchak: No, I recognize that, yeah, you can't be as direct as what I was rambling on in the motion, but in the background of the history of the RSA program, I just wanted to send the message that there is a recognized priority by the Council and it remains competitive, but at the same time give prospective researchers the reality that funds are not as readily—you know, the total funding of the program may not be readily available. So I want to be honest without being as demonstrative as saying, "Oh, we're gonna fund NEAMAP, and that leaves half a million dollars for the rest of you folks," so.

Steve Heins: Is there somebody else over here that I saw a hand earlier? No? All right, Chris Zeman?

Chris Zeman: All this opens up a whole can of worms because on the one hand people are saying we have to be honest with the public, but now we obviously cannot be honest with the public because there is no competition here. What started as an annual grants program that was meant to be competitive—the best man wins—is now a dedicated fund to NEAMAP that spans multi years. I never agreed to that. I never agreed to that grant process. If we agreed to NEAMAP as a multi-year, decade-long grant goal, then we should've had that decision made when NEAMAP was first approved. Now we are all—I mean, my hands are tied. This all was done before me, so now I'm just basically going along and along and approving it every year, saying it's a top priority. But really it's not. Honestly there's a lot more stuff, like for example, summer flounder discards mortality—gee, that's a real problem. Mortality of summer flounder equals land catch.

So, you know, what is the RSA? You know, on the one hand I want to be just—I want to say what Peter Himchak says to the public. "Don't apply. This is not a grants project. This is not competitive. This is a decision already made. We predetermined this." Why even go through the federal process of notifying

individuals of grants? We should change the name from RSA to Survey Set-Aside. We should say there's no longer a grant process; there's no competition.

This is all true, because that's exactly what we're here, and that's why this is such a frustrating process, because nothing changes. And so I would then—*[Laughter]* you know, I really hope that this Committee is honest to the public that we have totally changed the original RSA program to something it clearly was not intended to be. And despite comments that, oh, it's still competitive and collaborative—um, no, it's not. And reality is reality.

Steve Heins: All right. I think—you got something Laurie? I think we kind of need to move on. Jeff?

Jeff Deem: Well, if you'd want to move on, but if we had somebody else do the work that the NEAMAP team is doing now, we could still call it a Northeast Area Monitoring and Assessment Program and let other people bid on providing that information. Would we lose the quality of the data stream? I mean, would it still be scientifically as viable if another contractor took it over other than who's doing it now to make—and that would make it competitive, if other people were able to bid on providing that very same data.

Steve Heins: Theoretically anybody could bid on that.

Jeff Deem: Would it harm the data stream, the history, change our—

Steve Heins: I think that the Committee would have to look at who's doing the work and make a decision about that. Pete?

Pete Himchak: Yes, I would modify the motion to eliminate the word “fund.” Move in 2015 RFP for RSA will indicate intent to—the Council's intent to maintain NEAMAP as a priority project, but not to essentially—you know, because of the competitive nature of it to say, you know, we're gonna fund it, right up front. I'd leave it at that, if somebody wants to perfect it.

Steve Heins: Do we have a second for that motion? All right, I have Chris Batsavage. Any more discussion on the motion? All those in favor please raise your right hand. All right. All those opposed like sign? Abstentions? The motion carries. All right. And with that I think we'll move to the other business.

Rich Seagraves: Yeah, just—we want to spend a little bit of time—you have two handouts in front of you. One of them is a *Newsday* article

describing an enforcement action in New York of illegal activities related to RSA poundage, and so I think this was sent to the—general Council membership got this so you should’ve seen this. But it highlights that in fact there was 86,000 pounds of fluke over a three-year period that were discovered to be caught and landed and disposed of outside of our tracking system and an enforcement action was brought against this individual. And this sort of underscores one of the major issues that we discussed during the RSA review, was accountability and tracking of RSA amounts. I think one of the greatest frustrations that people have had is that it is very difficult to monitor and track these quotas. And in the course of the development of that review, it occurred to me that really what we’ve created is sort of a de facto ITQ in that—and it wasn’t by design; it just sort of happened.

And so there are a lot of advantages to the system of auctioning the fish and it brings a high value to fund research. So there are lots of positives, but sort of one of the negative sides is now you have basically a lot of quota that’s being landed outside of the current quota tracking system. And to Bill Karp’s point about the data review meeting last week, one of the big issues that came up was when you’re doing stock assessments, is there any fudge factor or any calibration of the data, if you will, to take into account unreported catch? And in fact at the assessment level that is not—there is no correction made to the data. Paul Rago always says, “Oh, catch is measured without error,” kind of jokingly, when we know that there’s unreported catch. And so one of the issues I raised at the meeting was, well, we do have buffer between OFL and ABC. So we know that there are errors in the assessment and there’s variability about the estimates that go into an assessment, so maybe that takes care of it. Rick Methot’s response was no, that takes into account precision but not bias, so systematic—I’m not sure that’s totally correct, but in any event that was his response.

But certainly one of the issues is—in failings of assessments is are we getting an accurate accounting of the assessment, of the catch that’s going into the assessment? So are there landings that are flying under the radar, illegal, underreported landings? One of the sources of that potentially is this RSA program, and certainly this was a big issue when we looked at the various ways that maybe we can improve things.

So you’ve also got this—I send around this letter that we sent, the culmination of that review last year in September to Mr. Bullard, and we had a number of things that we thought would improve tracking of the RSA quota. And the Regional Office responded in

the response letter from Mr. Bullard that they agreed pretty much with most of our recommendations. However, on recommendation four on the second page of our letter we said, "Require commercial dealers who purchase RSA quota to report those RSA amounts separately from other commercial landing purchases," and that this we thought would improve the verification accounting of the RSA amounts. And in the response letter it was—as I said, they—all the other things that are—I'm not gonna go through them. We're running out of time here. But the call-in requirement, the serial number from the VTR—all those sorts of things they agreed with, but they felt that they were not gonna adopt the recommendation. So it's under part D under Mr. Bullard's letter. That number is 4-D—basically that it was too much of a burden to require that sort of accounting between the dealer and the—to keep those things separate.

And so the only reason I raise this is I think this enforcement action in New York underscores the problem, you know, the nature of the problem. And we'd like to generate some more discussion at the Committee level and talk to the folks at NMFS and see are we doing everything we can to track the RSA quotas? Is there something we missed? And I would go so far as to say given the amount of negative comments that I've received from the fishing public, directly of people calling me saying, "You guys have got to do something," and certainly all the members of the Council have heard this. That's why it was an issue that came to the fore under the RSA Committee, that the inability to track this quota is a real cause for concern just generally in the sense of fairness. And if we were to design an ITQ program, the first thing that we would have to do is document that this was accountable, that people were gonna be held accountable, there was a way to track the landings. And so it's just—you know, it's fair. There's a sense of fairness. And it's certainly a problem in that any unaccounted for cash undermines our stock assessments, so it goes beyond just the issue of fairness.

So it is a very important issue, and I just wanted to raise the issue again and kind of reach out to the regional office here and say, "Are we doing everything we can? Do we need to amend the RSA, amend the plan that identifies how this thing operates so that we are getting pretty much bulletproof accounting of the catches? Because right now it's just—it's not controllable. And there's a serious—we've got a serious image problem, and we know we have a problem. We've got enforcement actions, hundreds of thousands—this is maybe just the tip of the iceberg. And so I think it's something to raise. It's still at the level that we need to find

other ways to track this. So I just wanted to put it on the table for the Committee to chew on a little bit and see what the regional office's response would be to—do we need to redesign the system to track this?

Steve Heins:

All right. First I have Pete and then I have Lauren.

Pete Himchak:

Okay. Thank you, Mr. Chairman. Yeah, we had—I think it was last year's RSA meeting in New York City where we were given an inkling by enforcement that there were some serious investigations being conducted. And I guess this is the culmination or this is one of the results of the enforcement activity that had been building. And quite honestly it confirms New Jersey's worst fears. And as the only state that I'm aware of that has voted against the RSA over the last three years—and here I'm speaking out of the other side of my mouth because I just espoused all the virtues of NEAMAP and, you know, do everything possible to keep it going. We most likely will vote against the RSA as a state, at least on the Commission level. And I'm wondering if other states are going to—I mean, some states have been vocal at these joint meetings—the October meeting that's coming up—as RSA has gone up into more northern states beyond New York. Is it—and I'm counting the number of states on the ASMFC's summer flounder, scup, and black sea bass board. What would happen if the states didn't—do we vote separately on the RSA at the Commission level? Yeah, I believe we do. Yes. So what happens if the Mid-Atlantic Council still has the majority vote to continue the program and the states, such as New Jersey and maybe some others, gain the votes to vote against it? Boy, that's gonna throw this whole thing into a mess.

But I'll be very honest with you. We took the stand—I think it was three years ago—and we recognized then that we just did not have the resources to track another fleet of vessels. So that was the reason for our voting against NEAMAP back then. I think our position is even reaffirmed now. So I don't know how other states are going to view this. New York and New Jersey have borne the brunt I think of research set-aside vessels operating in their states. But I know as Massachusetts and Rhode Island have had experiences within recent years, I'm wondering how they're gonna view underreporting such as this. And I think, yeah, the outcry from the recreational sector is gonna be huge in my state easily. So if any other states have any kind of a reaction up to this point, you may start—you may get some calls here before the joint meeting in October when we actually vote on this.

Steve Heins: All right, thanks, Pete. Laurie?

Laurie Nolan: Thank you. What if rather than focusing on the tracking and the keeping track and all we start thinking about a penalty for those who actually did get caught doing something like that? In an ITQ fishery if you cheat, you lose your permit and you don't get to go fishing anymore. And I'm not saying that I want to make rules like this, but knowing the importance of the RSA and the fact that monitoring this program is very difficult—and someone just got away with landing more fish than they were supposed to—what if we focus on a penalty to those who were to do something like that? Can we do it that way?

Steve Heins: All right, well, I can tell you that on the state level, that we do pull permits and not issue them again. But what I'm talking about is just the research set-aside permit. We may need to consider something more serious than that. But, George, did you have something, or Ryan?

Ryan Silva: Yeah, I just had a couple of points, and just specific to that, we also, you know, vessels with sanction histories, make sure that we're comfortable with them participating in a compensation fishing activity. Obviously if we don't have any issue on record we go ahead and issue permits, but we have the discretion to void an experimental fishing permit as of the violation. So we do do that.

I just wanted to step back a little bit and before we get down the road of what else can we do, I just think we need to be mindful of the things that the Council requests, the things that we're in the process of implementing. We're in that process. We haven't implemented any of the measures because of—we've actually—we're taking a very broad view of what we're doing to monitor RSA compensation fishing activities as well as experimental fishing activities. We've been working a lot with our information teams, data support staff, and a lot of what we're gonna be doing is in line with how we monitor the general category IFQ fishery. It's gonna be in my opinion relatively robust, at least as it relates to other monitoring programs. So we expect those measures to be in effect for the start of the 2014 program, and that's coming up soon but I think we're gonna have that in place so there will be the pre-land call where they tell us when, where, and how much they're gonna be landing. We're gonna be correlating that information with other data sources more readily through dealer systems and other reporting mechanisms like the VTR.

But there are some aspects that are gonna continue to be challenging, and particularly vessels that don't have federal fishing permits. We have limited discretion over what we can require of those vessels, and also charter party vessels where we don't have third party sorts of information to crosscheck a landings report. So it's not gonna be—there's limitations there that we're gonna try to work with, but it's not always as cut and dry as we'd like. So I just wanted to—the basic point being that let's see how things go with all of these recommendations that we're gonna be implementing before we start adding onto them.

Steve Heins: All right, Ryan—we're having a little side bar here. I think what I would like to do is request that the Regional Office work with our Council staff to report back to the Committee in October on what you have implemented based on those recommendations that we made. Is that—

Ryan Silva: Yeah, and just also one thing I had put out there, that we intend on producing some type of annual report for the Council so you know—you know, that would provide—we would obviously provide an update through that, and also other things that we feel like and you feel like are important.

Steve Heins: All right. Thanks, Ryan. Any other comments on the enforcement? Chris?

Chris Zeman: Yeah, I think it'd be important to find out exactly what this person did to remain undetected of these violations for three years. Do we know that? Is that public information? Like what was the gap or what was the—

Steve Heins: I believe that this case is fairly large and that there's still an ongoing investigation, that there will be additional charges. Often in any kind of an investigation you charge somebody in an attempt to pry other information loose. So I suspect that we'll see more coming from this, and then at some point we'll be able to get at some of the details, but I don't think that that's available to us right now.

All right, is there any other business to come before the Committee? Mr. Fletcher?

James Fletcher: Perhaps to get at the crux of the matter the Committee should look at how we came about giving the method of collecting money we currently have and whether there are alternative methods of collecting the money. Part of the problem that you have is the way

that you collect the money. Why not have an open and fair competition asking or addressing the way the research set-aside money is collected? I've sat at this Council for the last ten years and opposed research set-aside, but I swear I never saw it openly advertised of a request of how to collect the research set-aside funds. And if anybody at this Committee can tell me that it was an open and fair advertisement, I wish they would contact me and tell me how and where I can find the record. But you need to look at the way you're collecting the funds to start off with. Thank you.

Steve Heins: Thanks. I have one more hand. Emerson Hasbrouk?

Emerson Hasbrouk: Emerson Hasbrouk, Cornell Marine Program. I'd just like to take this opportunity to recognize and thank some people. As I said before, I've been involved with RSA projects for many years. I've been awarded four Mid-Atlantic RSA projects, one monkfish RSA project, and I'd like to thank Cheryl Corbett and Kelly Toranto and Ryan Silva, all with National Marine Fishery Service, in terms of the assistance they've given us over the years with the administrative process, with permits and so forth. I would just like to publicly acknowledge their helpfulness.

Also I think that GSSA, Greg DiDomenico—or actually no, it's the NFI—they're not doing it under GSSA—NFI, sorry. Greg DiDomenico and Eleanor Bochenek I think do an excellent job running the auction and generating the funds that need to be generated through this process.

And then also, Steve, I'd like to thank you and the state of New York in terms of what you guys have done over the years to enable fishermen in New York to harvest to RSA. So I don't know if I'm gonna have the opportunity to participate in the future, so I'll take this opportunity now to thank everybody. It looks like I'm locked out of the clothes shop.

Steve Heins: Thank you, Emerson. Is there anything else to come before the RSA Committee? If not, we stand adjourned.

Rick Robins: Thank you, Steve. And let's come back in ten minutes and begin the Ecosystem Committee. That'll be together with the advisors, and the advisors would be welcome to sit at the table with the Committee. Thank you.

[End of Audio]

**Ecosystems & Ocean Planning Committee with Advisors
August 13, 2013
Double Tree by Hilton Wilmington
Wilmington, DE**

Warren Elliott: I'd like to get the meeting to order, please. Good afternoon, everyone. I'm Warren Elliott, chair of the Ecosystems and Ocean Planning Committee, and I'd like to call that Committee meeting to order.

As Chairman Robins said, this is a rather interesting meeting. We do have several APs here, and I would like to welcome any of those members to please come up and sit around this table and not back in the audience. With that said, we have one item of business, and that's Amendment 16, the Squid, Mackerel, and Butterfish FMP for the protection of deep sea corals.

Kiley is going to begin the day by giving us an update of why we're looking at this issue, how we got here, and the work that's been done so far, and then we'll begin with the discussion and public comment of the committee meeting. So Kiley, I'm going to turn it over to you.

I did. Yes. I would like to go around the table. Thank you, Kiley. Just since we have some new folks here, and different groups, why don't we start with the ever-shy Greg DiDomenico?

Greg DiDomenico: Thank you for the introduction, Warren. That's quite a moniker you just gave me. Greg DiDomenico, Garden State Seafood Association.

Jeff Kaelin: Jeff Kaelin, Lund's fisheries, AP member today, Council member tomorrow.

Sam Martin: Sam Martin, Atlantic Capes Fisheries.

Lars Axelsson: Lars Axelsson, advisor, squid, mackerel, butterfish, specifically the two vessels, Flicka and the Dyrsten.

Mike Luisi: Mike Luisi, Maryland Department of Natural Resources.

Jeff Deem: Jeff Deem, Council member from Virginia.

Peter Himchak: Peter Himchak, Council member from New Jersey, not on this specific Committee.

Steve Linhard: Steve Linhard, Council member from Maryland.

Stewart Michels: Stew Michels, Delaware Fish and Wildlife, not on this Committee.

Rob O'Reilly: Rob O'Reilly, Council member from Virginia, on the Committee.

Chris Moore: Chris Moore, Executive Director.

Richard Robins: Rick Robins, Council chair.

Kiley Dancy: Kiley Dancy, Council staff.

Warren Elliott: Again, Warren Elliott.

Lou Chiarella: Lou Chiarella, Regional Office, Habitat Conservation Division.

John Bullard: John Bullard, Regional Administrator.

Lee Anderson: Lee Anderson, Council Vice-chair and member from Delaware, and welcome to Delaware.

George Darcy: George Darcy, NOAA Fishery Service.

Steve Heins: Steve Heins, New York, and Council member, but not on the committee.

Carl LoBue: Carl LoBue, the Nature Conservancy. I'm on the Ecosystems AP.

Laurie Nolan: Laurie Nolan, Council member, on the Committee.

Fred Akers: I'm Fred Akers from New Jersey on the Ecosystems AP.

Pam Lyons Gromen: I'm Pam Lyons Gromen with Wild Oceans, and also on the Ecosystems/Ocean Planning AP.

Kristen Cevoli: Kristen Cevoli on the squid, mackerel, butterfish AP.

Chris Zeman: Chris Zeman, New Jersey Council member, also Committee member.

Brad Sewell: Brad Sewell with Natural Resources Defense Council, and advisor for Ecosystem/Ocean Planning.

John McMurray: John McMurray, Council member from New York, and I'm on the Committee as well.

Kevin Saunders: Kevin Saunders, Coast Guard for the District.

Tony DiLernia: Tony DiLernia, Committee member and Council member from New York.

Emerson Hasbrouck: Emerson Hasbrouck, Cornell Marine Program, squid, mackerel, butterfish AP member.

Warren Elliott: Good. Welcome, all of you, and thank you for attending this meeting. And now I'll turn it over to Kiley.

Kiley Dancy: Thank you, Warren. So as Warren mentioned, we're here to talk about Amendment 16 to the Squid, Mackerel, Butterfish FMP Protections for Deep Sea Corals. The objectives of today's meeting, I'm going to give you a brief update on what's been happening since we last met about deep sea corals. And then the main substance and purpose of this meeting today is to review the Range of Alternatives Document, and the main question is whether this is a reasonable range of alternatives for a public hearing and analysis.

And this isn't a meeting where we need to make decisions about preferred alternatives. At this stage, we need to ensure that the Council is considering a sufficient range, and there will be many opportunities later on in the process to make comments about the merits of certain alternatives versus others. But – so after the Council approves a range of alternatives, there may be some modifications made to the alternatives if they're within the general range of what's decided on by the Council.

So for example, we have a broad zone depth contour range between 200 and 500 meters. The Fishery Management Action Team or the FMAT that's working on development of the alternatives may determine that there's some more appropriate depth contour in between that range, so some of these might be modified a little bit. But – so that's the main purpose of the meeting today.

In terms of what's been happening with Amendment 16, recall that in January of this year, the FMAT, the Fishery Management Action Team, met to draft a set of alternatives, which was then reviews by the Ecosystems Committee at the February meeting. And at the time, the scoping process for Amendment 16 was still ongoing, so the Committee did not make any decisions about the range of alternatives as presented in February. The document with the draft set of alternatives in February is very similar to the one

that you're looking at today, but the Range of Alternatives Document today, which all of you should have a copy of it, but there are extras in the back if you don't have done, it's largely the same set of alternatives with a few additions and some modifications.

So we did have a scoping process in February, and I'm going to briefly cover some of the major themes of the scoping comments that we received. But the full set of comments is summarized in the document in the briefing book behind Tab 2. In the interest of time, I'm just going to highlight some of the very broad themes, but I'd encourage you to take a look at that document if you haven't, because there are quite a few detailed comments in there, and some really good input into the range of alternatives.

So we received – in addition to the two scoping hearings, we had one via webinar and one at the February Council meeting. We had several – we had a lot of written comments submitted. We had seven individuals submit written comments. We received 316 form letters, two letters from individual NGOs, and one from a group of quite a few NGOs.

So some of the broad themes, generally, the commenters expressed strong support for the Council taking action to protect deep sea corals, and highlighted the vulnerability of deep sea coral ecosystems. Additionally, the majority expressed that the Council should rely heavily on the significant technical work that had already been completed by the New England Council's Habitat Plan Development Team in the course of developing their Deep Sea Coral Alternatives.

And recall that the New England Habitat Plan Development Team had initially developed a range of alternatives for the entire Northeast Region, including the Mid-Atlantic Council Region. So this work is being relied on by the FMAT for alternatives development, and updated as new research becomes available.

So most of the commenters felt that bottom trawling should be prohibited in areas of known or likely deep sea coral presence, and that a freeze the footprint approach should be used elsewhere as a precautionary approach. So the freeze the footprint approach is outlined in the NOAA Strategic Plan for Deep Sea Corals, and there's a section explaining this approach and an excerpt from that document that can be found in the Alternatives Document on page 9.

So as a result of the February Council meeting, there was a lot of discussion about the need to refine some of the spatial alternatives that had been proposed for deep sea coral management areas. And to take a closer look at some of the boundary issues, the Council held a workshop in April in Baltimore, bringing together these two advisory panels that are sitting at the table today, the Ecosystems and Ocean Planning Advisory Panel and the Squid, Mackerel, Butterfish Advisory Panel, as well as some deep sea coral scientists and additional management partners and other participants. Many people in the room right now were at that workshop.

The purpose of the workshop was to use an interactive mapping exercise to refine the boundaries that – of the deep sea coral management areas by looking at areas where deep sea corals are known to occur relative to areas of important fishing effort, and then to get a sense of the tradeoffs between protection of corals and fishing opportunity.

So the Council's never had a workshop in this format before. It was a bit experimental. What we came away with was really a great exchange of knowledge about deep sea coral distribution in habitats, as well as how people are actually fishing in some of these areas in question. So we ended up with some rough maps of fishing effort, some areas that were drawn on the fly of acceptable coral management boundary areas, as well as some areas where corals have been recently discovered. But unfortunately, we really ran out of time before we could get a really refined set of options identified.

So several of the fishing industry participants at that meeting expressed their desire to share more information with the Council that they didn't have at their disposal during the workshop. So Council staff met with a small group, specifically with Hank Lackner and a few others in Montauk, in order to look at his chart plotter data, which he volunteered to share with Council staff to refine some of these areas that he drew on the fly at the workshop, just to make sure everything was correct the way he had it in his mind. So you'll see some of those alternatives reflected in the updated Alternatives Document.

So in addition to receiving some input from the industry participants after the workshop, we also recently received a letter contained in the briefing book behind Tab 2 from a few of the ecosystems advisors here today, as well as representatives from several other organizations, and the letter contains detailed

suggestions for additional alternatives or modified alternatives relative to those that were presented before the April workshop. So these alternatives, these suggestions, were discussed on the FMAT call, the most recent FMAT call, during the development of the most current Alternatives Document, and several were incorporated into that document, into the range for consideration.

So that brings us to today's meeting, where, again, our purpose is to review the range of alternatives and determine whether it's sufficient to go out to public hearings. So as I mentioned, some of these may be tweaked or modified after this meeting within the general range as the FMAT develops them further.

So we've also had a few suggestions about how we might modify the structure of the alternatives or think about changing the structure a little bit, so that could be modified slightly as well, if it makes more sense. So one of the reasons we're having the Council address and approve the range of alternatives, other than to go out to public hearings, is that there's a need to make a determination about what kind of analysis we're going to need to complete under the National Environmental Policy Act. So we'll either have to do an environmental assessment or an environmental impact statement, and after the range of alternatives is discussed this week, the FMAT will need to do some initial analysis of the likely impacts of the alternatives, and then we can get a little bit more guidance on what we'll need to do in terms of that analysis, since we're sort of on the fence at this point.

So that will impact the timeline for the amendment. If we need to do an EIS, it's going to be – the timeline is going to be quite extended from what we had initially planned. So that's why I don't really have the rest of the timeline laid out, because it's very dependent on that.

So I'm going to stop at this point, turn it back to Warren for a minute, so we can take questions on this process, make sure we're on the same page about what we're trying to accomplish today, before getting into the specifics of the alternatives.

Warren Elliott:

Questions on the process? Jeff?

Jeff Kaelin:

I just wonder, is there going to be a report from the workshop that we can read and see what the conclusions were? Is that planned?

Kiley Dancy:

I had started writing up a report, but then, you know, we got into the further discussions of just taking what had happened at the

workshop and developing it further. And so it's mostly just incorporated into the Alternatives Document.

Warren Elliott:

Greg? Is that strike three? Okay. Any other questions on process before we move to a discussion of the alternatives? Okay, Kiley.

Kiley Dancy:

All right. So just before I go over the range of alternatives, just a few things to keep in mind when we're looking at them. They are applicable only to the Mid-Atlantic Council Region. As you have probably seen, the memorandum of understanding was finalized between the Mid-Atlantic Council, the New England Council, and the South Atlantic Council, and the terms of the MOU specified that the Mid-Atlantic Council is responsible for deep sea coral management measures within the Mid-Atlantic Council Region only.

So they – the management measures, according to the use of the discretionary provisions that these alternatives are designed under, they would be applicable to all relevant federally managed fisheries, but they would not be applicable to fisheries that are managed solely by the Atlantic States Marine Fisheries Commission, such as lobster. And this issue has come up, that lobster traps within these zones would not be subject to any of these measures. So it's something to keep in mind.

And lastly, I wanted to note that there's been some concern about moving forward despite the rapidly changing state of best available coral science, given last year's and this year's research efforts, and that work is expected to continue at least into the next two years to explore mid-Atlantic areas for deep sea corals. And so to the best of our ability, the FMAT is incorporating this information into the development of alternatives, qualitatively mostly for now, until some of the data products become available.

But it's highly likely that there will be new areas very soon here that – where corals will be discovered, so the framework provision options contained in the Alternatives Document are one way that this could be addressed, for new information to be incorporated to protect new areas, if the Council wants to move forward now with protections for areas of currently known deep sea coral distribution. But it's just something to keep in mind as we discuss these alternatives, how the Council will want to address new research as it's continually coming out, from last year, this year, and the next two years.

Just a brief reminder of the discretionary provisions to – that's contained within the Magnuson-Stevens Act is the major management authority under which these alternatives are designed. We did get some – we received several scoping comments that encouraged the Council to examine using multiple authorities, specifically using this discretionary authority in combination with Essential Fish Habitat authority, but the FMAT felt that the discretionary authority was sufficiently flexible and straightforward to protect deep sea corals in the simplest way possible, so recommended moving forward using the discretionary provisions to designate deep sea coral zones, which are designed to prevent damage to corals from fishing gear or prevent damage to such gear from interactions with corals. And that's described in a little bit more detail on page 7 of the Alternatives Document, including the text from the Act itself.

So we have six general sets of alternatives that I think the way we had discussed going about this conversation was sort of I'll review generally the whole range of alternatives, and take clarifying questions as we go along, and then after I go through the whole range, we can have a discussion on the range of alternatives and whether it's sufficient, and whether anything doesn't fit with the purpose and need of the amendment, or whether there's anything we would really like to see add to the range.

So we have six general sets of alternatives. Designations for broad coral zones, and I'll explain these in more detail in a minute, but management measures to be applied within those broad zones, discrete coral zones, management measures to be applied within the discrete zones, some framework provisions, and a recently added alternative set for a VMS requirement for the Illex squid fishery.

So before going into the broad and discrete zone sets of alternatives, the basic idea, this has been discussed at several meetings, but as a reminder, the idea behind the broad and discrete coral zone framework is that the broad zones are intended to address this freeze the footprint approach, where it would be large areas that would exclude the majority of current fishing effort, intended to prevent expansion of effort into new areas and deeper areas.

And the discrete coral zones would encompass smaller areas and include protections for areas of known deep sea coral presence or likely deep sea coral presence, and these mostly include individual

canyons, and those – there's a few slope areas as well in between canyons.

And just to be clear, these are designed to be implemented sort of simultaneously, if the Council chooses. You don't have to pick one or the other. It's sort of – the freeze the footprint approach is a precautionary approach, and the discrete coral zones could be – could have different sets of management measures applied, and so they could be implemented simultaneously.

The alternatives for the broad coral zones are the same as what was contained in the February Alternatives Document, and that includes no action, designating a landward boundary at the 200 meter depth contour, and extending a broad zone all the way out to the edge of the EEZ, and then there are three more options for changing that landward boundary designation to 300 meters, 400 meters, and 500 meters. And this is just a quick picture of what this looks like. There's also a map in the alternatives document.

Management measures within the broad zones. Right now, these are the first three. There's a few more, but the first three are no action, prohibition on bottom tending gear, and a prohibition on mobile bottom tending gear. Alternative 2D is a requirement for a Council review step for approval within – with fishing within broad zones, and this is something that would need some further development, and there's a couple of different ways that this could possibly be done.

The FMAT discussed sort of going along the same lines as the New England Council had considered when approaching exemptions and special access programs and things like that, which was that they had split it into three categories, where you would have a special access program for certain fisheries to have basically special access permits, and then there would be an exploratory fishing access program, and then, finally, a research and experimental access program. And as I said, the details of this would – are sort of up in the air as to whether this would be more of an administrative step, where the Council would come up with some set of criteria for evaluating special access or permission, and then it could be possibly written into the regulations that the Council would approve it, and then the – if they meet the criteria, fishing would be allowed in certain areas.

Or it could be done sort of as a framework provision alternative, in which case it might not be appropriate in this set of management alternatives, but – so that's something that's sort of – the details are

to be determined, but that's one of the alternatives, is that the Council would review and approve access to certain areas.

Alternative 2E is an exemption for the red crab fishery from broad coral zone measures, and this was a result of the discussion at the workshop. The red crab fishery currently consists of two full-time vessels and one part-time vessel, fishing in a relatively narrow range of depth contours, and they're fishing with lines of traps, so they – so for – if the restrictions were included, all bottom tending gear then – that would apply to the red crab fishery, unless they were granted either special access or an exemption. So this was something that came out of the workshop as a discussion, based on the narrow range of depth that they're fishing in, and the fact that they're hauling traps straight up off the bottom. And reportedly, were having a minimal impact on the bottom.

And then Alternative 2F is requiring increased monitoring for vessels fishing in broad zones. This is something that came out of discussion at the FMAT following that letter we received, suggesting additional alternatives. And some of the suggestions were requiring observer coverage in the broad coral zones or a requirement for VMS for vessels fishing in the broad coral zones.

So does anybody have any clarifying questions at – up to this point?

Warren Elliott:

Yeah?

Jeff Kaelin:

Do we have observer data on corals? Is there any observer data that shows that there's coral bycatch on –

Kiley Dancy:

There's some. It's very – from my understating, it's very limited, and that's something that the FMAT will look at in the further analysis of the alternatives. But my understanding is that the observer data is very limited, because there's inconsistency in the way that it's recorded, or if it's recorded at all.

Jeff Kaelin:

Well, I raise the question because I know – I read the comments, too. And people are calling for more observer coverage, but if we don't have any data that demonstrates that there's coral in the existing observer data, you have to wonder whether that would be a wise use of scarce resources, so –

Warren Elliott:

Laurie?

Laurie Nolan: Thank you. Kiley, under your alternative set in the 2s here, you have 2E, which exempts the red crab fishery. So if you say prohibit all bottom tending gear as an alternative, unless you list specific gears that would be eliminated from that requirement, that means nobody's doing anything out there, really. I mean, there's no gill net – is a gill net considered bottom tending gear? A long line is considered a bottom tending gear? So basically, alternative 2B prohibits any fishing in any of these areas that might be chosen. I just want to clarify that.

Kiley Dancy: Yeah. That could be a likely scenario. I mean, for the purposes of this amendment, the bottom tending gear, mobile bottom tending gear, can be defined the way that the Council wants. These alternatives can be elaborated on such that that's made clear, what gear qualifies as bottom tending or mobile bottom tending, the way that I understand it. But yes, that's a possibility, that if bottom tending is defined more generally, then it could apply to all those fisheries.

Male: On the issue of observer coverage, my understanding, and the Regional Office can correct this if it's wrong, is that observers didn't regulate, track, or didn't track very well any bycatch of corals, and that's something, though, that they've revised the procedures and protocols for recently, so that going forward, observers would be better able to monitor bycatch of corals.

Male: I wasn't able to attend the prior AP meeting, so I apologize if the question I'm about to ask was resolved then, but in terms of these broad areas, was this something that came down from the New England Council in their process, or is this something that the FMAT came up with? And it's a two-part question. That's the first part.

Kiley Dancy: Yes, this is something that they – was a concept originally developed by the New England Habitat PDT, and that concept was adopted by the FMAT in the interest of consistency between New England and mid-Atlantic deep sea coral regions.

Male: So then there was some discussion about protecting these large areas that potentially may have some coral, but have not had any corals identified in them at the present time. Is that correct?

Kiley Dancy: Could you repeat the question?

Male: These broad areas, this is an effort to protect areas, or to potentially exclude some fishing activities from areas where the presence of

corals may perhaps be identified at some point in the future, but currently, there have been no corals identified in any of these broad zones. Am I understanding that correctly?

Kiley Dancy: No, there's actually – if you look at this picture, all these – these little dots on here are all coral records from the Deep Sea Coral Research and Technology Program database. The idea behind the broad zones was precautionary, but it wasn't precautionary in the sense that no corals have been reported there. It was precautionary in the sense that there's – currently, the intention of the areas is that there currently is no fishing effort or very little fishing effort happening in these areas. So in the event that – it's just primary to prevent expansion of fishing effort into deeper areas until possibly coral – areas of high deep sea coral presence in these deeper areas can be further defined or there can be areas determined to have low coral presence.

Male: So was there any discussion, and again, I apologize, because I missed that meeting, was there any discussion then about the – or do you expect to get this in the public comment process, the merits of potentially closing off large areas of the ocean to fishing, the advantages and disadvantages to that, or the merits of that relative to the fishing industry?

Kiley Dancy: Yeah, we – there's been a lot of discussion about that, and the – depending on the way these are designed and what depth contour you designated, these are really areas that are encompassing a very, very small percentage of current fishing effort. So I think that the New England Habitat PDT had had a – had done a preliminary analysis of the fishing effort in the broad zones, and it was something like beyond 300 meter depth, it was absolutely less than 1 percent of all the fishing effort that they were looking at.

So it's – the way that they were designed was intended to exclude the majority of fishing effort. But there are definitely still potential impacts for fisheries that occur in deeper waters.

Male: But it also doesn't take into account whatever may occur in the future in terms of fishing activity that may occur out in deeper water, based on availability of resources?

Kiley Dancy: Yeah. And that was the – sort of the intention of this alternative, 2D, for requiring Council review and approval, just to have some step built in so that there is an opportunity for some people to request access to these areas or meet a set of criteria to be allowed

access, or something like that. That's the purpose of this alternative.

Male: Thank you.

Warren Elliott: John Bullard?

John Bullard: I have a question on observer coverage, and it may be I'm just overly sensitive on this topic, but I want to – my question eventually, when I get to it, will be of Dr. Karp. But the areas in here a calling some of the alternatives for observer coverage, and observer coverage is like motherhood and apple pie. I mean, it's – how can you argue against it? I'm for observer coverage. It's good. Therefore, more observer coverage is better.

But observers cost money, and the government doesn't have money for additional observers. And so I find, having learned a lesson, I hope, that it's very important at the earliest possible time to alert the Council of our limitations to pay for observers, so that any rule that requires us to pay for something that we don't have money to pay for is not going to get allowed, and to point out that the cost of observers has two components. One, the cost that occurs at sea, and the other, the cost that occurs onshore, of training, analyzing data.

And so any requirement imposed on the government to pay for either the at sea or onshore costs of observers where we don't have the money to pay for that, no matter how much we want to do it, if we don't have the funds, we can't do it. And so I just – probably this won't be the last time I say that, or that Dr. Karp says that, but I just want to say it early on.

The question I have, though, in corals, is how – and it's of Dr. Karp – is that how effective are observers at understanding coral bycatch in different gear? I mean, is this an effective use of observer dollars? Do different kinds of nets tend to bring up corals? I'm sure they do at some point, but do you get good information from observers on the kind of damage different kinds of gear have on corals? Easier asked, I'm sure, than answered, and I apologize in advance for that.

Bill Karp: Mr. Chairman, if I may, it's a good question, and it's – and it's an important one. Obviously, as John points out, different kinds of gear retain coral in different ways. And so the ability of whomever is assessing the catch to determine whether damage has been done

to a coral during that fishing event is really constrained, particularly for certain kinds of gear.

So I would say that it's limited at best. So it seems like there's really sort of two issues that you're struggling with with regards to monitoring. One is whether a fishing operation is taking place in a place where you don't want it to take place because of concerns about the presence of coral. That doesn't require an observer. It requires some mechanism for tracking, such as VMS, number one. Number two, is there some coral being retained and brought on board, which might require an observer, but again, the ability of any kind of monitoring system to accurately ascertain the degree of damage or to in a consistent way evaluate what is taken, what coral is caught, is probably really in question.

And maybe I'll follow up a little bit on just the broader observer coverage issue, which is it's a zero sum game, or perhaps with declining federal budgets, a less than zero sum game. And so what we're hoping to do ultimately, of course, is work both with the Mid-Atlantic Council and the New England Council on a fixed budget for observers, period, and some mechanism for prioritizing observer needs across the different FMPs, which is very difficult to do when we're dealing with specific issues one at a time. That's a much larger problem, but it's certainly a part of what needs to be taken into account here.

Warren Elliott:

Sam?

Sam Martin:

Yeah, I have a question on a clarification in this broad zones and what fishing activity can take place. We're identifying bottom tending gear or mobile bottom tending gear, and if we propose these zones or whatever contour we do, are we identifying all fishing activity, or are we identifying – are we automatically excluding technology that we know doesn't touch the bottom or will not affect the coral? Or are we going to have to ask permission on all fishing activity?

Kiley Dancy:

Yeah. That is actually something Rick wanted me to point out, that within the current range of alternatives here for fishing restrictions, prohibiting bottom tending and mobile bottom tending gear, really, the idea is just to have those restrictions, and then access to those broad zones for other fisheries would not be restricted. But the Council review step for approval for fishing within these zones would really be to – intended to get around these – sorry, I'm not explaining this very clearly, but the – yeah, the idea is that within the current range of management measures

in the broad zones, other gear types that does not touch the bottom would not be restricted.

Sam Martin:

Okay. I mean, that – yeah, that clarifies that, but how would you identify – I guess it would just be an enforcement issue of you have a trawler that trawls the bottom, and looking from the surface, hey, we're mid-water trawling, and it looks like we're doing the exact same thing. So that could be a potential problem, if not exempted with certain type of gear, something like that. You know, specifically.

Kiley Dancy:

Yeah. I think we have some questions about enforcement for a lot of these alternatives, but right now, they're included in the range, and that's definitely something we'll have to have further discussions about.

Warren Elliott:

Kevin?

Kevin Saunders:

Thank you. I'll just take a little bit of time to respond to that real quick, if I may. I kind of have a motto, don't do more than one complicated thing at a time. So in the case of this, we're asking our boarding officers to go out and enforce – some of these areas that we're talking about, they're not really straight line boxes or anything, and to be able to distinguish one vessel from another, especially when they're not transmitting on VMS, is very difficult, and we actually have to conduct a boarding.

Case in point, last week, we did a boarding of the Hannah Bowden, known long line fishing vessel. We were doing a long line op. We got on board, and we found out they were fishing for red crab, kind of outside the scope of what we were looking for. But it took to the point where we got on board, because we thought we might have had a VMS violation.

So the vessels we're talking about, red crab and some of the other vessels that might be even trawling mobile gear, if they're not on VMS, you're asking us to do two things that are complicated in this case, identify the vessels, sometimes at 20 miles away, to target appropriately, and then if you're not excluding everybody from an exclusion zone, make sure those vessels that are outside – that are supposed to be outside remain outside, and the ones that are inside are legit. So I recommend if you're going to allow vessels to fish inside on a limited basis, for instance, red crab, that we really try to get some provisions set up, which might be outside the scope of this Council, to ensure that they have VMS on, just to make it easier on enforcement. Because we can't really do two things

effectively and have resources to enforce other things as well.
Thank you.

Warren Elliott: Laurie?

Laurie Nolan: Thank you. Kiley, you said earlier that the broad zones are kind of keying off of the work that New England did, and less than one percent – there'll be a less than one percent effect if say perhaps the 300 meter line is chosen as the landward line. Is that an analysis that includes the fishing that goes on in the Mid or – and the species that the Mid fishes for, or was that just keying off of New England's activities? And, I mean, we have 200 fathoms – 200 meters in here as the alternative for the landward line, which is 100 fathoms. And to think that in the Mid there's not a tremendous amount of fishing effort that occurs in 100 fathoms, we're way off, I think, if that's an assumption we're making based on New England's broad zone approach.

Kiley Dancy: Yeah. I believe that analysis was done for the entire Northeast Region, looking at a wide variety of species. I know that it included squid and several other mid-Atlantic species. I would have to look more at the specifics of that work to see what exactly was included, but I know it included VTR analysis, VMS, and observer data, and separated each of those by category, and each category had less than one percent of records.

And it's not perfect data, but it's what we have had available. So I would have to look at that to sort of see the details of that.

Warren Elliott: Greg?

Greg DiDomenico: I just want to respond to the previous discussion between Sam and Lieutenant Commander Saunders, and what Laurie just brought up with Kiley. When we were discussing this issue of using VTRs and using VMS data as a metric or a reflection of fishing data, the working group was I think pretty clear in the understanding that that one percent statement was really not representative of what's going on in the mid-Atlantic. If you sat down with the fishermen in Montauk and in New York, you saw where the majority of the fishery occurs, and those areas are a lot more important than one percent, so we've got to keep that depth issue in mind, and queuing off that one percent issue, I don't think we need to read too much into being casual or being comfortable that that's not an impact. It's a huge impact, the broad zones, unless, of course, you chose the 500 meter boundary or something way out there.

Secondly, I also wanted to speak to the issue of the enforcement part. Off the top of my head, the two fisheries that would be confused with bottom trawling and mid-water trawling would be the herring fishery and the mackerel fishery, both of which require 48 to 72 hour call-ins. So with the limited number of people participating in that fishery, I would think that would aid enforcement. If you did a flyover, you'd know those people called in. You know they were mid-water trawling, and you'd know what fishery they had called in. So I would think that would be a huge benefit to the enforcement of the gear issue. Thank you.

Warren Elliott:

Laurie?

Laurie Nolan:

Sorry. I just have to go back to this, because knowing that the VTR data is the data source you're keying off of to determine where fisheries are taking place, in the Mid, for example, there's a tilefish fishery, and the VTR data is only used – the only information that's used on that is the landings and the days absent from sea. And we don't even enter, in the fathom box, we don't even enter a fathom number, because we're not required to. You get a statistical area, but within the statistical area, you've got a great range of fathom options to fish in. So it's a little scary – I mean, I know you – my understanding was the one percent reflected the 300 meters. So I'm curious to know the effects of 200 meters, which, again, is 109 fathoms.

And the Mid is fishing 109 fathoms, no matter what species is being put on the dock, whether it's commercial or recreational. Everyone is participating in 100 fathoms.

Warren Elliott:

Brad?

Brad Sewell:

NRDC was one of the groups that signed onto the letter that was included in your packet, and one of the things that we requested was an alternative or at least an analysis of exactly this issue, where let's say 95 percent of fishing, bottom tending mobile gear activity is. And it's my understanding that some receptivity on the part of the staff to try to at least do that analysis, so that ultimately it won't be an arbitrary non-database decision as to what depth line, but it'll be based on some understanding of where the fishing activity is in the mid-Atlantic, and that that's something that will hopefully occur moving forward, and it's certainly something that we're supportive of.

I also wanted to say, as someone who participated in the New England process and sat in on countless Habitat Committee

meetings in which the Habitat Committee members themselves discussed the broad zone and their interest in doing it, it came out of an interest in taking an area that wasn't bottom trawled yet and looking forward and maybe – and trying to do it right, and trying to design a program that wouldn't – I mean, remember, one of the alternatives is to have a – is to have some sort of approval or permit program, not – it's not – we're not necessarily talking about prohibiting outright at the outset the use of bottom tending mobile gear.

I think the alternative, the management alternative that's discussed the most in the context of the broad zone, is some sort of special access program or experimental fishery, where we can manage an expansion of bottom tending mobile gear into new areas in a way that monitors impacts and can do adaptive management and react to the discovery of corals in expedient fashion, so to do it differently than perhaps has been done previously.

Warren Elliott:

Rick?

Richard Robins:

Thank you, Mr. Chairman. I had one question for Kiley, and it relates back to these options for broad coral zone alternatives. And obviously, there are going to be tradeoffs between whatever option is ultimately selected. There are obviously more impacts associated with the shallower landward boundaries. If you go into 200 meters, that's 100 fathoms, that's going to have, I would think, significant impacts relative to our – some of our trawl fisheries. And by the same token, if you go out to 500 meters, you'd probably have relatively minimal impacts, but you'd have potentially more zones where corals are present in those interim depths.

So Kiley, as we go through this, I mean, can we look forward to a detailed analysis that comes out of the FMAT that looks at those different tradeoffs? That is, the impacts – the fisheries' impacts, and also, the presence of corals, as you go through those various depths? Is that something that we would have? And if it is, I would suggest that the question for the Committee today is not what's the right depth contour for that landward boundary. It's is this the appropriate range of depth boundaries for consideration in the Amendment? I mean, I think that's what we're trying to get through today, is just is the scope of the alternatives adequate, or do we need to add or otherwise modify any of the alternatives in the document?

Kiley Dancy: Yeah. Thank you. I would say that that's absolutely the next step, following the meetings this week, to have the FMAT start to look at some more in depth analysis of all these alternatives, especially including where the fishing effort is occurring, and sort of, to Laurie's concerns, looking at specific to the mid-Atlantic, and in a more – using the best information that we have available, looking at where the fishing effort occurs.

I've just taken a quick look at where the coral records overlap with the broad zones. The majority of them are occurring within that 500 meter broad zone, and then as you move – as you move up from 500 to 400 meters, I think it encompasses something like 25 more records in the mid-Atlantic, and then you move up to the 300 meter contour, it encompasses maybe 50 more. So it seems like a relatively small number, but you have to keep in mind that there's – the coral records are not a census of all these areas, and so you should interpret it cautiously, because there's a lot of unsurveyed areas within these depth contour boundaries for corals. But that's – yeah, that's definitely something we'll be looking at further.

Warren Elliott: Lars?

Lars Axelsson: You guys may or may not know me. Lars Axelsson, fishing vessel Flicka and Dyrsten. Our bread and butter is between 100 fathom out to about 175. Periodically, we dip to maybe 200 fathoms. We had a meeting just a few days ago in Cape May, and Warren and Kiley were both there. Our fear for our industry – we're about 12 boats that do this on a religious basis, year in and year out, okay? And I'm going to try to paint a word picture that can – that I would wish that you people would use, then, to provide the proper language for alternatives.

If you do the broad stroke, which will happen, the easiest thing for enforcement is draw a straight line, stay out. I am completely out of business. Two \$10 million boats, done, over with, end of story. You cannot catch Illex squid. You can dip away a little bit in the beginning of the season, between 80 and 100 fathoms, but traditionally, they live between 100 and 150. We dip to 200 periodically.

That being said, enough said. So the word picture is this. The Marine Mammal Protection Act, it's a law. It's a broad law. And in essence, we as fishermen are not allowed to take a single one. Correct me if I'm wrong. But we who fish in the ocean will have interaction periodically. Therefore, we were included in the law so

as not to be totally shut down from the Atlantic Ocean, from the beach, one foot on out to 1,000 fathoms.

So somehow or another, I would wish that you guys would include some kind of language, whether it's in an alternative type thing, or in a framework type measure, to look at it. We have touted at several meetings that we have a book, or it can be in our computer. We've got 35,000 coordinates that we have shared with fishermen for the past 25 years. We refer to it as hard bottom, bad bottom, so on.

The coral are already being protected by that book of snags, as we call it, bad bottom. There are areas on the edge that we will not go near. I've already explained to Kiley and Warren that are nets are so tender, so light in construction, we have designed our nets to specifically go after squid. We dance so lightly to the bottom that we are virtually mid-water trawling. Okay?

That being said, these – between the kind of net we're using and the coordinates on our plotters, we don't go near those areas, because we will suffer great damage. A for instance. A net costs from \$50,000.00 – on my boat, from \$50,000.00 to \$100,000.00. Okay? It's a big net. You do not do minor damage to a big net. When you do damage, it's – you have to put it on the lot, and it takes a week or more of a net loft to repair. Okay?

We have equipment on our nets that rival research vessel electronics. We have electronics on board that can tell us what kind of bottom we're over, and we coordinate that with our plotters. So we have what's called a standard operating procedure when we work the edge. The heads of canyons, for instance, are so steep that even if we go off the edge and try to get back on the edge, we're done. Our nets are smithereens, \$50,000.00 to \$100,000.00 damage. Okay?

So I'm asking you then to look at this, even though you're painting a broad picture, that you have to include the way we operate, much like you've already explained about the red crabbers. They have a very small footprint, but yet our footprint has been going on since the mid-eighties in this area. A hundred percent of our summer season's work is done in this area. You draw a broad stroke, all mobile tending gear out, then you have committed to putting an industry out of business. Is that the desire of this Council? I hope not. Okay?

Therefore, you have to come up with some creative language to include us, the way we operate on that edge. It's already being protected by what we're doing. But how do you put that in verbiage in these alternatives? That is my request. I've made the word picture of an airport. Our tows along the edge are as narrow as an airport. Most of you people fly in, fly out. You know that most airplanes cannot go over the airport and just drop on the runway. They have to start out here and come in on a four degree angle and land on that runway, and then take off again.

In essence, that's exactly what we do with our nets. We fly our nets to that airport and land it on that airport, because that's the only clear area where we know our nets won't be done damage to.

So if you draw a line, discrete – I think the word was discrete, that means keep out totally, don't go near it, because we know there's coral there. That's my understanding. Correct me if I'm wrong. Then you're going to draw a line. I have my VMS, because all Illex boats are required to have VMS. Then Mr. Coast Guard is going to say, "Eh, you just crossed the line." Red lights are going to ring up at NMFS and headquarters, and they're going to go over and say, "Hey, you'd better board the Flicka because he's in the box. Nail him, because he's breaking the law."

And yet all I'm doing is I'm setting up my approach, just like the airplanes do, out here, more than a mile away, to fly my net, and I know the net needs to land on 100 fathoms, so I'm flying over coral on the way to land on this bottom. Okay? That's what I do. That's what I've done for 35 years. I don't do damage to coral. I did make this comment to Warren and Kiley, and I'll make it again, because I went to the Baltimore workshop, and they showed a picture of this big, beautiful, reddish looking tree that was taller than a man that they were displaying.

And it was coral, and it was – and I looked at it. I says, "Huh. There is more coral in that picture than I have seen my entire life." Matter of fact, I may have seen coral, but if it was, it was a little strand maybe this tall, and I says, "What is that?" "Oh, that's like sea grass. Must have grown on a rock." "Ooh, a rock. I got to stay away from rocks." Because my nets, when I dance on the bottom, if I hit a rock that's any – the size of this table, it's blown apart. It will not handle that kind of a thing.

So we've discussed little kinds of – not little kinds, but certain gear types that can go only on sand bottom, where it's what we refer to as clean bottom, but it cannot go on rocks and boulders and not

sustain damage. I don't go there. I can't afford to go there. So my request of you people to leave room for us to continue to operate or make the decision here and now to end the Illex fishery, because we will be without a doubt, if you want to go to – referring to meters, we will fish anywhere shallow of 350 meters.

Do we go out to 400 meters at times, or 1,000 meters? Sure we do. We have to fly our net to the bottom. Okay? There are so many imaginary boxes out there now that we are violating one border or another at any given time. Not – we're not fishing, but our actual vessel is violating those different boards. You have the scup GRA. You now will have coral zones. And you have now boxed us into a little spot like this, and we can't get in.

And yet the broad stroke says stay out, because it's been mandated to do so. When that picture on that research vessel showed up to me, I posed the question down there. "Oh, we had a snafu and our wire to our ROV unit got hung up on the bottom, and it got snagged on it, and we brought it up on deck." Eh. What happened? The research vessel just did more damage than I've done in my career of fishing.

So do you guys shudder every time a 747 flies over you to land at an airport? Do you think the coral will shudder if I fly over it 200 fathoms above and land in an area where there aren't any? I'm going to leave it with that. Thank you.

Warren Elliott: Thank you for those comments, Lars. What we – Pam, did – I was going to have one more comment. You haven't said anything. Do you have a comment?

Pam Lyons Gromen: No, I just want to reiterate what Brad I believe said earlier, and you look at – there's a special access program under the broad coral zones as a potential measure, and I think that's exactly what that kind of program is intended to do, is to allow access to the coral zones. But it just requires a different level of Council scrutiny. What you're describing just isn't described in the FMP anywhere, the way you fish, those are all things that I think are important for the Council to consider when they decide to allow access.

And anyway, I think that that's included. I don't think anyone wants to just say, "There's no fishing ever." I think the special access program is the means to allow access that doesn't compromise the corals and what the Council's trying to achieve.

Warren Elliott: Okay. Well, Lars, if we might, I mean, because you did mention discrete zones, why don't we move on in the presentation and move to discrete and hear – let's have a discussion of those. Then we'll go back and look at the alternative sets for each of them.

Kiley Dancy: Okay. So the discrete zones, as I mentioned, are intended to be smaller areas of known or likely deep sea coral presence. We have alternatives for designation of deep sea coral discrete zones, the first being no action, the second being designation of canyons or slope areas with observed coral presence, and then as I mentioned, we had these original boundaries that we inherited from the New England Council's Habitat PDT, and so those are included as one set of alternatives, and then we have modified boundaries for three of the areas, including Baltimore Canyon, Norfolk Canyon, and this Mey-Lindenkohl Slope area, based on outcomes of the workshop and follow-up meetings with industry.

I do want to point out that – so we have another set of alternatives for designation of canyons with inferred coral presence, but yesterday, I was speaking to Jen Anderson with NEPA at the Northeast Regional Office, and she suggested that maybe in terms of making sure it's easy to incorporate new scientific information and making this range of alternatives as flexible as possible, that we might just have one category and list out each individual area separately, and then we can update the information for each area as new information comes in, and the Council can decide which areas they would want to pick, if any, on that discrete list.

So the structure of this might change a little bit, and – but currently, we have this divided into areas with – of coral presence, and then areas of likely coral presence, or inferred habitat suitability. So the areas that we've designated as – based on observed coral presence include this Baltimore canyon area. This picture is – the green area underneath is the original boundary, and the blue hash is the modified boundary.

We have similar actions for Norfolk Canyon, and for this Mey-Lindenkohl Slope area, which includes Tom's Canyon, Lennon Cole Canyon, the whole complex of canyons, many of which – Henricksen Canyon – many of which corals were recently discovered, in last year's Science Center surveys.

Block Canyon was recently added to this list, based on recent surveys from the Okeanos Explorer this summer. Actually, just a few weeks ago, corals were observed in Block Canyon, so this was one of the suggestions that was made in that letter that Brad and

those other folks had written in. And so we took the New England Council designation boundary that they had originally proposed for Block Canyon, which ended up not making the cut in their range of alternatives at all, but using this boundary just for the purposes of having a boundary for Block Canyon. So we don't have any modified boundaries for this one at this time.

And then the designation of canyons with inferred coral presence include Emery, Jones and Babylon Canyons, Hudson Canyon, Lennon Cole Canyon, Wilmington, and Washington. And, I'm sorry, Accomac Canyon as well. I'm not sure why that's not on the list there.

So – yeah, these are the canyons pictured here. There's an error in one of the tables, I think, where Tom's Canyon was originally included on this list, but has since been upgraded to the observed coral presence category, but that's included within the Mey-Linden Kohl Slope.

In terms of management measures in the discrete zones, the options include no action, a prohibition on all bottom tending gear, or a prohibition on mobile bottom tending gear, and those are all the alternatives that we have in there. And note that we don't have the Council review step alternative in there, so if that's something that the Committee and the Council want to see, then we should discuss adding that. And those are the management measure alternatives that we have under this category.

In terms of framework revisions, I had mentioned this earlier in light of all the recent survey working and changing state of information on deep sea corals. We wanted to have a sufficient range of alternatives to change things once we get some updated information from some of these research expeditions. And so we have a no action alternative, an option to change boundaries for deep sea coral zones, an option to change the management measures within in the zones, which is a pretty broad option that includes possibly changing the fishing restrictions, changing the exemptions, changing the special access requirements or categories, or changing the monitoring requirements.

And then finally, we have Alternative 5D, an option to add additional discrete zones, which really addresses some of the concerns that this process was moving too fast to incorporate all the new scientific information, as well as some of the alternative suggestions that were brought up in that letter to sort of add other

canyons that – as a separate category, that might not have observed corals now, but might at a later point.

So – and finally, we have an option for a VMS requirement. And I think this also came up on the recent FMAT call as a result of the suggestion from that letter, and the VMS requirement was – it was decided that – the FMAT decided to put this in a separate category, just because it – they felt that it was – we felt that it was just a general – it might be something to consider generally as opposed to just in the deep sea coral zones. Most Illex squid vessels use VMS to meet requirements for other fisheries, but there's not a consistent VMS requirement for Illex vessels across the fishery. And there's a proposed rule to – that's out right now, I believe, Jason will correct me if I'm wrong, but there's a proposed rule to require VMS in the longfin squid and Atlantic mackerel fisheries. So this would be consistent across the squid, mackerel, butterfish fisheries for VMS requirement. And of course, there's no action alternative on this as well.

So that's the range. So Warren?

Warren Elliott:

Okay. Now let's move back to discrete and comments on discrete. Jeff?

Jeff Kaelin:

Thank you, Mr. Chairman. I think we did have the meeting with Lars the other day, and we've been looking at the issue of wherever we draw the depth contour, wherever we have the fish inside of, whether it's 300 or 400 meters, hopefully it's not 200 meters, you could have your gear within that depth contour and be perfectly legal, but as Lars was describing, your boat, with the VMS on it, could very often be in the prohibited area. And the Coast Guard won't know – you're pinging in there. Your gear is back behind you in the area that they normally fish in that is not impacting coral. You're fishing legally. But your boat is in the zone.

So I think that the Council tomorrow – I don't know – we're not making any motions here as advisors, but we should add another option in the 2.4 section that allows gear in the zones that is specific to this squid gear, the Centurion trawl with cookies on it no larger than three inches, so you don't get boats in there with roller gear, because if we don't do something like that and protect the ability of these boats to physically be in that deep water, even though the gear is not on the bottom, the entire squid fishery is placed in jeopardy, no matter where we set that contour.

So I think this Committee should make a recommendation to the Council to add another option along those lines. I don't have a draft in front of me, but I could come up with one. Thank you.

Warren Elliott: So Jeff, actually, in terms of process, we can consider – the Committee itself can consider motions and take votes on them if there's alternatives that the Committee wishes to change, add, or delete in order to present a more comprehensive document to Council tomorrow.

Jeff Kaelin: Well, I think what you're hearing from the advisors, those of you who are members of the Committee, is a need for a gear restricted option in here that allows the current gear being used that's not interacting with coral to be attached to the boat that might be pinging in the closed zone. I can't make a motion, but there needs to be another option, another approach taken to this, because those boats will be in these hatched areas. The gear won't be in the hatched areas on the bottom, but the boats will be.

Warren Elliott: Sam?

Sam Martin: Yeah. I agree with Jeff there. I mean, we have to be a little bit more – we have to be more specific, I think, in gear types that are not allowed to be in there, and possibly that would exempt those that would be in there would not be affecting it. I mean, it seems as though – what we don't want to do is make sure that someone is getting punished for a crime they're not committing, and that's what we can't do. If we do big, broad strokes, then we could be doing that in advertently, even though we don't want to do that, because we don't understand the fishery.

So it seems to me that we would – we know what is damaging to the corals. We need to protect them. So if we're specific as to how we protect them without hurting somebody else, we have to have alternatives and something to that affect, something more specific as to what's disallowed and/or what's allowed.

Warren Elliott: Lars and then Tony.

Lars Axelsson: Once again, a word picture. Done at Cape May, I drew a canyon, much like we have on the wall there, and then I drew the scup GRA, and then I drew some possible coral discrete areas. And then I says, "Okay, here's the lines," and the VMS goes bump, and I'm in one of the areas. The only open area that I would not violate a line would be out to the southeast. In other words, 1,000 fathoms, 2,000, that way.

You have to remember, now, that we don't fish in flat, calm weather all the time. We deal with Northeasters. We deal with frontal passages. Most of you have probably seen *The Deadliest Catch* on TV. Well, guess what? We encounter the same kind of weather, minus the minus temperatures. We do a little bit in the wintertime, but not as prevalent. But the seas and the weather and the wind are the same, as a Coast Guardsman can attest.

So what happens, then? You haul back. You've got your gear on deck. You're now jogging in a breeze of wind. You're just holding, as we would say, not going anywhere, but the wind is still causing you to drift, and you drift into one of these boxes. Okay? You do – we are – we freeze on board. We can only freeze 35 to 50 tons a day. It might sound like a lot, but the little wet fish boats can come in with 80 and 100 tons for the shore-side processing. So we are limited by what our freezers can catch. So if we get a good haul during the day, now we're just drifting. We shut our engines down, saving fuel, and we're drifting. What happens when you drift? You wind up in a discrete zone. You wind up in a GRA, the scup GRA. You wind up in all these places you're not supposed to be.

So now you're burning extra fuel to constantly motivate and keep yourself in this little room, in the (inaudible) here, but you're not allowed on either one of these three sides. Once again, we need to be given inclusion into the law, much like the Marine Mammal Act does. It includes you within the law, says you can't do this, you can't catch coral, you can't knowingly do that. If you do, you're going to be kicked out forever. You know?

Like I said, for 35 years, the coral has been protected by their snag hooks. We're standing on the shoulders of LORAN A, of LORAN C, and now GPS. Our ability to track where we go with our gear is very precise. Okay?

So we should be included. So please write some alternative that will allow you to make us squid fishermen included. If you find other fishermen, i.e., tile fishermen or red crabbers, that can demonstrate that it's acceptable, then so be it. Enough said.

Warren Elliott:

Okay. Tony, then Greg and Laurie, and I'll remind everyone, just as a time check, it's 4:30, so we have about a half an hour more for this Committee meeting. So try and keep that in mind as you make your comments.

Tony DiLernia: Thank you, Mr. Chairman. Canyon edges are very steep. It's very easy to go from 200 fathoms to 300 fathoms. I understand that. It's understandable that you could have a boat with the gear in legal water, and the boat being in the illegal zone because of the leads from the trawls down to the gear. The Coast Guard's going to have to ultimately enforce this. The Coast Guard could see a boat say in the prohibited area, and the gear is in the legal area. Well, they observe the haul back. If the boat is – if the gear is in the legal area, when they haul back, there shouldn't be any coral on board. So if they haul back, the boat's in the illegal area, they haul back and there's no coral on board, there's no violation.

I don't know how the Coast Guard – I'm making up rules for him to follow, so I'd like to hear a comment on something like that. But perhaps that's a compromise or an alternative.

Warren Elliott: Well, I said Greg was next, but if it's to this point, Kevin, go ahead.

Kevin Saunders: Yes, sir. Thank you. You know, that's not ideal, but I think that's doable. It's basically like a two-part regulation. And we'd have to be precise in how we wrote it. I'd have to check with general counsel to make sure it worked. But in a closed area, or if he's outside of the closed area, he's fine. If he's inside the closed area, of course, we get on board, and we always observe the haul back. If there's product in the net – when I say product I mean coral – then that means at some point the net was in contact with the bottom in the area where there was coral, and that's when the penalty potentially goes into effect.

Like I said, not ideal, but I think it's reasonable, considering the details of this fishery. So thanks.

Greg DiDomenico: This is a really helpful discussion, and putting it in the context you guys just did is really encouraging, because to address everybody's goals, to keep us in business, to save very, very important coral habitat, there's got to be an acknowledgement and an understanding of regional fishing practices. It's an accepted term in fisheries management, and that's what we're talking about.

And this situation really needs to be handled very delicately, because no one wants to get into an enforcement situation, and we don't want to create an enforcement situation that becomes impossible. So I really do appreciate this approach.

And I also want to remind everybody that this situation is very different than all the other fishery management we do, and it's also

different than all the other closed areas that we're all used to. Here's a situation where we're not talking about a quota, and we're not debating whether or not a particular metric ton for something is good or bad. This has to be very precise. And so that's – we're all used to those type of debates. This is a different debate. This has to be very specific to address the goals of this amendment and what the Council would like to see happen.

In addition to that, I also want to remind everybody that this is, again, not your typical closed area. While certainly there is a resource involved, being the deep water coral and these essential, very essential unique habitat, a fishing vessel is not going to be – there's no advantage from a monetary situation, and to describing exactly what Lars does on a daily basis when he's out there. In fact, it's much to his advantage to not ruin his net, which is worth \$100,000.00 and beyond, and not to leave his doors down there, and not to leave his sonar package and all the other electronics he has down there. It doesn't pay.

They're not creeping into an area to take away some product that's there for a particular management purpose. They're not incurring any – going over any boundaries for any particular closed area or to protect some resource. You know, swimming resource, so to speak. And so we have to really acknowledge that. There's no advantage to that, and we have to treat it that way, because what he described happens on a daily basis.

And the difference between him having a profitable trip and not having a profitable trip is going to be a matter of perhaps a quarter of a mile or less, and we have to understand that. Lars and boats of his size have an operating expense that are enormous. It's a \$10,000.00 bill when they throw the lines and leave the dock, and it's an additional \$4,000.00 or \$5,000.00 every day. These guys are in business under those circumstances, and the only way to keep them in business is to make sure this is done correctly, and allow them those marginal areas to catch squid, which are naturally forced up there by the oceanographic situation that's occurring near the canyons and the heads of the canyons, and forcing those fish onto the banks. Thank you.

Warren Elliott:

Laurie?

Laurie Nolan:

Thank you, Warren. I was thinking more of the lines of an additional alternative in that section, to just add on a 4D that would exempt the Illex – to exempt the Illex fishery from the discrete coral zones. It's not raising an issue for law enforcement. I think

anyone sitting around the table who doesn't truly understand the fishery, with Lars's description, and understand that there's no advantage to them to encounter coral, absolutely none. So I think we should at least throw that in as an alternative under 4D.

And then I have another alternative I'd like to add to Section 2.

Warren Elliott: Are you offering that as a motion?

Laurie Nolan: I guess – does it need to be – yeah, okay. I would like to move that under Section 4 we add alternative 4D to exempt the Illex fishery.

Tony DiLernia: Second.

Warren Elliott: Second, Tony? Discussion on the motion? Anyone from the public have discussion on the motion?

Male: As a member of the Squid, Mackerel, Butterfish AP, I would support an alternative brought forth by industry, as this has been.

Warren Elliott: Okay. Jim?

Jim Fletcher: Not to the motion. A question to the presenter. Of the total square miles surveyed while looking for coral, how many square meters of coral have been found? That's a scientific question. You surveyed how many square miles, and how many meters of coral did you find? Somebody should be able to answer that question.

Kiley Dancy: Yeah. I don't have an answer to that question, but – I'm not sure anyone's looked at that.

Warren Elliott: Is there other discussion on the motion? Brad?

Brad Sewell: I mean, ultimately, this is an alternative that we would strongly oppose. I mean, if some Illex boats are able to fish in this type of habitat without harming the coral, that doesn't mean that they all necessarily will now and moving forward. Having said that, we have an interest in having some additional alternatives put into this document, and this is, as was said at the outset, an opportunity to have a full range of alternatives from which to collect a full range of public and stakeholder response, and that's the stage that we're at.

Warren Elliott: Okay. We'll be back to you. What you can do is suggest the alternative that you would like to have added and then see if a

Committee member is prepared to offer that on your behalf. Back to this motion, is there other discussion? Rob?

Rob O'Reilly: I think it's just for some clarification here. This would fall under the discrete coral zones, the way Laurie presented it, 4D?

Warren Elliott: That's my understanding.

Rob O'Reilly: And earlier, there was discussion over the broad coral zones following Lars's initial information, and at that time, one of the suggestions was that there could be special access. So how does that fit in with everything? Is that something that's going to come up separately? Something the FMAT works on? Because the initial information was more about the broad access, I thought, and now we're down to discrete.

Kiley Dancy: Well, currently, the way that the alternatives are set up, there's no alternative right now for special access programs within the discrete zones. The – on the discussion with the FMAT, it wasn't clear whether the Council – that was the Council's intention in discussing a special access program. So currently, it's not in there. It could be added. And this would be specific to the management measures within the discrete zones to exempt the Illex fishery. Does that answer your question?

Rob O'Reilly: Yes. I knew that. I'm just wondering about the broad zones now. So is that left for another discussion tomorrow, or how will that work? Because there seemed to be concern about that earlier, as well.

Warren Elliott: I've not heard – no one's offering an amendment to the broad zone. So – Laurie?

Laurie Nolan: I did mention after adding 4D that I had another alternative I wanted to add.

Rob O'Reilly: Uh-huh. Okay.

Laurie Nolan: And that would take us back to Section 2.

Warren Elliott: Okay. Back to this motion. Jeff?

Jeff Kaelin: Thank you, Mr. Chairman. I just wonder if Ms. Nolan's motion could be more specific to create an option that would allow the Illex fishery to operate, but be specific about the gear. You know, a Centurion trawl with cookies no bigger than three inches or

something like that, because you don't want somebody going in there with 12 inch rollers and saying, "I'm Illex fishing." So maybe we – maybe the motion should be crafted in a way that gets more specific to the actual gear that we're using there, which isn't causing – you know, which is not catch coral, and narrow the option a little bit. I just wonder if the maker of the motion –

Laurie Nolan:

I originally wrote down using – for them to be allowed in there with the current gear being used, simply because I can't speak so specifically about the names of nets and the inch size of cookies and things like that. So I personally could add, "With the gear currently being used," but certainly around the table, if we could allow an AP member to be more specific about the gear they're using, if that makes this more specific, I do not have a problem to that. Whatever . . .

Male:

I agree with Jeff's comment, and also agree with Laurie. It may be difficult, and we have – we probably pull three or four different kinds of Illex nets, so to describe one would not be good for us. What Lars uses is not what we use. So I don't know how you would do that, although I agree with Jeff's comment, you don't want to just exempt fully within the gear type. Otherwise, you'll have in there what you don't want in there, and that's why I think I was saying before to be specific as to what you don't want, that we know would be damaging. So I definitely agree with – even to say current gear type, someone might say, "I've been using this for years." So I don't know. But we have to address Jeff's concern. I think that's a valid one.

Warren Elliott:

Laurie?

Laurie Nolan:

It's my understanding that the cookies is what keeps the gear off the bottom, so if we were to address the size of the cookies and leave the net out of the picture, that would certainly be something that ensured the safety of the bottom?

Warren Elliott:

Tony?

Tony DiLernia:

Once you start getting that specific with the specifications on the gear, I think you're creating a law enforcement nightmare that he cannot enforce.

Warren Elliott:

Kevin?

Kevin Saunders:

Yeah, to be honest, we're probably not going to – depending on how detailed we're talking, we're not going to spend a whole lot of

effort writing regulations and enforcing that at sea. If we find a violation, we'll definitely follow up with the (inaudible), and we can conduct better measurements. But we're starting to get down the road of wishful thinking, depending on how specific we get. Now if we just set a minimum size for the cookies and leave it at that and hope that the current – whatever the practices are and what enables them to fish properly all falls into alignment with that, then we can move forward with something. But the more detailed we get with that, the harder it gets for the boarding officer. Thanks.

Warren Elliott:

Lee?

Lee Anderson:

Well, as I understand the state that we're in now, we're trying to put it out to a public hearing, and the public hearing, we can adjust afterwards. So if we put it in with Laurie's thing about the current gear, that'll bring in questions, and we can go plus or minus from the current gear, but at least it will be in the action that we can – it'll be in the thing so that we'll get public comment. And we can – in the meantime, the Committee and the FMAT can hone down to other suggestions. So I don't think we should try to get all that right now. We're not capable of doing it in this time, nor will be able to – capable of doing it tomorrow. Let's get some stuff out that goes out to hearing and collect information.

Warren Elliott:

Lars?

Lars Axelsson:

I agree with Dr. Anderson in that respect. We could go on for hours describing gear and all of the above. Like I said before, there's 12 of us that work on a real steady basis year in and year out. Leave that open-ended. Your FMAT team could maybe be the ones that yea or nay a certain gear type, based on individual – you'd have to interview 12 people. You know what I mean? And you could come up with a gear type, whether you name the net or whatever.

But it – to me, it's a moot point, because once again, if we look back on history as a word picture, tilefish turned out to be an issue many years ago. We were being accused of destroying tilefish bottom. So they put a broad stroke in there saying, "Well, if you have any kind of cookie gear that's smaller than a certain diameter, you're allowed. If it's larger than that diameter, you're breaking the law." Easy for enforcement, boom, it's an inch thing.

The whole idea of the cookie gear, if we explain this a little bit short – on the meeting –

-
- Warren Elliott:* We really – we really need to move on.
- Lars Axelsson:* Okay. All right. No gear –
- Warren Elliott:* Final thought.
- Lars Axelsson:* – the chain wears out in a week. With the cookie gear that's lightly, very lightly dancing near the bottom, you can go for four years and not wear your chain out, and you're not even touching the bottom. It's just the stuff, that sandblasting effect that occurs when you're near. That's all thank you.
- Warren Elliott:* Thank you, Lars. Jeff?
- Jeff Deem:* Yeah. Just a clarification. Even though this is the Squid, Mackerel, Butterfish Fishery, whatever gear we approve – we decide will be allowed in this area will be for any fishery in that area from now on, right? It's not just squid, mackerel, butterfish fishermen, if I understand our authority under this special zones or special gear types.
- Kiley Dancy:* Yeah. That's correct. It could apply to any federally managed fishery that's – yeah, anything that's relevant to the restrictions that the Council puts in place.
- Jeff Deem:* So that makes it even more difficult to approve a specific type of gear, at least at this point, I would think.
- Warren Elliott:* Okay. Is the Committee ready for the question? One last comment.
- Male:* Thank you, Mr. Chairman. I'd like to ask a brief question of the industry representatives, because Laurie's amendment is relative to Illex, and now we're talking about gear specifics. Does there need to be some inclusion for Loligo? Is it basically the same gear? You know, for those Loligo fishermen, fishing out in deep water? Is that discussion relevant or not?
- Warren Elliott:* Sam?
- Sam Martin:* It's the same gear. So yeah, it would be relevant to Loligo fishery as well. So – because we'll work the same bottom, a little bit shallower, but certain times of the year, we'll be near there. I think Lars can confirm that.
- Warren Elliott:* Keep it short.

Laurie Nolan: Can I make a friendly amendment and include the Loligo fishery, to exempt the Illex and Loligo fishery?

Warren Elliott: The seconder of the amendment, are you okay with that?

Tony DiLernia: Yeah. We're going out to public hearing with it. It's not the final decision. So we'll leave it there.

Warren Elliott: John?

John McMurray: Sorry. I know we're trying to be brief here, but is there any other fishery that's prosecuted out there? I mean, what exactly is the intent of the amendment here? What are we doing if we're not restricting anything?

Warren Elliott: Laurie?

Laurie Nolan: I don't feel as if we're not accomplishing the goal, which is to protect the coral. There are fisheries that are executed in this water, and they do it without interfering with the coral. And that's the issue. So if they're fishing a gear and they manage to stay off those walls and away from that coral, we're doing exactly what the intent of this amendment is.

Warren Elliott: Tony, to that point?

Tony DiLernia: Yeah. To answer John McMurray's question, you could easily put a beam trawl on the bottom for monkfish and just rip up the whole bottom if you wanted to. And that fishery could very easily occur in that water. That's a great place to catch monkfish, that deep, on the edge.

Warren Elliott: Okay. If the Committee is ready for the question. Members of the Committee, all those in favor of the motion, please raise your hand. Seven? Oh, eight. Opposed? One. Motion carries. Are there other alternatives? John McMurray?

John McMurray: Thank you, Mr. Chairman. Regarding the discrete coral protection alternatives, I don't see an alternative for additional coral protection zones in canyons with possible coral presence, including canyons with insufficient coral presence data to determine whether or not such corals are present. And on Table 4 of Appendix B, there's a list of ten canyons. Now my understanding is that in research conducted over the last two years, which is somewhat described on page 10, just about every canyon they've looked,

they've found corals. And that's including those canyons that were previously believed to be too shallow to hold those corals.

Given that it seems likely, to me, anyway, and probably to a lot of folks, that there are highly vulnerable coral communities in these canyons, the intent of this amendment is to safeguard such communities. Some safeguards to me would seem entirely appropriate. It may well be that we don't close them outright, but rather have some safeguards short of that. So with that in mind, I'd like to offer the following alternative. I'd move to add alternative 3D. Kiley, do you – I emailed. Do you have that up there? Okay. Yes. I'm going to go ahead and read it.

Designation of canyons with possible coral presence, including canyons with insufficient coral presence data to determine whether or not corals are present. Based on Table 4 of Appendix B, there are ten such canyons, McMaster Canyon, Ryan Canyon, Uchupi Canyon, Spencer Canyon, South Wilmington Canyon, North Heyes Canyon, South Bryce Canyon, War Canyon, Phoenix Canyon, and Leonard Canyon.

Warren Elliott: I sure am glad the chairman doesn't have to type these things up. We'd be here all day. Is there a second to the motion? Second, Chris Zeman. Discussion on the motion? Laurie, then Brad.

Laurie Nolan: Thank you. I just have to ask, so right now, there's no scientific evidence that there is coral there, but we should all sit around the table and assume that there could be coral there, and therefore, put this protection in place based on that assumption, that we should really all sit here and assume there's coral there also, because there's coral in other canyons north and south of it that have been identified scientifically?

Warren Elliott: Was that a question to –

Laurie Nolan: That's a question. I'm sorry.

Warren Elliott: To the maker of the motion?

John McMurray: Laurie, that's not what I'm suggesting at all. I'm suggesting we put this alternative in here so it can be fully vetted and we can get the right analysis done. I think, as I mentioned, every time they look in one of these canyons, they seem to find something. So we have to have some sort of alternative in there that accounts for that.

Warren Elliott: Brad?

Brad Sewell: Yeah. Just speaking in support of the motion, as John said, it appears that the canyons in the mid-Atlantic and Southern New England, this chain of canyons, they all end out to be suitable coral habitat. We have yet to go into a canyon that doesn't have corals. It seems to be the nature of the exposed hard sub-strait, the elevation drop or the depth drop creates this suitable habitat for corals.

And if we're trying to create a document to go out for public comment that has a full range of alternative, then one of the alternatives for the purpose of the discrete coral zones is to have an alternative that encompasses all of the likely coral-containing canyons. We would need an alternative that covers these canyons, because these canyons, they haven't been adequately surveyed, but every indication is, from the last two years of scientific investigation, is that they are in fact, based on the scientific evidence, likely to have corals.

Warren Elliott: Other comments on the motion? Jeff?

Jeff Kaelin: Thank you, Mr. Chairman. You know, I've been – I'm a Habitat AP member up north, too, and we're supposed to be looking at the guidance from the work that the Habitat Committee has done up there. And if you look at the tables on page 24 and 25, every single one of these canyons that's in this motion was judged to be not suitable for coral protection. I just wanted to point that out to the Committee. Thank you.

Warren Elliott: Jeff Deem?

Jeff Deem: Yeah. I'm a little confused here, because I've gotten the impression from most of the commercial guys that they don't use any bottom tending gear in the canyons, so I don't see where this is an issue with the current technology. I can see where it might restrict them, future technology. They would have to be proven, I would think, not to be allowed – I mean, not to be damaging to corals before it was allowed. But is adding this – if it was accepted in the final run, would it be of any harm to any commercial fishing interest?

Warren Elliott: John?

John McMurray: Yeah. I don't know the answer to Jeff's question. That would have to be answered by one of the industry folks. But I did want to respond to Jeff's contention that the PDT looked at this and decided that these canyons weren't suitable coral habitat. Since

then, there's been some surveys done. For example, both Henricksen Canyon and Block Canyon, as well as Atlantis, they were all included as this shallow canyon habitat that wasn't suitable, but they did in fact find corals there. So there's some new science that I think makes this motion necessary.

Warren Elliott: Greg?

Greg DiDomenico: I didn't intend to answer Jeff Deem's question, and quite frankly, I'm not really sure if I can, and I'm not sure if the industry is prepared to do that, either. But the question really comes, we're operating in a situation here where we're defining known areas, and the industry has come to the table in good faith and willing to do something to protect those areas. That's going to be the strength of this amendment.

I want to also respond to John's motion here. One of the things we learned about whether or not these areas are suitable for protection or not, or whether or not there's existing deep water coral there, I just want to read from a summary of the transect survey that was paid by the research set-aside between the year 2003-2007, this was an industry survey funded by the research set-aside program. It occurred between areas of the Hudson, Baltimore, Poor Man's, and Alvin Canyons. Some of those – some of that trawl survey occurred in areas beyond 250 fathoms. It encompassed four years of work, 539 individual tows. It – the – we towed an area that was 86.49 kilometers square.

With that, we caught 672,000 kilograms of fish that this Council manages. During those years, during those 539 tows, no corals were observed or caught. There were some invertebrates. There were some sea sponges. There were some sea squirts and some sea urchins, to a very, very minimal amount. So I think when you consider areas like this and you look at data that encompasses a huge footprint and a very significant catch without any corals at all, I think that that has a lot of merit, and I think – I do not, of course, support this motion. Thank you.

Warren Elliott: Other comments to the motion? Mike?

Mike Luisi: Thank you, Mr. Chairman. Just a quick question. I appreciate John's motion, you know, wanting to include these additional canyons in the discrete areas. Is there a mechanism in the amendment that would allow for the inclusion upon future science, if it is understand that and future science shows that corals do exist

in these areas which are currently deemed un – not suitable? Is there something quickly that can be done to add those areas in?

Warren Elliott: Kiley?

Kiley Dancy: Yes. Within the framework provisions sets of alternatives, there's several options to change zones, but also one to add zones, and that could be done in two meetings.

Warren Elliott: Tony?

Tony DiLernia: I'll try to make it quick, but I may go on for a bit. This conversation reminds me of when I was a graduate student in the mid-seventies. We were told that life couldn't exist without light, life couldn't exist at certain temperatures, life could not exist at certain pressures. All of a sudden we send down deep submersibles to hydrothermal vents, turn on the lights, we can see entire communities existing there, communities that we never knew existed, very high temperatures, total darkness, blackness, pH and temperatures that are incredibly – life wasn't supposed to exist, and yet it exists there.

The areas that we're talking now, these canyons, we are just beginning to visit them. We visited the moon before we visited these canyons. For us to assume that there's nothing there is a mistake. I would like to see these areas included, because I'd like to see additional comments from the public, and I don't mean blast emails stimulated by certain environmental groups, but real concerned, substantive comments regarding the possibility of corals in these areas. And so I would support this motion. Thank you.

Warren Elliott: Any other comments to the motion? Dave?

David Stevenson: For those of you who don't know me, I'm David Stevenson. I work in the Regional Office in the Habitat Conservation Division, and I'm one of the people who helped – I'm on the Habitat PDT, the New England Council, and helped develop these alternatives.

And I think I would just like to give you a little bit of background quickly on the basis for the decisions that the Habitat PDT made about the four categories of canyons and their priority, their status in terms of candidate areas for deep sea coral protection.

That fourth category of canyon, we had very limited information in front of us. As soon as we considered those canyons where there

was no evidence of corals being present because no one had ever looked, we had to look at their habitat characteristics. And with some help from the geologists on the PDT, we simply divided the canyons into two categories in terms of whether they would have suitable habitat or not, based on how deeply they cut into the edge of the continental shelf.

So for those canyons like Block Canyon that don't cut very deeply into the continental shelf, we assumed, and it's a judgment call, that's all it really was, we assumed that there would be less likelihood that there'd be hard sub-strait exposed, which is what corals like to grow on. And as has been pointed out by the maker of the motion, what the research that's being done now is showing, that that was a pretty inadequate approach to categorizing these canyons, because the shallow canyons like Block Canyon have been found to have corals in them.

So it's – I guess I would support the motion, just because I think it's important to get this in front of the public, and for the FMAT to wrestle with this a little bit, although I can see why the Council might be reluctant to designate coral protection zones in every single canyon along the East Coast. So – but it's something I think we could probably sort out later.

Warren Elliott:

Thank you. You want to turn your mic off? Thanks. Brad?

Brad Sewell:

I'll be very quick. Just I wanted to point out that to the best of my understanding, there are no cruises or no scientific investigation scheduled for any of these canyons. There is some money remaining to do additional investigations in the next couple of years. That's a program with a finite timeline. It'll wrap up. Money will go elsewhere. And again, these particular canyons, I know of no plans to visit them.

Warren Elliott:

Is the Committee ready for the question? All in favor of the motion, please signify by raising your hand. Nine. Those opposed? One. Motion carries. Now with this set of alternatives that we have, are there any further modifications or additions that the members here want to consider? Jeff?

Jeff Deem:

Just a question for the Coast Guard real quick, if I may. When you board a boat that's trawling in these areas, using their sophisticated electronics, can you tell if their net was on the bottom when they were in a specific area? To the extent that you could use it for legal proceedings. Thank you.

- Warren Elliott:* Kevin?
- Kevin Saunders:* I wish we could, but we can't. Thanks.
- Warren Elliott:* Laurie?
- Laurie Nolan:* Thank you. Under Section 2, I was wondering, I'd like to make a motion to add 2G, which would be to exempt bottom long line mid-Atlantic golden tile fishery from the broad zone coral restrictions.
- Warren Elliott:* Do you want to read that? Is that *[off mic]*?
- Laurie Nolan:* Yep. Yes. Broad zone – yeah.
- Warren Elliott:* John, I don't imagine you're seconding this, are you? I was going to say, let's see if we get a second before we even discuss it.
- John McMurray:* I'll second it for discussion purposes. Sure.
- Warren Elliott:* All right.
- John McMurray:* Now may I?
- Warren Elliott:* Certainly.
- John McMurray:* Okay. I guess I'm confused about what the definition of bottom tending gear is, because if I'm not – I mean, this is a long line fishery, right? It doesn't disturb the bottom in any way.
- Laurie Nolan:* It's a long line gear that gets set on the bottom and then retrieved I mean, it doesn't spend I would say more than – your first end out is picked up with four hours, I would say. It's deployed similar to red – you know, lobster gear, anything set on a long line. It goes down with hooks attached and it's retrieved, and it sits down there I would say, you know, four to five hours, about. And by the time you get to the end of your set, basically.
- Warren Elliott:* Discussion on the motion? Jeff Deem?
- Jeff Deem:* It sounds to me like we need to somewhere define what the potentially damaging bottom tending gear is, and not have an exemption for everything under the sun, because I can see a trawl being a terrible thing to do to coral, but to lay a long line, to set a pot, yeah, maybe, maybe not, but is there some way that staff can

come up with a more definitive answer to what this type of bottom tending gear we're trying to restrict is?

Kiley Dancy: That's something that the FMAT can take a look at. Sure.

Warren Elliott: Other discussion on the motion? Committee ready for the question? All in favor of the motion, please raise your hand. Four. Those opposed, like sign. Please raise your hand. Abstentions. I'm not sure everybody understood the motion. Only four people voted for it? So it passes, I guess, four to nothing. Right, Rick? John?

John McMurray: Just for the record, I'm in support of this motion because I'd like to see the analysis. I'd like to see what potential gear impact there is, because intuitively, it doesn't seem significant.

Warren Elliott: It passed, so that's fine. Laurie?

Laurie Nolan: Just for the record, I would like it to be known that I recused myself from voting because we're talking about tilefish now. So I support it, but I don't vote on tilefish.

Warren Elliott: Okay. So we're back to looking at the set of alternatives and measures that'll move to Council tomorrow. Chris?

Chris Zeman: I have a clarifying question, and that is going back to the alternatives for bottom tending mobile gear and bottom tending gear, is that commercial gear or recreational gear? Is that specified?

Kiley Dancy: It's not specified. It's just currently generally bottom tending gear and mobile bottom tending gear.

Chris Zeman: In light of that, then we would have to exempt recreational like hook and line. Along the same lines as this exemption, recreational hook and line is considered bottom mobile – bottom – not mobile, but bottom tending gear. So I would just – I would either recommend we clarify it so it's commercial bottom gear, or mobile bottom tending gear, or – and not recreational.

Rick Robins: Chris, I think the FMAT, as they go through this, could clarify that the gear prohibitions are on commercial gear, so that you're not talking about recreational hook and line gear.

Warren Elliott: Any other comments or recommendations regarding the set of alternatives that's going to move to the full Council tomorrow?
Rick?

Rick Robins: Thank you, Mr. Chairman. I do have a question about monitoring technologies, and it basically follows on the question that Jeff Deem asked, because we've had a lot of discussions that started out in Baltimore. The industry has raised concerns. We've heard some of those here today about trying to structure this in such a way that it effectively accommodates regional fishing practices in a reasonable way, but still preserves the Council's ability and ensures the Council's success at achieving the objective of the Amendment of protecting these deep sea corals.

So we heard discussion about how gear is shot and basically flown into the target area and then hauled back, and that requires some margin for error. And it seems to me there are a couple of ways to deal with that. One is to create a broader band, essentially, that allows for that to happen within a zone. The other is what's been proposed with the added option for allowing the gear to be anywhere, basically.

And so if we're going to allow the gear to be anywhere, I think we're going to have to potentially answer some questions about how we're ensuring that that gear is not contacting the bottom. And so I think from a monitoring standpoint, if in fact we're going to let the gear and the boats into the area that we know the corals are – within the discrete protection areas, how can we ensure that the gear isn't on the bottom? And I think that raises a monitoring question. And I don't know – I don't know that we have a monitoring system in place that would allow us to manage that, but I think that's an open question. That's something that I would like to hear more about I think as we go through this process, because if you don't have any monitoring in place, it's not clear to me how that – how exactly that would work. But I think that's going to be a significant question from a monitoring standpoint.

Warren Elliott: Greg?

Greg DiDomenico: As the process goes forward, Rick, we'll have a more specific answer for you, but before you made your comments, I was going to talk to Jeff after the meeting. Jeff asked the question whether or not the Coast Guard had equipment that could answer this question when they boarded somebody.

The issue becomes does the industry and the person – and the vessel that they board have the ability to prove that their gear was not on the bottom. The answer to that question is yes. The packages and the sonar packages that are on the doors will be recording real time at what depth they were at, and off the bottom, and at what depth they were off the bottom. And I would think that Coast Guard being there, watching the haul back, could very easily be in the wheelhouse, and if the captain wanted to go through that exercise and not go to court, I guess, he could probably, with some relative surety, show that the gear was not on the bottom.

Warren Elliott: Sam?

Sam Martin: That is true, but I would be cautionary with that because of an economic standpoint, because that gear is very expensive, and not – I would actually say less boats have it than do.

Warren Elliott: Chris?

Chris Zeman: I would just recommend that the staff look at what's been done in terms of enforcement in the North Pacific and the West Coast, which did this similar approach, and approved sort of this freeze the footprint approach back in 2006, 2005 and 2006. So that approach in those regions was actually approved either unanimously or near unanimously, and so I – that's kind of like the goal, where I want to see this process end up, is that this is a – this is a process that really, we need to have – I mean, we should all be supportive, industry, environmentalists, other stakeholders.

And at the end of the day, we basically end up with an approach that everyone likes. So to the extent we can do that, I recommend you do that.

Warren Elliott: Pam?

Pam Lyons Gromen: Thank you. So my recommendation just to – for the FMAT, before this goes out to public comment, I'm looking at like the redrawn boundaries on the discrete coral zones, and I'm just wondering if you could possibly provide more description about kind of why they were redrawn, and kind of what was – what they were trying to achieve. I find it difficult to comment on what is here now, because there's just not a lot of explanation.

And then with that, if it's possible to take these redrawn boundaries back to the coral experts, I'd like to hear their thoughts on what

they think of the redrawn boundaries as well. Otherwise, I think it's hard for the public to really provide something meaningful for this section.

Warren Elliott: Any other comments come before – Dave?

David Stevenson: Since I'm going to be involved in some of this follow-up work, I'd just like to clarify something, if I could, with you. We certainly have a sufficient range of alternatives now. I don't think there's any question about that. The question to me is if the FMAT determines that there's still something that we think you've missed that should be considered, do we have the latitude to come back with you with that, or is today's meeting and the vote tomorrow going to constrain us to, for example, not considering an exemption for the squid fishery in the broad zone, which I thought was really where it was more appropriate, but that hasn't come up for a vote here today? If we came back to you and said, "Yeah, I think we ought to add that," is that something that could still happen?

Rick Robins: Yes. We can add options subsequent to tomorrow's action, based on public input. Jeff, final thoughts?

Jeff Kaelin: Well, I just wanted to get back to Chairman Robins' question. I mean, I don't think that with the squid exemption that we looked at it in the discrete zone, and I agree, maybe we should have the same option in the broad zone, but that's another issue. But I don't think we're saying we want to fish everywhere in there. We don't want to fish where we're not fishing now, and where we're not fishing now isn't capturing coral.

But I think we – the FMAT, as has already been discussed, will be examining more specifically where we're actually fishing. And in the last few weeks, this discussion has been around the WindPlot software which the boats have on board, which basically maps their tows over and over and over again. There's years of data there. And the question about whether or not the Council would purchase WindPlot software so that the staff would be able to take the data from our machines and download it to do that analysis.

And I just wanted to say that at the Cape May meeting last Friday, the two or three companies that were there have offered to purchase that WindPlot software for the Council staff to use. I think it only costs a couple thousand dollars. So we'd like to be able to work as industry with the Council to try to arrange that as soon as possible, which I think will help the FMAT do its analysis

electronically much quicker than any other method. So I wanted to put that on the table before we finished up. Thank you.

Warren Elliott:

Okay. If there's no further business to come before the Committee, we really do need to reconfigure ourselves for the next agenda item. So with that, I'm going to turn the meeting –

[Background voices]

Warren Elliott:

Okay. I'm being advised that in order to move the document to tomorrow's full Council agenda, we need to – the Committee members to either do it by motion or we can do it by consensus. Let me just check with the Committee members. Do any Committee members have any objection with the document, with the amendments that we've added today, move to the full Council, be recommended to full Council for tomorrow's meeting? Then it – so be it by consensus. And we appreciate all the thoughtful efforts and comments and participants in today's discussion. Now I'll turn it back to Chairman Robins.

Richard Robins:

Thank you, Mr. Chairman. With that, let's take five minutes and we'll come back and begin the public listening session with Dr. Firestone from University of Delaware. Thank you.

[End of Audio]

**Listening Session
August 13, 2013
Double Tree by Hilton Wilmington
Wilmington, DE**

Richard Robins: – our baseball outing for the evening, but we look forward to their presentation. Dr. Firestone, Allison, welcome.

Jeremy Firestone: There. Thank you very much, Mr. Chairman, members of the Council, Subcommittee, members of the audience. We're really pleased to be here today. I'm a professor at the University of Delaware in the College of Earth/Ocean Environment, have been doing offshore wind power research for ten years this fall, and Allison Bates is a PhD student who's been with us for several years, and is working on the intersection of offshore wind and fisheries, one of the areas that she's interested in.

So I'm going to start off and give you sort of a broad overview of what's going on on offshore wind, and then we'll sort of dial down here to the US, and then eventually dial down to fisheries. So there is a pretty robust market, mostly in Europe, as you can see. There's also some activity in China, and even Japan, two years after Fukushima, got one turbine in the water. So they moved relatively quickly. You can see Europe had about five gigawatts, and are moving pretty aggressively. It's in a number of different countries. The UK now dominates the European market. For many years, the global leader was Denmark, and certainly on a per capita basis Denmark is still the leader. But you can see a number of countries big and small, some like Belgium. Germany is now moving more aggressively as well.

The first European offshore wind turbine was put in 1991, so they're just now entering their third decade, and this give you that things started relatively slow during the first decade, and then basically for the most part ramped up over the course of the second decade. And in this slide, you can see the annual installed capacity. Again, you get the same sense of the ramping up since 2000 to 2013.

The – one of the items that's I think obviously of interest to this audience would be the substructures. Traditionally, most of the substructures have been monopiles. You can see on the upper right hand corner that the substructure to the far left is a monopile. It's just basically they pound them into the ground. They look very much like what you see on land. But people are moving towards, as you move into deeper waters, what are known as jackets or

tripods, more jackets, which is the third structure. It looks more like you would see something with offshore oil.

And then gravity foundations form a significant component as well. Those are going to also be in shallow water. They basically just rest right on the sea floor. And this just gives you a – sort of a sense of where the industry is moving, because this is 2012 versus cumulative. And again, you can see now as they move into deeper waters and further offshore in Europe, a larger percent are jackets, and a much smaller percent gravity foundations. But monopiles still dominate in Europe.

The generators are getting much bigger. We started off with generators being offshore. Most of the turbines were 2, 2.3 megawatts. Vestas then came out with a 3, and eventually Siemens a 3.6, and that was most of the turbines that were put in the waters until about 2008. But we now have this new generation of much larger machines that are much larger than onshore. One of the reasons you can do that is offshore; the machines are essentially assembled in parts. They're assembled dockside, because the blades are too long to be transported, and the nacelles where you house the generator and other components are also too large to be transported on roads. But going offshore, you can have very big machines, and there's economies of scale.

What's important from your perspective is that the rotors are getting larger, so that's – you can think of it as the wingspan, and that's important because the turbines are spaced based on rotor diameter, and that's because one wind turbine will take out – and create a wake effect and take out air, enhance the ability of the one behind it. It has a shadow effect, and so you're getting greater and greater spacing. And so as we go to these big machines, the machines are going to be spaced, as I say, about .65 to .7 nautical miles. So the spacing is going to be greater between individual turbines.

This just gives you sort of an example of a sort of typical layout. They can take all types of shapes, but you're often going to see some sort of rectangular shape. There's also an offshore transformer as you get the bigger projects. And then you have cables from the individual turbines, which go to the transformer platform, and then a collector – those are collector cables, and then the main cable, which would come to shore and be directionally drilled underneath a beach, and then come up to shore and connect into the onshore grid infrastructure. And this is just another – to give you a sense of what they look like in real, this is the Nysted

Offshore Wind Project. These I think are 2.3 megawatt machines. There are about 70 of them.

So what does that mean here in the US? We do off the mid-Atlantic have a very large potential offshore wind resource, and that's why there's been a lot of interest by both developers, states, the federal government, and Department of the Interior and BOEM. So there's been a lot of interest in that resource. This is just sort of dialing down to closer to our home here in Delaware, and closer to where we are today, looking off – this was part of a marine spatial planning – sort of initial marine spatial planning project that I worked on and Allison worked on. And this map just gives you a sense that as you – you know, the darker colors, as you move further offshore, you – you know, fish, you're probably more aware than me, but I'm sure you're quite aware that the winds increase as you get further from shore. The squiggly lines are bathymetric contours, and those represent areas where you're going to shift from monopile to a – perhaps the lattice foundation or the tripod, and then eventually to a floating foundation as you get into deep waters.

So where are we? Here in the US, well, I guess the words I have for you might be don't worry, be happy. Things are moving quite slowly in the offshore wind industry. I do think it is the shape of things to come, but it's coming more slowly than most had guessed. Again, I started working this about ten years ago. So there's a project sort of in very preliminary stages off of New York. We'll have to see what happens. The – in New Jersey, they've got plans for about a little more than a gigawatt. And the New Jersey BPU, however, recently denied approval of a small demonstration project off of Atlantic City, it still may approve it. But things have had bumps and turns as we've moved forward.

Here in Delaware we had the Blue Water Project. It was the first to secure a power purchase agreement in the US. It had a federal lease. But it eventually abandoned that power purchase contract, given the sort of economic climate and energy climate in the US. Maryland is planning to have at least 200 megawatts under state legislation. There's lease sales coming up in Virginia, and there's some activity in North Carolina as well.

Here's a map of most of the sort of BOEM planning areas. I – just for space and – we don't show you – there's another one that's around Cape Lookout in North Carolina, more on the southern part of North Carolina. But these are the other wind planning areas that BOEM is working on.

So as I said, we are working on marine spatial planning here. It's been more extensively used in Europe, particularly Belgium and Germany, in relationship to offshore wind planning. There's been a more general movement here in the US per some executive orders of President Obama. But there is some mid-Atlantic regional planning bodies, which I'm sure a number of you have interacted with.

And when you're thinking about offshore wind, there are a lot of considerations. Fisheries is obviously one of them, but geotechnical considerations. You've got to know what the – what's on the seafloor. Not all places are going to be conducive to putting in different types of foundations. Certainly existing uses, and so on this we've got artificial reefs mapped, we've got dump sites mapped, places where there's submerged cables and other sand burrow areas. Other existing uses are all going to be important.

This is a map – as the Atlantic Wind Connection was originally conceived, this was to be the – sometimes also known as the Transelectrica Google Backbone, offshore backbone. And it was to be from sort of Southern Virginia up to around the port of New Jersey, New York. But it, like the developers of offshore wind, they've now sort of truncated and are focusing primarily in New Jersey. It may eventually serve offshore wind, if New Jersey comes forward and does develop those – the gigawatt or more.

But transmission is source neutral, and part of the reason for this project is going to be to move cheaper power from Southern New Jersey to areas where – in Northern New Jersey, where power is more expensive. I understand that someone may – there's going to be a session sometime soon from someone from the Atlantic Wind Connection.

So one of the things is when you're talking about spatial planning, you're talking about all these activities, it's really hard to figure out how to make these kinds of tradeoffs when you're talking about 10, 11, 12 different types of uses, so one of the things that we started to do was to try to take a look at two uses at a time. That doesn't mean that this is ultimately the best, but you can decide between two things what might be better – a better use in a particular spot.

And so we have begun to look at commercial vessels. These aren't fishing vessels. We're talking container ships and tankers and the like. And so this first map, you can see where the sort of dark

yellow to red are where ships presently go. And then in this – there's this – it's a little hard to see up here, but there's some light purple areas, and we said, "Okay, if this is where the ships are, this is where you – the next area where you develop wind." We have the initial BOEM areas, but if you wanted to develop the next areas, they'd be on the other side of where all these ships are.

But we said, "Well, what if you moved the ships, and you filled in instead this area with wind, this closer area, and you moved the ships a little further offshore." It'd look like that. We then want to look at all of the costs and benefits. If you're a shipper, you're going to be concerned about greater labor costs, fuel costs, earlier ship replacement. We also want to look at social cost. So ship's got to travel farther, there's going to be greater carbon emissions, greater SO₂, etcetera.

What are the benefits to offshore wind from moving closer? Lower materials and installation costs, decreased O&M, etcetera, of transmission. And we try to monetize those. And we now have a – it's a – we've gotten our results. We're now going through the peer review process, but we find that the benefits when you look at the cost and the benefits, because the ships don't have to move very far, there are substantial societal benefits if we build wind closer to shore and move the ships further offshore. Now there's some other issues with congestion, and that may be a good fishing area, too. And so ultimately, you're going to have to consider all of these things. But we wanted to look at this in a more narrow focus.

And I think that's then a good segue into what Allison is going to take you through, and it's really the beginnings of her research, to do something sort of similar, to look at some tradeoffs between fishing and wind, and try to find those areas that would be least onerous to the industry.

Allison Bates:

Thanks, Jeremy. Shuffle here. So as Jeremy mentioned, my research interests are really looking at how the offshore wind industry and the commercial fishing industry could possibly be more compatible with one another. We hear quite a bit about concerns over exclusions, of how fishing may interact with all these locations of offshore wind facilities. So I've been exploring ways to try to quantify and account for the commercial fishing that's occurring, possibly in areas where offshore wind might be more likely to be developed.

We know that commercial fishing is a really valuable industry in this area, both culturally, historically, and also economically. And

I'd say probably in the next year or so, we're hoping to present some results on that.

So what I wanted to do is just take you through some of the effects on actual fish populations, since that's kind of a recap of where the industry is right now, what we know, and certainly, that's a relevant factor when we're looking at both recreational and commercial fisheries.

So we hear quite a bit about the artificial reef effect, and this is something we know a lot about in the mid-Atlantic. We purposely designate artificial reefs, which really helps to increase recreational fishing opportunities. The artificial reef effect can occur with offshore wind industry almost as a side effect, because the foundations that are installed in the sea floor can actually attract fish almost by accident. But what really attracts fish to these areas is the fact that scour protection materials are used. We use scour protection to help prevent corrosion of the base of the wind turbines, and different materials can actually be used, and the type of material used can really determine what types of fish species are attracted.

So we know that there's the potential for attraction, and we also know with recent research that we've actually seen the fish population numbers can actually increase quite substantially if we're using the right types of materials, and depending on other factors, such as seafloor complexity, depth, etcetera.

The actual materials that are used are generally determined by the offshore wind industry, and I think this is an interesting area of intersection between the fishing industry and the offshore wind industry, to make recommendations. Relatively early in the permitting process, wind developers would need to state what types of materials they want to use, but the type of material used for scour protection really can effect what types of fish come in and inhabit the area.

For example, some of the commonly used materials could be synthetic fronds, which is essentially a matter that's placed at the base of the turbine foundation, and they're kind of synthetic structures that would resemble a sea grass community. And these are the types of fish that would be attracted, ones that would utilize those areas.

Gravel protection. You know, essentially, small rocks could be placed at the base of the wind turbine, which would be – attract

more of a similar community that's already existing on the outer continental shelf here in the mid-Atlantic, more of a sandy bottom habitat.

And then boulders are often used, and these generally would be considered to have the greatest habitat creation potential, just because of the increased surface area of the boulders. There's a lot of opportunity for colonization.

So what we're seeing overall is that there – some of the wind farms in Europe, certainly we are seeing fish that are attracted to these areas, and I will give you a slide a little bit later as to what the results actually are.

[Background voices]

Richard Robins: You have a question, Tony?

Tony DeLernia: Yes, please. How far out from the base of the – I guess we'll say the monopile or whatever – do the scour protection areas extend?

Allison Bates: Several meters. They would extend – I think most of the monitoring that takes place that we've seen would actually monitor about 20 meters out, which is beyond the scour protection material. I think it would depend on the type of material that's actually used. But it would just be several meters around the base of the foundation. And that could really vary in how big of an area it is, depending on what type of foundation we have, right? A monopile takes up much less of the seabed than let's say a gravity foundation, which is a very large area.

Tony DiLernia: Do the scour protection zones extend beyond what are normally the security zones that are established to protect or to – for – I guess we'll say for national security purposes or whatever? Normally, there's a security zone around each of the wind turbines.

Allison Bates: Sure. I don't know what the security zones will be here in the US for that, but I would expect they probably would not extend beyond that. But that's – but I don't know what the size of the security zones would be.

Jeremy Firestone: I think for the most part, the developers just don't want people tying up, and they don't want liability associated with people coming in contact with their monopiles. But – or whatever the foundations are. But I think other than that, there's not a large security zone right around the base of the turbine.

Allison Bates: Sure. We also hear quite a bit about electromagnetic fields, and we know we have cables that connect each of the turbines to one another within an array, and also higher voltage cables that would bring all this electricity back to shore. And although these cables are buried several feet into the sea bed, there still are electromagnetic fields that are generated.

Now we generally can mask, you know, through shielding and through burying cables, we can mask most of the electric field, but there is still a magnetic field that's present, and fish can actually induce an additional electric field as they swim through a magnetic field.

So what does this mean for fish populations? Now this is an area of very limited research. We don't know a lot, but we do know that many fish and crustaceans are sensitive to magnetic fields, and there are several other species, some of the sharks and rays, for example, that actually use electromagnetic fields for hunting their prey. So we know that by introducing an electromagnetic field into the sea – into the water column, there could be some behavioral impacts.

Research indicates this is probably not a physiological impact that's occurring. It's probably more of a behavioral reaction. In the very limited studies that have been done, we've seen some altered swimming patterns, some erratic behavior. For example, eels have exhibited this in some of the European projects. Some species will actually congregate near the electricity cables, and others will tend to avoid and not want to cross the cables, and that can depend on the strength of the electricity running through at the time.

Oh, go ahead.

Richard Robins: Jeff?

Jeff Deem: Are those DC voltages or AC at that point, where they've studied the fish effect?

Allison Bates: I don't know.

Jeremy Firestone: They would probably mostly be AC voltages.

Allison Bates: All right. Moving on to noise, this is a – did you want to go ahead?

John McMurray: You may answer my question here.

Allison Bates: Okay. Noise, all – basically everything we do in the ocean causes noise, and we know that fish – all fish can hear. They use sound as everyday – for everyday biological functions, finding one another, finding prey, detecting predators, navigation, etcetera. And really, at all stages of the offshore wind industry, we are introducing some level of noise, whether it's the vessels for installation or maintenance, for actually installing the wind turbines – we would call that pile driving, if it was a monopile or – you know, the predominant use. So that would be the most intensive noise that's generated, although it is quite temporary.

And then the blades while the turbine are in operation have a very low frequency whooshing sound, and that can introduce low frequency vibrations through the actual structure and into the sea bed. And then, of course, cutting and removing the substructures at the decommissioning of the project generates some noise.

So what does this mean for fish? There has been a fair amount of research on what adding noise in the ocean means for fish, and it really depends on a lot of things, such as what is the fish doing at the time that the noise is introduced? What's the behavior that they're engaging in? What is the hearing capability of that fish? Some fish hear in very broad frequencies. Some hear high frequencies. Some hear lower frequencies. So you could think of that as the pitch of the noise. The fish would have to be able to sense that to actually be impacted.

And prior exposure is really important to consider as well. If wind facilities are developed in areas that are in a very busy part of the ocean, maybe there's a lot of dredging occurring already, sand extraction, etcetera, there may be decreased hearing sensitivity of those fish. But we do know that noise can cause behavioral and possible physiological effects on fish. There could be kind of a behavioral reaction. That flee response is really common with loud noises. Avoidance of an area. There could be possible injury. You can think of, you know, if you're hearing – of decreased hearing after very loud incidents. That can happen with fish and other wildlife in the ocean. Mortality would be very rare, based on the noise levels in this industry, but possible.

But you can see in the image on the screen there, we do have mitigation measures to really reduce the impact of noise on fish and other wildlife. This, for example, is a bubble curtain, which is akin to maybe aquarium bubbles. During the pile driving process,

this is one mitigation measure where the continuously running bubbles can actually attenuate the sounds that are coming from pile driving. And so any fish that are on the outside of that bubble curtain would have – would hear a much lower volume. Sure.

Bill Karp: It seems like, at least when the systems are operating, that it's ambient noise that it's all about, and the more you raise background noise, the more it interferes with fish and other animals' ability to communicate, which is really part of their vital function. So I just wonder what kind of work is being done on that and what the potential consequences might be.

Allison Bates: It really depends on what the existing ambient noise is at that location. Now many locations, particularly in the mid-Atlantic, where we have heavy shipping traffic, the noise from the operating wind facilities probably will not be greater than what already exists out there from just the pervasive, ongoing commercial shipping.

[Background voices]

Allison Bates: Yes. Yes. That's true. But if it were – if these were located in a very quiet part of the ocean, then you're absolutely right. When we start to increase the ambient noise, that is certainly a consideration for long term population level impacts to fish populations.

So in Europe – oh, sorry.

John McMurray: I'm sorry, I didn't meant to interrupt, but along the lines of Bill's question, has there been any species specific work on vibration or noise? Not the temporary noise involved in the construction, but the noise over time? Is there anything peer reviewed out there on any particular species that might be affected?

Allison Bates: Certainly with respect to like shipping noise, I've seen a lot of peer review research on that. With respect to the ambient noise of the wind industry, the research I've seen has to do with comparing that with marine mammal hearing. I haven't really seen much that has to do with specific – species specific impacts to fish. There may be some out there that I'm not aware of.

So overall, our experiences from Europe can help guide our understanding of what could happen here if we do end up with a large scale offshore wind – offshore wind development. And what we're really seeing is a lot of temporary, localized impact. So during the construction process, fish are going to flee the area. There's a lot of noise. There's disturbance on the sea bed. But the

majority of studies are showing that about a year after construction, we're starting to see species assemblages that are very similar to what was there before the wind farm was constructed, or very similar to reference areas, meaning places that wind farms were not installed that would have similar oceanographic conditions.

So it appears that other environmental factors would have a – would be more at play here than the effects of the wind farm after about a year post-construction.

So where does this leave us? Go ahead.

Chris Zeman: What was that second study that showed different – I guess a decrease in abundance on Bank?

Allison Bates: On Bligh Bank on Belgium?

Chris Zeman: Yeah. Is it..

Allison Bates: Yeah. So the – there was a decrease in overall density about a year after construction. Now when you compare this to reference areas, it was actually quite similar to areas that were not impacted by the offshore wind industry, so they weren't able to directly attribute those decreases to the wind industry, but there was a statistically significant decrease. However, there was a neighboring wind facility, Thorntonbank is within a couple of kilometers, that did not experience that same decrease, and there seems to be high levels of variation just within the wind array. So at the time the study was published, it was not stated what the actual impacts were from the industry, other than there was a significant decrease. Yeah?

Bill Karp: A follow-up on my earlier question, but just relative to the European experience, I know that within the European Union they have these Marine Strategy Framework Directives –

Allison Bates: Mm-hmm.

Bill Karp: – where they're setting indicators of good environmental health. And among those are ambient noise levels.

Allison Bates: Mm-hmm.

Bill Karp: And so presumably those directives actually restrict or constrain the noise generating – or set limits on noise generation from this kind – this kind of development.

Allison Bates: Yes, that's true. And some countries have come up with – I think Germany was the first to come up with specific decibel levels that could not be exceeded.

Bill Karp: Is anything like that under consideration in the United States?

Allison Bates: Absolutely. I know the National Marine Fishery Service has been very active in identifying what are these levels that we should be setting. My understanding is that there has been quite a lot of research that's going on, but to my knowledge, we're not – we haven't moved forward setting any new standards. So we do have levels, decibel levels where we would say – we would want the wind construction to be below, and we use mitigation measures generally, such as the bubble curtain or scaring away animals to try to accommodate for that.

Bill Karp: But that's mostly in the acute state, during construction.

Allison Bates: Yes. That's correct.

Bill Karp: As opposed to just raising ambient noise levels.

Allison Bates: Yes.

[Crosstalk]

Allison Bates: That I don't know.

Bill Karp: Okay.

Allison Bates: Yeah. Okay. So here's our last slide. So I just wanted to kind of mention what we're starting to work on at the university. As Jeremy mentioned, we went through a process of trying to collect some data to try to account for all the different existing – or many of the different existing ocean uses a couple of years ago. For example, we used vessel trip report data to identify where some of the more heavily trafficked areas for certain types of fishing might take place. And right now, we're working on ways to kind of whittle that down, look more specifically at individual gear types, and what are some of the economic impacts?

We know that not all fishing vessels are going to be impacted the same way. There could be different safety considerations, whether or not there's dragging involved, how – if there's concerns with

these submerged cables. Pelagic gear may not have the same restrictions.

So we're trying to come up with ways to quantify what those impacts might be for different types of vessel categories, and ultimately suggest ways that wind development could be much more compatible with the fishing industry. So we'll have more on that in the coming months. Thank you.

Richard Robins:

Allison, thank you very much. The industry, like in Europe, a lot of the construction, as you indicated, was – or as Jeremy indicated, was monopile in nature, and some of those were established in relatively high current areas. Like the London array is an example of one that has a very significant sedimentation plume coming off of it that continues today. So with some of these arrays, they'll have very significant sedimentation impacts in the adjacent communities. And that's of concern I think from a fishery standpoint in this region, where we have a surfclam fishery that's very important. We have a scallop fishery that's very important. So we have benthic fisheries that are shellfish that are susceptible to sedimentation effects.

So the effective footprints of some of these structures could be much larger than the nominal footprint. And so when we think about potential conflicts, we might immediately think of making sure they're not in areas of very intensive use from a fishery standpoint, but in fact, the considerations may need to be much broader than that, to the extent that you have these potential sedimentation effects.

And I think because of that, we're going to have a significant interest in a lot of the micro-siting details associated with these leases, the construction techniques, the – what's associated with the installation of them, and the substructure designs, because the substructures in Europe, I mean, those weren't designed to be hydrodynamic. They were just designed based on costs, and most of them are round monopiles.

Allison Bates:

Yep.

Richard Robins:

So I think there are a lot of concerns that come up from a fishery standpoint that are – that are significant from a habitat standpoint. They're also significant in terms of the fisheries' resources in that area. But I think there are different layers to the considerations that have to go into this.

And the – over there, they had the same data limitations we did. So like when the UK got into this, they had something similar to VTR. They had something similar to VMS. But both of those were inadequate to really do a detailed spatial planning exercise. So they went out and hired a GIS modeling team and got chart plotter data from the industry, and the industry by then realized that it was in their interest to provide the data, because they had already been through two rounds of siting. But they gave them the data, they did a GIS analysis, and that's informing the third round of siting.

So it seems like that – ultimately, that's kind of where we need to get to in terms of resolution of data, because we just don't want to have that with – VTR is notoriously unreliable.

Allison Bates: Yes.

Richard Robins: VMS wasn't purposed for fine scale spatial decision making. So I think we have –

Allison Bates: Yep.

Richard Robins: – a lot of the same challenges that Europe had, and there's a lot to learn from that experience.

Allison Bates: Yeah. I would agree with that. We hear – we hear quite a bit about data limitations in all of these kind of planning workshops. Yeah. That's great.

Richard Robins: Emerson?

Emerson Hasbrouck: Thank you, Mr. Chairman. We at the Cornell Marine Program a couple of years ago did an ocean usage study in mapping for New York State Department of State. We did that for the fishing industry. That report's available. I can forward it to the Council. If you give me your business card, I can forward it to you as well. And it's based on VTRs as well as sitting down with fishing industry representatives and having them indicate on the charts with – from their GPS coordinates and their – going back to the old LORAN coordinates in terms of where fishing activity took place. So that's available for the area south of Long Island out to the edge of the – well, not quite to the edge of the continental shelf, but out into deep waters off of Long Island.

Richard Robins: John?

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- John Bullard:* Mr. Chair and Chris, again, thank you for scheduling information on this. I continue to think this is important, and we'll need to know more and more about this. Dr. Firestone, you had one slide that went by pretty quickly about the increasing size of the turbines, and therefore, the increasing spacing in between, and I think it said something like 1.3 kilometers in between.
- Jeremy Firestone:* Something like that. Yeah.
- John Bullard:* And are – most of these do not have restricted zones in between, so that fishing vessels are able to tow in between them? And are the scour pads – what I'm trying to get at is as the scale of these go up and the spacing goes up, are the spacings going to be about that, 1.3 kilometers or thereabouts, with not much restricted zone in between? And scour zones that – you mentioned I think just a few meters around. So can you then pass in between these turbines?
- Jeremy Firestone:* From what I understand, developers have said they're placing no restrictions. So it to a certain extent becomes a question for the Bureau of Ocean Energy Management and the Coast Guard as to what they're going to allow and what they're not going to allow. Obviously, you're going to – there's going to be some concerns – as I showed in the other array, there are going to be buried cables. They're generally going to be two meters maybe three meters below the surface. And so there's going to be some concern with dragging bottom here and hooking on –
- John Bullard:* There are buried cables all over the place. If we couldn't drag where there were cables, we wouldn't be fishing.
- Jeremy Firestone:* Right. I'm just saying that would be – that would be a concern. I didn't say it would be something that would necessarily stop anyone. But that – the – I have – I did just take a look at the Blue Water lease, which is the only lease that's out there. There's nothing in it that gives Blue Water an – you know, Energy Blue Water an explicit right to exclude, and BOEM reserves the right to authorize any uses that it chooses. So even if a developer tried to create a larger exclusion than right around the base of the turbine, BOEM could authorize that. But it probably will ultimately be a call – it probably will be somewhat of a call between BOEM and Coast Guard, the Coast Guard obviously concerned about vessel safety.
- But in – certainly with smaller recreational gear, there's be no issues, or any kind of boating. I mean, they're a long way apart.

You know, you ought to be able as a good sailor to be able to make your way through there, let along if you've got a motor.

Richard Robins: And I see Brian Hooker in the back from BOEM and this point. Brian, welcome.

Brian Hooker: Thanks, and thanks, Jeremy, Allison. It's nice not to be the one always presenting. Just on the – I just want to make one point regarding the exclusion zone. They're – the Coast Guard does not have any plans to establish a regulatory safety exclusion zone, like for some of the oil and gas platforms that were done in the Pacific and the Gulf of Mexico. There is a Navy – I mean, not Navy, but Coast Guard circular on if a developer wished to have some type of setback from their facility, there's a process for doing that, and there would be notice and comment for that process. It's a – you know, it's a Federal Register notice and comment proposed rule-making type process, if they wanted to apply to do that.

And same thing for any process that the Coast Guard wanted to do on its own merit that they thought was necessary. There would be a proposed rule-making associated with that as well. So there's no de facto safety zones or anything planned, and the Coast Guard is already on record quite a few times saying that they have no plans for establishing a safety – a regulatory exclusion on their own merit. Thanks.

Richard Robins: Brian, thank you. And I think the – just to follow up on John's comment earlier, I think the European experience has been mixed in terms of exclusionary zones, some are advisory, some are exclusionary zones in different countries, and some are de facto. That is, the industry won't tow mobile gear through some of the arrays. It seems it's probably a net positive for some of the habitat for recreational type fisheries that _____ on structure, but in terms of mobile gear fisheries, it may result in some significant areas lost.

But that'll depend, too, on the depth at which the cables are buried, how they're buried, what the sub-strait is. I mean, I think there are a lot of open questions about that. But John McMurray?

John McMurray: Thank you, Mr. Chairman. I've made no secret about the fact that I think these are going to be great for my constituency, recreational fishing constituency, as well as the charter boat folks. I think as we've seen over and over again, it's going to create a significant amount of habitat in what's basically a barren coast in the mid-Atlantic, save for a loose network of artificial reefs.

But that's assuming we get access. And there was a photo up there of the Denmark wind farm, and I would just note that when this whole process began in Denmark, the fishing community did not engage, and when they did engage, it was too late. And now they are exclusionary zones. So it's important to note that. Do I think that that's going to happen here? I don't. I think the recreational commercial fishing industry is significant culturally and economically, and I think the process, if one of these companies wanted to develop an exclusionary zone, is so rigorous, and involves so much public comment, that I really – I don't see large exclusionary zones as an issue, at least not for the recreational fishing community.

But yeah, that said, I think we really need to be engaged early and often, and I think we need to make sure as this process develops, that it's done smart, in the right places, and that we do get access to take advantage of what will likely be a significant fishing resource. Thanks.

Jeremy Firestone: I would agree that Europe and particularly Denmark is a cautionary tale. I personally don't think it's going to develop that way in the US. The developers of offshore wind have got – they've got a lot of hills to climb, and that's just not another one that they have any interest in climbing. And I think as well, just the point that initially when the machines started going in, like the machines that we talked about in Denmark, they were 2.3 megawatt machines with much smaller rotor diameter, so the spacing is much narrower than we're going to see here in the US, that I guess would be another benefit from your perspective of the delay in the wind industry, offshore wind industry in the US, is that we are really moving to put in second generation machines, for the most part, these much larger machines that will be farther spaced.

Richard Robins: John, you had your hand up?

John Williamson: John Williamson, Ocean Conservancy. Just to add a little more perspective on this question from the experience that we had on our field trip to UK in March, and I have been remaining in contact with a couple of the fishing industry representatives that are working with the developers on mitigation issues and on risk management in the vicinity of these wind farms in the UK. There, what we were seeing with the 2.5 megawatt turbines was a spacing of about a third of a mile. We're seeing from your presentation now that we're seeing – the larger turbines, the spacing is about two-thirds of a mile. So that is a definite improvement.

What I hear from the people who are actually fishing on the ground, mobile gear, mobile commercial gear, is that it's a matter of risk management. Under ideal conditions, anybody can have access to the wind farm to fish in there. Some people choose not to. Some – but it's a matter of the sea conditions, wind conditions, fog plays a big issue. So it's just – it's a matter of how daring is the person that's going – that's at the wheel of the boat, and what's his insurance exposure?

The other issues are – that come up is of the depth of and the burial techniques for the cables, being able to tow over the cables. Sometimes the cables become exposed under certain types of substrait. They do have a rule, a statute in place in UK, where if somebody hooks up mobile gear on a cable, they get one attempt to free it, and if they can't free it easily, they have to abandon their gear, and then they get compensated by the wind energy company. So that's the sort of mitigation measures that have to get put – that get discussed, negotiated, put in place over time, as the industry – these two industries learn to work together.

Richard Robins: Thank you. Tom?

Tom Alspach: Tom Alspach, representing Seawatch International, a processor of offshore surfclams and ocean quahogs, and thank the chairman for his observations about the potential exclusionary effects, if not exclusionary requirements, that might be associated with these arrays. I mean, you look at the diagram that was up there just a minute ago, about 10 or 15 of them laid out, it's going to encompass a rather wide area.

The company I represent processes surfclams from the Atlantic Coast. Primarily New Jersey has been the primary source for many, many years. And I can assure you, I think it will be a rather daunting situation for lots of captains to think about towing around or through those kinds of arrays, even if they are a mile and a half apart. John just mentioned fog, weather, etcetera. So it's going to disincentivize the use of a lot of the ocean.

Having said that, there is a way to try to make this a win/win situation for everyone. And I spoke to this Committee, this Council, a year plus ago when the BOEM people were here about the good information we have on – and I don't know if you have seen it – on where the most productive clam beds are off of New Jersey. Northeast Fishery Science Center has an abundance of information on that. Our industry has fished in only a very discrete

number, 6, 8, 10, 10 minute squares where 80 percent of the catch comes from. It would be a very small amount of space that would have to be given up to this kind of development in order to protect most of the resources being fished.

So as this begins to unwind, I hope that the work you're doing, you might take into account some of the information that's readily available on where the best and most productive beds are, and always have been, for many – for decades now, actually, and make that known to folks that are talking about either leasing or developing requirements for leasing in those areas. Thank you very much.

Jeremy Firestone: Thank you.

Richard Robins: Thank you, Tom. Any further questions? Jason?

Jason Didden: Two quick questions. One, as the distance between the structures increases, does the overall footprint increase also? If it was like two by two miles, and now they're all spaced further apart within two by two, well, yeah, and then there's – that's less restrictive. But if it goes from two by two to four by four with all these big ones spaced apart, then yeah, maybe you can get in between, but you've lost a larger footprint. Do you know how that works?

Jeremy Firestone: Well, I would say yes and no. I mean, it's ultimately the – if you're putting in a six megawatt turbine, before, you'd have to put in two three megawatt turbines, so that the spacing – I mean, if you want to generate the same amount of electricity, you're not going to occupy more space. Now you may make offshore wind more economical, more cost effective, with the larger machines, and that's part of the motivation from a developer standpoint. And so you may get more offshore wind, but from a spatial standpoint, you're – there's not – there's slight differences even between even a five and a six megawatt as far as the actual area that you would occupy. But it's not just – you don't just sort of double it because you've got bigger machines. They're going to be relatively about the same size.

Jason Didden: And for some of the fishery research, do you have plans for kind of reaching out to some of the fishing industry in the area? Because obviously, a lot of them can pinpoint these kind of real hotspots of particular areas for them.

Allison Bates: Yeah. Absolutely. So first, we're trying to tap into the existing data, as was just mentioned, helpfully. There are a lot of initiatives

right now trying to work with the fishing industry on where some of these hot spots are. So we don't want to duplicate efforts. We'd like to use existing data and data that's currently being collected through some of these spatial planning initiatives. But yes, we would like to.

Richard Robins: Thanks, Jason. Dr. Karp?

Bill Karp: Climate change is a big issue for this community in many different ways, and one of them relates to changes in the distribution and migration patterns of fish and other marine animals. So part of the problem here is that the data that tells you about what the circumstances are today doesn't tell you very much about how things are going to be in the future. How, if at all, is that being taken into account?

Jeremy Firestone: I mean, I would say in almost no research has that been taken into account. I mean, we are just starting to see really in the last year, and there's been two studies that I just downloaded, I haven't even read them yet, that are really looking at the velocity of climate change for wildlife and how fast you might expect wildlife in different parts of the world to move. We certainly are seeing wildlife moving.

And so it really will depend, and the question is whether wildlife are going to be able to move quickly enough to adapt to the changes, or whether we're going to see extinctions as a result of climate change, because they can't move quickly enough. But in work like Allison's, you can only do so much in one study. And I think first we need to look at what's actually there, what we actually know about what exists today, and do an analysis, and then – but I think you're absolutely right. We do want to be thinking about this in a dynamic standpoint, because things are changing, and we would expect that they will continue to change.

Richard Robins: Dr. Firestone and Allison, thank you all very much. BOEM is going to be developing a best practices document, and we are going to hope to provide input into that in the first quarter of next year by having a workshop here at the Council. So we look forward to staying in contact with you all and following up. But thanks again for that informative presentation.

The bus is going to leave in 15 minutes. It's 6:40. Please see Mary for tickets to the baseball game if you –

[End of Audio]

**Swearing In of New/Reappointed Council Member
Election of Officers
Strategic Plan
August 14, 2013
Double Tree by Hilton Wilmington
Wilmington, DE**

Richard Robins: I would like to take a moment to remember Geir Monson. Saturday before last, Geir passed away, as I think you all know at this point. But Geir was always a trusted advisor to this Council. He was the type of guy you could go to and ask for an unvarnished opinion on what was going on in the fishery. He'd also give us a clear perspective on stock assessments and surveys, and he provided us with a great deal of advice, and frankly, very honest counsel as we went through the management process. He'll be sorely missed. So if you could, please rise and join me in a moment of silence for Geir Monson. Thank you.

[Pause]

Richard Robins: Thank you. I'm also sorry to say that Preston Pate won't be with us this week. Pres's father passed away yesterday morning, and Pres is – Pres will be in North Carolina for the rest of the week. And I'll ask Chris if we can get an address around for condolences for Preston.

So our first order of business is the swearing in of new members, and that includes those who were reappointed. So at this point, I'd welcome Jeff Kaelin as a new member to the Mid-Atlantic Council. There are also several of us returning, including Steve Linhard, Lee Anderson, and myself. And I'll ask John Bullard if he would do the swearing in of the members.

John Bullard: Sure. Before I do that, I just want to express thanks to Chris and Mary and the staff for a wonderful evening last night. I'm glad we didn't stay for the 18 innings. But it's my pleasure to swear in Lee Anderson, Rick Robins, Steve Linhard, and new member Jeff Kaelin. And if you would rise, there is an oath of office that I think you have, George has handed to you. I'll read it, and you can then repeat after me. I, state your name.

Several: I, *[names]* –

John Bullard: – as a duly appointed member of the Regional Fishery Management Council –

Several: – as a duly appointed member of the Regional Fishery Management Council –

John Bullard: – established under the Magnuson-Stevens Fishery Conservation and Management Act –

Several: – established under the Magnuson-Stevens Fishery Conservation and Management Act –

John Bullard: – hereby promise to conserve and manage –

Several: – hereby promise to conserve and manage –

John Bullard: – the living marine resources –

Several: – the living marine resources –

John Bullard: – of the United States of America –

Several: – of the United States of America –

John Bullard: – by carrying out the business of the Council –

Several: – by carrying out the business of the Council –

John Bullard: – for the greatest overall benefit of the nation.

Several: – for the greatest overall benefit of the nation.

John Bullard: I recognize my responsibility to serve –

Several: I recognize my responsibility to serve –

John Bullard: – as a knowledgeable and experienced trustee –

Several: – as a knowledgeable and experienced trustee –

John Bullard: – of the nation's marine fisheries' resources –

Several: – of the nation's marine fisheries' resources –

John Bullard: – being careful to balance –

Several: – being careful to balance –

John Bullard: – competing private or regional interests –

Several: – competing private or regional interests –

John Bullard: – and always aware and protective –

Several: – and always aware and protective –

John Bullard: – of the public interest in those resources.

Several: – of the public interest in those resources.

John Bullard: I commit myself to uphold –

Several: I commit myself to uphold –

John Bullard: – the provisions, standards, and requirements –

Several: – the provisions, standards, and requirements –

John Bullard: – of the Magnuson-Stevens Fishery Conservation and Management Act –

Several: – of the Magnuson-Stevens Fishery Conservation and Management Act –

John Bullard: – and other applicable law –

Several: – and other applicable law –

John Bullard: – and shall conduct myself at all times –

Several: – and shall conduct myself at all times –

John Bullard: – according to the rules of conduct –

Several: – according to the rules of conduct –

John Bullard: – prescribed by the Secretary of Commerce.

Several: – prescribed by the Secretary of Commerce.

John Bullard: This oath is given freely –

Several: This oath is given freely –

John Bullard: – and without mental reservation or purpose of evasion.

Several: – and without mental reservation or purpose of evasion.

John Bullard: Congratulations. Now I have – I don't remember having these last year when I did this, but I have certificates of membership that are signed by Penny Pritzker, who is the new Secretary of Commerce, and Kathy Sullivan, the acting Undersecretary of Commerce, the head of NOAA. They're not framed. Now last year I didn't have them at all, as I confirmed with Tony. If you'd like, you can give these back to me. I'll take them back – no? Carry on? Bring them back and I'll frame them and I'll ship to you. Or you can help out your government and you can frame these yourself, or stick them – those reappointed, in the frames of old certificates. How many times have you served?

Lee Anderson: I can't count that high.

John Bullard: You can't count that high. And your choice. Give them back to me, and I'll take them back and frame them and bring them back at some point in the indefinite future. And your choice. So who are you? Lee Anderson. Here we are. There you go.

Lee Anderson: I'll take care of mine. I will frame my own.

John Bullard: All right.

[Background voices]

Richard Robins: Thank you, John. The next order of business is the elections, and I'll turn to Michael Luisi, chairman of the Elections Committee.

Michael Luisi: Thank you, Mr. Chairman. Over the past few weeks, I received nominations for both Chair and Vice-chair, and I think, Denise, we're going to do this together, my understanding?

Denise Desautels: So Mr. Luisi, as the chair of the Nominating Committee, could you please give me your nominees for the position of chair?

Michael Luisi: Yes. I received one nominee for the position of Chair, and that nominee was Rick Robins.

Denise Desautels: Thank you. This is a call – at this time, I'll ask for a call for any additional nominees for the position of chair. Seeing none, Rick Robins is elected by acclaim. Congratulations, Mr. Robins.

Richard Robins: Thank you, Denise. Mike?

Michael Luisi: Nominations for Vice-chair, I also received one nomination, and that nomination was for Lee Anderson.

Denise Desautels: At this time, this is a call for any additional nominations for vice chair. Seeing none, Mr. Anderson is elected by acclaim. Congratulations.

Richard Robins: Mike and Denise, thank you, and I'd like to thank the Council for their continued confidence and the opportunity to serve in this capacity. And I'll turn to Lee. I think Lee has an announcement relative to tonight's social event at the Anderson Fish Museum. Lee?

Lee Anderson: Thank you. And welcome to Delaware. I'll be brief. I know we have a lot to do. But you're all welcome to come to the Anderson Fish Museum party this evening at 6:00. I do have some driving instructions if somebody needs them. There was also a memo that went out. Please carpool if you can.

I just want to announce that the Anderson Fish Museum has some things that are a little different this year. Here, I have picked up an operations manual for Regional Fisheries Management Council that says initial draft, July 1976. Some of the members around this table I think were in the eighth grade at that time, but – or maybe less, I don't know. But it's fun.

I also have a document here that is a Commerce – a Commerce News press release. This one says that the National Oceanographic Administration on March 1 will put into effect an historic new law. For the first time it will give the United States the opportunity to manage fisheries off its coasts, according to Juanita Krebs.

So we're not only into fishing gear at the Anderson Fishing Museum. We have historical things. Anybody is welcome to look at this. I'll have it around. And there'll be other stuff at the museum tonight. I hope to see you all at 6:00. Oh, sorry. One other thing. Dewey has provided some great North Carolina shrimp for part of the appetizer in honor of his friend Erling, who

will also be honored at the party. So there'll be a lot of things going on. Thanks for the shrimp, Dewey.

Richard Robins: Thank you, Lee. The next item is the Strategic Plan, and I'll turn to Mary Clark for that presentation. Mary?

Mary Clark: Okay. Thank you, Mr. Chairman. Today we have two tasks to deal with the Strategic Plan. The first is to review the public comments that were received since the last Council meeting, and the second is to review several things relative to the implementation plan approach.

So today, I'm going to give a brief overview of the project. I will give a summary of the public comments we received. We'll have an additional chance for public comments from the public here at the meeting. And then hopefully, we'll have Council discussion of any revisions necessary to the plan, and then hopefully approval of the final plan.

After that, then I'll give a second presentation of a sort of draft implementation plan approach, and following that, we'll have Council discussion, and that will be it. So just to note that if anyone is looking for any background documents on the Strategic Plan, they're all posted on the website. The web address is there. I know there's a lot of different components of the project and background documents I'll mention, so those are all available online.

Just to give a brief summary to anyone who is just tuning in, this project has been underway for about three years now. The Council initiated it in the spring of 2010. The goal of the project was to develop a long term vision and strategic plan for the Council's managed fisheries. In the fall of 2011, we initiated the Visioning Project, which was a large-scale outreach and stakeholder engagement project. Over the course of those six months, more than 1,500 stakeholders provided input through surveys, position letters, and port meetings throughout the region.

In June of 2012, the results of this project were summarized in the Stakeholder Input Report and presented to the Council. Between August and December of last year, a working group of stakeholders, Council members, and regional leadership met five times to develop a vision, mission, goals, and objectives for the Plan. From January to May of this year, Council staff revised and further developed this Plan, which was the draft presented at the last Council meeting. This draft is included in the briefing book.

And since then, we solicited public comments on the Plan, which I will present today. Just to give sort of a brief overview of the Plan's structure, it's centered around four pillars of the Council's work. So we divided these into communication, governance, science, and management. These are of course interconnected in all of the Council's activities, but they're sort of the four main areas of the Council's management activities. So we have 18 objectives throughout these 4 categories, and then I believe something like 117 strategies overall.

So we received approximately 7,500 comments on the Plan, and also 4 comment letters from organizations. The vast majority of these comments were focused specifically on supporting the Council's ecosystem approach that was defined in the Strategic Plan. There were very few general comments, either positive or negative, about other aspects of the Plan. The one more general comment was that – emphasized the importance of follow-through and implementation of the Plan's objectives. So even those who voiced support for the ecosystem approach to fisheries management that we included in the Plan said none of it would really matter if the Council doesn't implement effectively, and so they were hoping to see effective implementation of the objectives and strategies over the next five years.

So we received – I guess almost all of the 7,500 comments were either identical or near identical. There were two different form letters that we received. Both of those are detailed in the briefing materials. But the content of them was essentially the same, focused on urging the Council to complete and implement the EAFM document to ensure that forage fish are adequately protected, to consider species interactions in stock assessments and catch limits, and also to integrate species interactions as a core component of fishery management plans, to ensure that essential fish habitat is protected, and also to avoid the adverse impacts of fishing on the mid-Atlantic ecosystem, and finally, to improve our understanding of climate change, and to manage fisheries accordingly.

So I included in the briefing book some I guess variations of this letter, but there's not a whole lot more to elaborate on, since they were all very similar. But I would note that 7,500 is quite a few comments, and so I think that this underscores the amount of support for including ecosystem – an ecosystem approach to management as one of the core elements of the Plan.

I'm going to spend a little more on the four letters that we received from organizations, since those were a little bit more varied. The first one was from the Bureau of Ocean Energy Management. They expressed strong support for the Council's objectives that related to strengthening the Council's partnership with BOEM, and specifically supported all of the objectives and goals and strategies related to offshore energy management. So I just pulled a couple of quotes out from each of these letters, but they said, "BOEM will continue to work collaboratively with the Council to prioritize study needs in the mid-Atlantic region, and BOEM hopes that the Council will provide constructive feedback to ensure that BOEM's environmental assessments and studies accurately reflect potential impacts to fisheries and the communities they support."

Can you all hear me okay? Okay. The second letter was from Wild Oceans. This letter expressed strong support for the Council's vision and for the ecosystem-related objectives and strategies. They also noted their appreciation for the inclusion of stewardship as an element of the vision, and also as one of the Council's core values. They noted that the – that it was a positive step that the Council included completion of the Ecosystem Approach to Fishery Management document as one of the strategies, but also that the Council included other ecosystem-related objectives and strategies independent of developing that plan into the document. They said, "Incorporating habitat considerations and species interactions are strategies that are already evolving through existing management plan frameworks. Indeed, significant progress can and should be made toward EAFM in the two years leading up to completion of the guidance document."

They – the letter did note that they were disappointed in the lack of working group involvement in Implementation Plan development. They posed some specific questions about implementation that the Council should consider, and I think they were important questions to pose, and so I've included those as elements of the next presentation, which we will return to when we discuss implementation in greater depth a little bit later on.

The third letter was from the Coalition for the Atlantic Herring Fisheries Orderly, Informed, and Responsible Long Term Development, also known as the CHOIR Coalition. They – this letter expressed support for the ecosystem approach defined in the draft Plan, and particularly emphasized the importance of maintaining a healthy forage base for mid-Atlantic fisheries. They said, "We're glad to see that your draft Strategic Plan includes a

move toward an ecosystem approach, and we would strongly encourage you to both approve this part of the Plan, and then work towards implementing this approach into management plans."

Finally, we received a letter from Ocean River Institute. This letter was signed by more than 1,100 individuals, and they also included 190 additional comments behind the letter in the briefing book. This letter also supported the inclusion of EAFM in the Strategic Plan, and emphasized the importance of science-based forage fish policy. This letter said, "The Draft Plan's focus on species interactions is particularly important for the forage fish and for the economically valuable predator fish that depend upon them."

So in summary, the comments almost entirely focused on ecosystem approaches to management. There were very few specific comments, either positive or negative, on other parts of the Plan. But the comments generally did support the Council's proactive approach to management, and emphasized that follow-through is critical.

I thought – I wasn't completely surprised that we didn't get a lot of specific comments on the other elements of the Plan, because I think that the majority of the objectives and strategies are at a general enough – are of a general enough nature that it would be difficult to comment on them very specifically. And so I think that this might highlight the importance of receiving public comments on our implementation approaches on an ongoing basis, since this project really was designed to be a stakeholder-driven initiative.

So that's the end of the public comment presentation, so I guess the next step would be to provide a chance for any additional public comments here today, and then for the Council to discuss any revisions that are necessary prior to approval of the Plan.

Richard Robins: Thank you, Mary. Appreciate the presentation. With that, are there any comments from the public, members that are here in attendance today on the Plan? Adam? Good morning.

Adam Nowalsky: Thank you very much, Mr. Chairman, members of the Council. Adam Nowalsky, speaking today on behalf of the Recreational Fishing Alliance. First, I'd like to begin by congratulating those Council members on their reappointments and new appointments, Mr. Kaelin, as well as the reelection of the Chair and Vice-chair. Look forward to your continued leadership over the next years of your appointment.

I wanted to thank the entire Council for the opportunity to having served on the working group for the development of this Strategic Plan. The meetings were very productive. It was – really did a very good job of getting to the merits of a lot of the input that was taken. During the public outreach period, the port meetings that were held, the other meetings, the opportunity to really engage stakeholders I think was really critical.

But now that brings us to what Mary has really touched on here, is that unfortunately, the working group didn't have the time to get into the Implementation Plan itself, and the devil is truly going to be in the details of how the Strategic Plan is implemented, and I look forward to the Council developing an Implementation Plan here today or on an ongoing basis that continues the stakeholder input that this Council has worked very hard to develop in the recent years. I really feel that's going to be the lynchpin to getting the public to have the buy-in to support the Council and their efforts.

I think the management section of the Plan is very critical. The adoption of the language there that talks about productive fisheries is very important. Over the last 20-plus years, an incredible amount of effort has gone into the fish, to go ahead and rebuild the fishery themselves. As a charter boat operator, I get asked on an ongoing basis, one of the first questions people ask me is, "Hey, how's business?" And my answer for them is, "I run a charter boat." And they just laugh and grin, and they kind of know what that means already, in that it's a very hard business to be in today.

So when we hear about what has – the successes of the Council, of the Regional Office, of the nation as a whole, where this Council has successively rebuilt the fish stocks. When we look at the stock status, we now have to focus on rebuilding those fisheries themselves. The cost has been very high to the fisheries in rebuilding the fish, and that management strategy that's in this plan to rebuild and manage and maintain productive fisheries needs to be something that the Implementation Plan needs to focus as we move forward.

In conclusion, again, I want to thank the Council for their efforts here, and I really want to focus on that a lynchpin of success needs to be continued stakeholder involvement through the Implementation Plan that starts here today. Thank you very much.

Richard Robins:

Adam, thank you, and thanks for your participation throughout the process. Thanks. Other comments? John?

John Williamson: Yeah. John Williamson, Ocean Conservancy. I just – it may seem like a small thing, but I just want to congratulate the staff on having developed a really fabulous website. I mean, as a tool for your Council, it's – there's a lot of information there, and it's very accessible. It's clear that the staff has given this a lot of thought, and I think it's a really important step as far as achieving your strategic goals. So thank you.

Richard Robins: Thank you, John. Peter Moore?

Peter Moore: Thank you, Mr. Chairman. I'm Peter Moore, and I know a lot of you from my fish days, but I'm now in the last year and a half with MARACOOS, Mid-Atlantic Regional Association Coastal Ocean Observing System. And I just wanted to commend the Council on this Plan. And there's a group of – a network, an ocean observatory, we're looking forward to working with you on the science side of this, implementation. Just for people's information, we've invited Jason Didden to a meeting in September, early September, in Rhode Island, which is a science and management and fishermen meeting on looking at short-lived species, in particular squids and butterfish, to look at some of the issues associated with them relative to climate change, or whatever people want to call it, changing conditions in the ocean.

And out of that meeting, that will follow obviously the work that is going on at the Center this next couple of weeks on butterfish assessment. We've got Josh Kohut and John Manderson as part of our quote/unquote stable in this effort, and just look forward to moving ahead on anything that the Council feels that they need for information that we can possibly provide. So just wanted to thank you, and congratulations.

Richard Robins: Thank you, Peter. Other comments on the Draft Plan? Okay. Mary, at this point, are we able to discuss any concerns that we have at the Council level relative to the draft document?

Mary Clark: Yes.

Richard Robins: Thank you.

Mary Clark: I am just about to – you can go ahead and start discussing. I'm going to pull up the Plan as a Word document on here, so that we can look at any changes that are needed live. So just give me one second to get that up.

Richard Robins:

Thank you, Mary. And I did have a couple of minor details that have come to mind in the – essentially over the course of the last couple of months, as we've reflected on the Draft Plan. And some of them are responses to events that have happened recently. For example, within the region, parts of Amendment 5 to the Sea Herring Plan related to observer coverage was disapproved, and part of the component that was disapproved was one that would allow for cost sharing of observer coverage.

And one of our strategies in here relates to monitoring and trying to expand observer coverage in the mid-Atlantic region. But expanding that coverage faces some funding impediments. It also faces some legal impediments. And whereas the Alaska region has the ability to have at their disposal a broader range of tools for providing for observer coverage funding, we don't have all those mechanisms. So to the extent that we want to make sure that we have a better range of tools available, I would suggest if we want to – if we want to have a strategy that gets at expanding observer coverage on a long term basis, that we also seek some legislative modifications that would provide for funding for observer coverage. That's just a minor detail there within the observer coverage section, but I think that's something that we might want to consider explicitly.

Also, yesterday we had a lengthy discussion about the RSA program, and this is one that we've had I think every time we've discussed RSA that is, the fact that the reality of the situation is the fact that the NEAMAP survey takes up the lion's share of the resources that are available within RSA. We have a strategy in our science section that talks about enhancing the Council's RSA program to support our research needs, but we're not able to move really beyond NEAMAP, because of the scale of the available funds and the fact that there is no dedicated funding for NEAMAP.

So I would suggest that we be explicit in that section about trying to work with our management partners to secure long term funding for the NEAMAP survey. That's something that we've tried to do over time. I think we ought to continue to try to do that, and just have that identified as a component of one of those bullets there in the science section.

There's also discussion in there about trying to enhance cooperative research, and I would just suggest that we specifically say, "and surveys" in there. Again, that would lend support to the work with NEAMAP. It would also provide for the potential to expand those surveys beyond that.

Those are just a few things that have come to light in the last few months. Again, relative to recent actions by the Regional Office, thinking about the observer coverage issue, also thinking about yesterday's discussion about RSA and the importance of trying to have long term funding for NEAMAP. But I want to open it up to the Council to see if there are any other additions or revisions that people want to consider, or if you want to discuss those particular revisions in detail. Jeff?

Jeff Kaelin:

Thanks, Mr. Chairman. I was going to be here today and be quiet, but I can't do that. You all know me well enough. I think that your focus on observer funding is important. Obviously, there has to be a lot of work done in the region to figure out how – to develop mechanisms that would allow the industry to make contributions to the Agency. But I think we also ought to begin to talk about other stakeholders potentially providing resources for observer coverage or extra monitoring that they feel is important outside of the SBRM allocation process.

So I think as we examine how the industry can provide funds to the Agency to provide additional monitoring, we should open it up to allow opportunities for other stakeholders to make the same kind of contribution, because as Adam pointed out, there's not an awful lot of fat in these fisheries these days. So I think that's an important element of trying to develop additional observer resources.

And I'll give you an example. The Nature Conservancy has contributed to the Bycatch Avoidance Project in the past, and we welcome that support. But – so we're looking for some other contributions, I think, outside of just our taking it out of the hatch as we move ahead.

Richard Robins:

Thank you, Jeff. And as you know, right now, we really don't have the range of tools that some of the other regions have. I think we could leave the strategy broad and simply say to develop additional funding mechanisms to provide for observer coverage. And right now, we don't have those. And that – we'll have to see how that plays out with Amendment 14 that's under review by the Agency, but in the case of Amendment 5, we know what the outcome of that was. John?

John Bullard:

First of all, Mr. Chair, I congratulate the Council on the existence of this Strategic Plan, from its vision, values, goals, and objectives. And just looking at strategy 13.1, which I think you're referring to,

support increased at sea observer coverage in mid-Atlantic fisheries, that language is general and encompasses an effort that we'd all like to participate in. Certainly Dr. Karp and I, the Science Center and the Regional Office, have an effort underway where we're trying to figure out this issue about how do we do cost sharing, because we want to take advantage of industry support for observers. We didn't like turning down Amendment 5. We had to because there's no legal way of cost sharing. And so that wasn't an action that we liked to do, although our legal counsel said, "John, don't say that, because you like to turn down things that violate Magnuson. That's something that you should like to do." So I like turning down things that violate the law, so let me correct myself.

When the industry offers to pick up part of the cost, that's an offer you want to be able to accept. And so Bill and I, more accurately, people at the Science Center, people in the Regional Office, are trying to figure out how do we find ways to do that. And that effort ought to extend to members of the industry and members of the Council, as Jeff pointed out, others who want to help solve that problem.

Now does that mean that language in the Strategic Plan needs to change so that we can work together to figure this out? I don't know. I think that 13.1 has general language saying let's support at sea observer coverage. Does Magnuson have to be changed? I don't know. Bill may want to comment on this, because I think the Alaska language allows things to happen in Alaska that can't happen here. But I think as far as the Strategic Plan is concerned, support increased at sea observer coverage embodies that the Council should be working on this. We're working on it, and would welcome a participation with the Mid, and New England, for that matter.

So I don't know whether the language needs to change. We're working on this and would welcome participation by the Council.

Richard Robins:

Thanks, John. And again, the reason I brought it up is the fact that there does appear to be a legal impediment to expanding that coverage. So whether we leave the language as broad as it is now and just recognize that within our Implementation Plan we would have to work to try to address that, or whether we want to put it in the Plan. I mean, we could do it either way. But it seems to me that it is a specific impediment that we face in this region. Bill?

Bill Karp:

Thank you, Mr. Chairman. Just to follow up, the current language in the Act which applies exclusively to Alaska, was originally

drafted as generic, to allow all regions to develop fee-based programs. But for various reasons, it was eventually embodied only to support that kind of action in Alaska. So certainly, the merits of that kind of an approach are I think understood by everybody, and you spoke to that.

We are working on some potential work-arounds, but this, at the moment, we can't say very much more than that we're bringing our best and brightest forward and looking for a way to move forward in spite of the lack of the appropriate language in the Act, but in a way that's legal, so that John won't have to disapprove of any of the ideas that we bring forward.

I'd also just like to speak a little bit to the language that you have in the Plan with regards to innovation and electronic technologies, because I think that's also right on the mark. And as you know, and many of the members of the Council know, there's new energy being put into developing the capabilities of EM and broader-based electronic technologies for monitoring, and the Science Center and the Regional Office are working very hard to bring some leadership to that, so I'm hoping that within the next several months to a year, we'll start to see some ideas emerge that will actually help us to address some of these really challenging monitoring programs.

Richard Robins: Thank you, Dr. Karp. John McMurray?

John McMurray: Thank you, Mr. Chairman. I'm just not sure I'm following this. Can a cost sharing mechanism be developed under current Magnuson, or are we seeking a legislative solution?

Bill Karp: Mr. Chairman, we – there is a cost sharing mechanism in place in the Northwest, which is a work-around, and it's a temporary work-around, which we think may be applicable more broadly, but we don't believe that it would be a permanent fix to the problem.

John McMurray: With that in mind, is the Council accepting motions now to tweak this?

Richard Robins: I think we can do it by motion or by consent, but if you want to do it by motion, that'd be fine.

John McMurray: What's the pleasure of the Chair?

Richard Robins: Go ahead.

John McMurray: Okay. I'd like to move under Objective 13 that we add Strategy 13.5. Actually, you already have it up there. Seek legislative solutions to expand observer funding options.

Richard Robins: Second to the motion? Second by Lee Anderson. Discussion on the motion? I think this is sufficiently broad in terms of what it would allow us to encompass, but it's a little more explicit than what's in there now, so – any discussion on the motion? Is Council ready for the question? All those in favor indicate by saying – or by raising your hand. Eighteen. Opposed, like sign. Abstentions, like sign. One abstention. Motion carries. Thank you, John. Is there any other – Lee Anderson, go ahead.

Lee Anderson: Well, as long as we're at it, and following your remarks, I prepared a motion to add the other changes that you suggested. And we've taken care of number 3, but number 1 and 2 are on the board now, which says add "and surveys" after the word research in Section 12.2, and add – boy, my glasses are bad – "and work with our management partners to secure long term funding for the NEMAP survey." And that was in Section 12.1.

Richard Robins: Thank you, Lee. Is there a second to that motion? Second by John McMurray. Discussion on the motion? I think this follows on the discussion we had yesterday about RSA and the need to secure that funding for NEMAP. That's something that we've worked on for years. The ASMFC has supported that request for years, but I think we need to keep it in front of us as a long term goal as well. Any further discussion? Is there any objection to the motion? Seeing none, it's approved by consent. Thank you.

Is there any other discussion on any of the specific elements within the Strategic Plan by the Council at this time? All right. Mary, do you want to move on to the implementation?

Mary Clark: Okay. Next up, we will be discussing several questions related to how we develop an Implementation Plan. The idea today is not to actually present an Implementation Plan, but to sort of touch base with the Council first about how it will be developed. Adam said earlier, the devil is in the details, and an Implementation Plan does include a lot of details, and we would prefer to do it just once and get it right the first time.

So a few things we'll be considering today is the timeframe. So the Plan already has a five-year timeframe on it, but this would be the intervals of Implementation Plan assessment and development and revision. Also, roles, so who will be responsible for what, who

will oversee the Plan, ensure accountability, and what not. Third, I'll also present a few options for the actual structure of the Plan, and then two sort of questions that I think may come up I thought I'd go ahead and address is how the Plan would integrate with the Council's existing Work Plan. Would it replace it? Would it supplement it? So we'll touch on that.

And then finally, and this is one I maybe should have discussed in the first presentation, but revisions to the Strategic Plan. So under what circumstances would any revisions to the Strategic Plan be made? Who would make them? How would they be made? That's an important thing to clarify. I actually just realized that I don't think there was ever a vote on approving the Plan itself with those modifications, so should we do that first?

Richard Robins: Mary, thank you for the reminder. Yes, and I'll entertain a motion to approve the Plan as modified, if the Council – moved by Lee Anderson. Is there a second to the motion? Seconded by Steve Linhard. Any discussion on the motion? All those in favor, please indicate by raising your hand. Eighteen. Opposed, like sign. Abstentions, like sign. Motion carries. Thank you. Mary?

Mary Clark: I would have been really upset if I drove away today without getting final approval for that Plan.

Richard Robins: You and I both.

Mary Clark: Okay. So this is the part of the letter from Wild Oceans. Pam, I hope you don't mind that I'm quoting you directly, but I thought this was a really important point that she made, so I'm just going to read it, if you don't mind, since it's a little hard to say. The letter said, "When the Council meets to review the draft, it should clarify how the Plan will be adopted into the Council process and what body will be accountable for overseeing the Plan's implementation. For example, if the Executive Committee were assigned oversight to the Strategic Plan, how often would the Committee meet to review the Plan, and when? How would the Plan's implementation mesh with the Council's current workload planning process? If a change to the Strategic Plan was necessary, how would the Plan be amended?" And the bold here is mine.

"It's important for the Council to provide clear answers to these and other process questions in order to maintain stakeholder engagement and fulfill the promise of an operational Strategic Plan." So I'm kind of highlighting this because this project from the beginning has really been driven by recognition that

stakeholder input is extremely important for successful fisheries management. And while a lot of effort was put in at the front end of this project to get their input, I think that the Council needs to be cognizant of the importance of providing clear answers about how these objectives and strategies will be implemented, and on a consistent basis.

So all of these questions that she brought up and more are important aspects of the Implementation Plan that should be considered prior to diving into implementation of the Plan next year.

So to answer, or begin answering some of those questions, what we're proposing for implementation is – would be a one-year interval of development and assessment of an Implementation Plan, but given the fact that a lot of the objectives and strategies in the Plan are – well, the objectives and strategies are a mix of some smaller tasks and then some larger tasks that would take years to complete, and so we don't – we don't want to constrain ourselves by only having one year plans that would prevent the initiation of projects that could take several years to complete.

But we also want to have a small enough timeframe so that we can plan specific details of actually how these different activities will be completed. So we've kind of developed a combination approach that would include a one-year Implementation Plan as well as two and three-year outlooks. So what this would mean is that we plan the specifics of the coming years' activities relative to implementing the objectives and strategies of the Strategic Plan, but we also place that in the context of two and three years out from now.

So theoretically, this would kind of – this would occur on a rolling basis. So assuming that we complete everything included in the one-year Implementation Plan, then the two and three year outlooks would be the foundation of the coming year's Implementation Plan. So over the course of the five-year Strategic Plan timeframe, it would look something like this.

Some of you have probably already noted that a three-year outlook would only make sense for the first three years of Implementation Plans, and then beyond that, we would be beyond 2018, which is the I guess end date for this Plan that you just approved. And so what I've included here, you'll see in the green and orange bars is the addition of visioning and strategic planning work during the fourth and fifth years of our cycle here, so that we would ensure

the – I guess the continued development of a Strategic Plan for 2019 and beyond. I know that seems like a long way out, but I think it's important to both look at the short term, so that we can ensure that these objectives and strategies are feasible, but also to look at them in the longer term scheme of things.

Does this makes sense to everyone? Are there any questions right now? I know it's a little confusing.

Richard Robins: Thanks, Mary. Any questions? All right.

Mary Clark: Okay. So one of the important questions to consider today is who is responsible for what parts of the Plan? And so there are different roles in implementation, oversight, and development. What we discussed at the last meeting is that the Executive Committee would be sort of the primary – would serve as the primary oversight role. I included the Executive Director in here as the sort of liaison between the staff and the Executive Committee, but they would be the primary Committee that would work with the staff to develop the Implementation Plans from year to year for full Council review.

The Council technical staff would be responsible for initial draft Implementation Plan development. One thing we've been discussing is having broader staff involvement in development of the components of the Plan. I know typically there's one staff person that's the lead on one Committee, but this would be a slightly different approach that would kind of parse out the roles in Implementation Plan development to different staff members.

And finally, review of both the Plans themselves and also the progress in accomplishing the tasks included in the Implementation Plan would be shared by the Executive Committee and the full Council. Shared probably is not the right word, but Executive Committee would serve as the – like I said, the – I guess do the majority of the review work, but that the full Council would also be – would also play a role in reviewing the final draft Implementation Plan and receiving updates on progress.

Okay. So the next question to consider is when would revisions be necessary to the Strategic Plan. And I bring this up in a discussion of the Implementation Plan because I think, one, one area of uncertainty that has already come up this morning is how specific do we want to be with the Plan. We want to ensure that the Plan is for the most part going to be relevant throughout the five-year timeframe that we've established for it, and so the idea is to include

the specific details and things that we know we want to do in the short term in the Implementation Plan, so that if those are accomplished, then we can move on to the next activity in the following year. For example, relative to observer coverage.

So reasons the Strategic Plan might need to be revised, one might be to accommodate external factors that are out of the Council's control and are unpredictable, such as major policy changes, like a major MSA reauthorization that substantially changed the Council's responsibilities or process, or substantial budget or resource limitations. So if the objectives of the Plan no longer are feasible, then that would require some possible review and revision of it.

Another possible reason it might need revision is if the language turns out to be ambiguous, and there is substantial confusion about what a part of the Plan means, then that might require revision. If we received significant public input on an issue, then – I hope that we won't, since we've put so much work into getting public input prior to developing the Plan, but I don't – I wouldn't want to rule it out. So that would be a possible reason to consider revision. And then also if progress on achieving the goals and objectives is significantly faster or slower, and our expectations and timeframes need to be adjusted.

So like I said, revisions are not ideal. We hope to keep it consistent and relatively unchanged over the next five years, but it is important to clarify when and why we might need to do that.

Okay. So I've already given sort of a summary of what the Implementation Plan structure might look like, but to go into a little more detail, it would include a summary of the previous year's activities and progress, with the exclusion of this coming year, since – well, actually, we have done quite a bit to achieve some of the strategies outlined in the Plan already, so I guess we could do that.

Then there would be an overview of the activities we'd be undertaking for the next year. As I've imagined it, it would look somewhat similar to the way the Council's list of priorities looks now, which is essentially a list of activities and management actions that are planned for the year. And they would also include the two and three year outlook. So what are the projects that we are undertaking but can't expect to necessarily complete within the coming year? This kind of creates a context for the coming year's Implementation Plan.

And then the bulk of the Plan would be much more detailed sections on each of the four pillars that I described in the last presentation. For each of those pillars, we would have a situation overview, so a review of the current challenges and opportunities that we have, anything that has changed from the previous year, or specific issues that will influence the Implementation Plan.

And then the major activities we'll be undertaking, which would have been outlined in the Implementation Plan Overview. Those would include specific details on tasks necessary to complete throughout the year for completion of that activity or strategy, the schedule of events, and expected outcome during that year, and the responsible parties.

It would also include a description of how performance would be monitored. One of the important things that we stressed throughout the project was the importance of metrics and establishing objectives, and so I think that that will continue to be an important part of Implementation Plan development, is really specifying what exactly we hope to achieve with each activity that we undertake throughout the year.

If there are any specific staff or budget resources needed, this would be the place to include it. And then also the points of contact for each section.

So I know it's a little bit hard to visualize without anything specific in your hands, but I guess the one thing that I would stress is that these sections would include a lot of detail, and it would ideally bring a lot of the timelines and schedules that we have been developing independently for activities that the Council is already participating in, or management actions, and would bring them together into a single and more structured place.

To answer the question of how an Implementation Plan would be integrated with the Work Plan, in theory, it would supplement and enhance the Council's Work Plan. So it would be more detailed than the Work Plan currently is, but it may also include activities or specific tasks that would have not previously been listed on it. For example, the Implementation Plan could integrate aspects of the specific timelines and Work Plans that are already developed for ongoing amendments. And like I already said, it would be more structured and provide more detail in a more consistent and structured way.

So the idea here is to take both the existing work that the Council is doing, and also any new tasks that it undertakes relative to the Strategic Plan and sort of place them in a broader context, and explain why we are doing – why we're doing things the way we're doing them, and when we do them, and how the different activities sort of stack up against each other throughout a year, what the two and three year outlook is.

So this is not only a useful management tool for the Council, but it's a an important communication tool, because it sort of provides a very – could provide a very clear window to stakeholders into what the Council is doing, and also what it will be doing in the years to come.

I provided this. This is a snapshot of the 2012 Work Plan, in case anyone was having a hard time visualizing it. Well, this is actually the list of priorities. But if you take each one of these things that was going on for some part of the year in 2012 and imagine more details and clarity about when – what each of these tasks entails, because obviously, posting news stories on Twitter is not really in the same category as Amendment 14 to mackerel/squid/butterfish. And so I think we probably could benefit from having a little more context, and that's one of the things that an Implementation Plan could provide.

So looking at next steps, and keep in mind, this is all theoretical, because discussion will follow, and I'm very open to your input on the Implementation Plan. But if this approach works, then from August to October of this year, technical staff and the Executive Director would work to develop a draft Implementation Plan, hopefully for review by the Executive Committee at the October Council meeting, and review by the full Council in December for implementation in January of 2014. And then sort of taking an even farther back look at it, then in August of next year, we would provide an update on the progress over the previous eight months, and give an outlook on expected outcomes for 2014, and hopefully have an opportunity for public comment and Council discussion of priorities for 2015, which would feed directly into the Implementation Plan for the coming year. And so that's sort of how the cycle would or could work.

So that's it. I know that it's still a little vague and would make sense with all the details of the Plan in front of you, but like I said, we would like to make sure that we get the structure right before diving into actually developing it.

Richard Robins: Thank you, Mary. It sounds like internally you're proposing that the – I assume the plan coordinators would be involved across the Council in trying to – in the work to develop the Implementation Plan. And I think that's important, that the plan coordinators be involved in that, so that they're connected on an ongoing basis to the Strategic Plan.

But a lot of the implementation is also external. In other words, it's somewhat heavy on coordination. So if you look through the science section, for example, it talks about developing a road map that would be applied to our research plans, and that would have to be coordinated with the Science Center. Some of the strategies related to interacting effectively with agencies like BOEM also require external coordination.

So if we're going to have an Implementation Plan that allows us to achieve those objectives that are specific to coordination with other parties, it seems like that's going to have to be front-loaded, also. I mean, I think – we already sat down with BOEM and discussed some of this, but certainly with respect to the science section, the Science Center's been involved in the development of the Plan, but it would seem to me that early on in the process, we'd want to sit down with the leadership in the Science Center and talk about how we might incorporate these mutually into a plan that allows us to make progress on those objectives, because so much of that I going to rely effectively on coordination with management partners and other organizations. Mary?

Mary Clark: That is a great point, and I wish I had made it myself. But I think that that point really highlights one of the things that would be included in an Implementation Plan that might have not been in a Work Plan or list of priorities under the – in the existing process for defining priorities. I think you're right that if we want to get those things done, they would have to be front-loaded in the process. Maybe it's not a good comparison – maybe it's not good to compare the Implementation Plan to the Work Plan, because there will be aspects of the Strategic Plan that we cannot have full control over. There are actually quite a few of them, where we have to hope for effective collaboration with other organizations.

I do think that that is – highlights the value of having the full technical staff involved in Implementation Plan development and execution, because I guess there are – the breadth of objectives and strategies in the Strategic Plan is – it's just about as broad as you can get. And so you really need to have the full range of expertise at the staff level involved in executing them.

So yeah, I don't know if that – I'm not sure what your question was or if I answered it, but –

Richard Robins: Well, I think that helps, and it does draw some of the distinctions between the annual priority and Work Plan process versus the actual implementation of this Plan, because a big part if it is going to be external. And I think we need to, as we develop the draft Implementation Plan, we need to think about how we would effectively lay the groundwork for that external coordination. So I think that's helpful. Other comments or questions on this? Bill Karp?

Bill Karp: Thank you, Mr. Chairman. Just to follow up on your comments there, we have at the Science Center our own Strategic Plan and an annual implementation process, and that process involves documenting proposed and current research activities for the upcoming year, and then ranking those and making decisions with regards to which ones we continue, which new ones we bring in, and which ones we phase out. And that's tied, of course, to the federal fiscal year. So we go through that plan development process in the spring, and then we'll do the evaluation in the summer, late summer, so that we're in a position to then match the research priorities with the funding streams, based on the naïve assumption that an appropriation will actually be made before the start of the fiscal year.

Just from the point of view of synchronization, I guess that those timing issues are things that we need to get our heads together on.

Richard Robins: Thanks, Bill, and that's a good point. Rob O'Reilly?

Rob O'Reilly: Thank you, Mr. Chairman. Thank you for that report, Mary, and all your efforts. I guess in looking at the Plan and the strategies under the objectives, I think it's been – it's been really crafted well, because these are issues from the past. They're still in the present, a lot of them, and they're going to continue, so you would think a five-year time period, there might be lots of changes, but the way this is constructed, a lot of these issues are going to be perennial. So I think it's really good.

However, and Mary, you may have mentioned this, I'm not sure about the outlook and whether that culminates in some type of a report. So for example, with some of these strategies under objectives, progress is going to be made more quickly on some than others, and what would be the time when there would be a

report on that for the Council and for everyone else as far as what's been accomplished? And you may have been talking about that. I'm not sure.

Richard Robins: Mary?

Mary Clark: I think what I proposed was an annual – an annual full report of progress. That wouldn't mean that there couldn't be reports more frequently. Progress could be something that was integrated into the Executive Director's report at every meeting, just a brief update, and then a more comprehensive status update on where we are with all of our ongoing activities on an annual basis.

Richard Robins: To that point, Chris?

Chris Moore: So as Mary has explained a new process, realize that many of the things that she mentioned we already do. So for example, this point that Rob just made, we – I'm getting some feedback – we basically at each Council meeting look at the things that were planned to do and what we've done. At the end of the year, I typically go over the priorities and say, "This is how we did, and these are the things we need to do for the upcoming year."

The process that Mary's identified today is a more structured process. So we bring into a consideration by the Council on one document those action plans that we have for each FMP. So remember, we have these action plans that identify who, what, when, where, why, right? So all of a sudden we're looking at those in a more focused sort of approach.

We have coordination discussions at the NRCC twice a year, so some of that stuff will now start to really flow into our discussions as it relates to an Implementation Plan. So again, some of these things we already do, and again, we're just – we're just trying to bring a little more structured approach to it. I think the thing that really is critical, and the thing that Mary highlights, is the fact that we have this feedback loop, if in fact we go forward with this Implementation Plan, that says basically in a more detailed way what we're doing, why we're doing it, and how it relates now to a Strategic Plan that we approve. So all that's good.

Richard Robins: Peter Himchak?

Peter Himchak: Yes. Thank you, Mr. Chairman. Yeah. Where do we go from here with the Strategic Plan? And I think that one of the strongest or the strongest support for this came from the outreach to all the

constituency and the engagement of the stakeholders. And in parallel with that, I mean, the listening sessions with the Regional Administrator, feet on the ground with the constituents talking about the issues.

So just my two cents on carrying forward, from the comments on the Strategic Plan, I think the expectations of the constituency are the highest on ecosystem-based management. Now obviously, that's not a short term goal, but at the same time, if you – if you have the engagement of the stakeholders on a continuing basis in an Implementation Plan, it should be communicated what is being done. Like every time something leads you towards this unknown realm of future fisheries management process, it should be accentuated, like we haven't lost sight of this. This is an ultimate goal, and I don't know that we've defined it yet, but we're working on it.

That, and the other issue is on the habitat enhancement projects that are bearing fruition, that usually go under the radar in many cases. So with that background, I would bring back an idea that I brought up early on in this Strategic Plan development, was that it would not hurt if after Council meetings, that the state representatives on the Mid-Atlantic Council go back to their states and have public open forum discussions with the constituents. What did we just do, and what is coming up in two months?

I don't know that that was too well-received when I brought it up over a year ago, but I think – I think the buy-in from the constituents in paramount in keeping this thing alive and keeping these issues – and assuring them that we are focused on ecosystem-based fisheries management, and – but whether it's achieved in this five-year Strategic Plan, it may not be, but we will make significant progress. So with that assurance, they will not just say, "Oh, it's just another document and it's sitting on the shelf." So that's just my two cents.

Richard Robins:

Pete, I think you highlighted several important points in your comments, and I think one of them gets to the fundamental way in which we interact with and relate to our constituents. And I think that's an area where Mary was saying earlier, we've already done a lot of things to implement issues that came up throughout the visioning project and now through the strategic planning project. But one of those was having work meetings. And so we had those small group meetings. We got a lot out of those.

And since then, we've had a number of specific workshops that were specific to individual fisheries, and I think that marks a bit of a change in practice in terms of how we've gone about doing business. So I think that's an important point, and that's something that I think we'll want to continue to the extent that we can, maintaining that high level of interact with the constituents in the ports, etcetera.

But on this issue of ecosystem management, I think the guidance document that Rich has a lead on provides a framework for making that progress, and I agree that it will be very important to maintain a high level of interaction with the public as we go through that process. John Bullard?

John Bullard:

I again want to just express my admiration for this, and I'm not sure where an Implementation Plan morphs into Work Plans, and where milestones and dates and people's responsibilities take place. But I think as I look, I just happen to be looking at the governance section, strategies, under Objective 7. In some cases, it depends on the verbs. In Strategy 7.3, you're referring to developing operating agreements with National Marine Fishery Service. That's an agreement that was signed, and just for the information of the members of the Council, NOAA Fisheries has said that regional offices should have operating agreements with all Councils.

And the one that Chris signed was the first one signed in the country. It doesn't surprise me that the first one in the country would be signed by the Mid-Atlantic Council, because I think this Council does so many things ahead of other Councils. There's no press here, I hope. I don't want this to get around, because I'll get phone calls and – you know.

But you guys do so many things ahead of the curve. But that's a milestone, right? Sign an agreement. You either sign it or you don't sign it, but you know when you sign it, and that's an objective you can check off the box, and it's easy to tell when that's done and when you can check it off. Sign an agreement. Whereas you go down two, Strategy 7.5, coordinate with BOEM to ensure fisheries impact and concerns are effectively addressed. That's a kind of strategy, well, you do that every day. And in discussion of that strategy, you can start to say, well, what would be the milestones on that, or what's coming up? What meetings are coming up? But that's a strategy that is ongoing. As long as there's a BOEM, we're going to be doing that every day. You'd never check off that box. You have to get down several more levels of detail, right, before you get to a level of detail where you're checking off a box on that.

So again, I don't know where an Implementation Plan turns into a Work Plan. But in some cases, you're checking off boxes; in other ones, you're not.

Richard Robins: Thanks, John. Other comments? Leroy?

Leroy Young: Thank you, Mr. Chairman. I have some of the same thoughts about what is a Work Plan and what is an Implementation Plan? IT seems to me that you could save yourself a lot of work by making them one and the same. I mean, if you're going to do work to implement the Plan on an annual basis, so I – I'm just not clear on how they would be separate.

Richard Robins: Chris?

Chris Moore: Yeah. That's a good point. They probably shouldn't be. We have – right now, we have – we really don't have a Work Plan, per se. We have a list of priorities, and Mary put that up on the screen for you. And those list of priorities turn into action plans for specific things that basically, again, detail who, what, when, where, why. But yeah, I would say that the Implementation Plan equals Work Plan.

Richard Robins: I think the other distinction may be subtle, but the annual Work Plan would incorporate the other ongoing business of the Council. That is, the normal specification process, specification cycle, I mean, all those things that are part of our normal course of business that may not be specific to the Strategic Plan. So the annual – if you're developing an annual Work Plan, I think it would have to incorporate both, right, Chris? Other comments or questions? Mary?

Mary Clark: I might have confused things by even bringing up the Work Plan. I sort of anticipated it as a question. The point that I was trying to make was that the Implementation Plan is not going to be just another layer on top of everything that the Council already does, that it – the activities that will be taken on will be integrated with the existing items and activities of the Work Plan. I guess I hadn't had any thoughts on whether they'd be separate or combined, but it was just a matter of explaining that the – I guess the content of an Implementation Plan would sometimes be a little broader than what has typically in the past been included in the Work Plan.

Chris, I think you're right that it would make sense to combine them into one, so sorry if I confused anyone. But yeah, I don't think that we need to have separate documents.

Richard Robins: Thanks, Mary. Other questions or comments on the Implementation Plan? Is there any public comment on the Implementation Plan? Jim Fletcher?

Jim Fletcher: My question is, with all this planning and everything that's up there, where does industry have a say in what's being planned? You have the goals. You have everything you're doing. But the man that's working on the water basically has no input into this at the beginning. Now you'll say, "Well, we went out and we had our public input." The man working on the water doesn't understand that, and now we're going to a thing that when he comes – just tell me how to tell the person that I represent to get his input in before these plans actually get into effect.

We've watched the science be totally backwards, to tell us to kill the females and leave the males, and now we're going to go in and say we're going to follow these same people. So tell me what I'm supposed to tell my people when I look in my particular area of North Carolina. Where there nine fish houses in Wanchese, there are now three. Where there were six in Hatteras, there are now two, maybe three. One of them's thinking about going out of business.

How do I tell them that this is going to lead us to better? We've seen the last 20 years of fisheries management completely destroy the industry. Somebody tell me what –

Richard Robins: Thanks, Jim. You can tell them a couple of things. All the goals and objectives in the Strategic Plan were developed based on stakeholder input. I know the meeting in North Carolina was not attended by the local fishermen. All the other port meetings were. But we did get a lot of input from fishermen into those goals and objectives.

On an annual basis, we'll be developing the priorities, and we'll go through that planning process that was just described. Those meetings will be open to the public. If they have specific concerns, those will be welcomed into the process on an annual basis. Other comments? Adam Nowalsky?

Adam Nowalsky: Thank you, Mr. Chairman. With regards to the distinction between an Implementation and a Work Plan, I would submit that there

should definitely be a separate implementation plan that goes in complementary fashion with the Strategic Plan. The strategic working plan and working group's goal was to develop that implementation that was complementary to it, and we just simply ran out of time to go ahead and complete that.

The Work Plan that you have on an annual basis addresses things that you need to do on an annual basis, be it specifications, be it work on a specific amendment. The Implementation Plan I see as an ongoing rolling document, which I think Mary outlined as something that would be on an ongoing basis, a one year or a three year basis moving forward. And I think that's really important. There's a lot of items in here, a lot of the objectives in here, that are not going to be accomplished in a single year with part of a given Work Plan. And I really think it's important to put together an Implementation Plan that is complementary to this and is ongoing, revised, in the framework that Mary set out.

One of the things that I would highly recommend in moving forward is to engage stakeholders in the beginning and on an ongoing basis. Now whether you reconvene the working group at some point to review the first draft of the Implementation Plan, I think they would all be very willing to come to the table and look at that, via webinar if it's not cost effective to get them together, since that was something that working group was promised at the outset, was the ability to partake in that Implementation Plan. I think that would be very important.

Moreover, I think part of the Implementation Plan, this Council set forth Fishery Performance Reports that are now taking place. I would submit that as part of the Implementation Plan, industry should be invited back to submit an Implementation Plan annual review, annual report, to touch on those items that are successful, to revise those areas that can stand improvement, and to provide constructive feedback to achieve the objectives set forth in the Strategic Plan approved here today. And those would be my recommendations for moving forward. Thank you.

Richard Robins:

Adam, thank you, and Mary, right now the plan is to come before the Executive Committee in October and then before the full Council in December. So if that's the case, perhaps we could consider how we could get some input from the working group members into the Executive Committee process at the October meeting.

Mary Clark: I think we can do that. Actually, maybe I should turn it over to Chris to answer that.

Richard Robins: Chris, do you want to comment?

Chris Moore: Yeah. We – again, just not having thought about this before, we probably could do a webinar after we have a draft of priorities and items that we think will be part of the Implementation Plan, and have – bring that to the Executive Committee. I'm just wondering about the order of things, whether it might be better to have the Executive Committee look at the material first in the webinar, and then go out to the working group. So we'll work out some of the details, but I think we can do it.

Richard Robins: We can plan on following up on that between now and the October meeting. So Adam, thanks for the suggestion. Other comments on the draft Plan? John Boreman?

John Boreman: Yeah. Just inserting a note of caution here, being someone who's spent 34 years in the government dealing with strategic plans, implementation plans, performance plans. As one of my former deputies said, they usually wind up on a shelf as fodder for dust bunnies.

What we need to keep in mind here is we need to manage expectations. We need to make the Implementation Plan or the annual Work Plan, whatever you want to call it, realistic and achievable in the sense that there's a tendency, I think it's just human nature, when you write these plans for the work for the coming year, you tend to aim a little bit too high. Just a word of caution to keep that in mind when you're developing goals for the coming year, what you want to achieve, what milestones. Don't overshoot, because then the Plan will lose its credibility and it will wind up on the shelf, like everything else. Thanks.

Richard Robins: Thanks, John, and we certainly didn't set out to create shelfware, so we'll take your advice to heart. Chris?

Chris Moore: That's an excellent point, John. In fact, several times today someone has said the devils in the details, and basically, when we're talking about implementation, we're talking about resources, staff, time, and money. So those considerations will certainly go into the development of the Implementation Plan. And I'm really very – having worked for the federal government and having seen a number of plans, I understand exactly what you're talking about in terms of plans going on the shelf and not being utilized.

But we – I think we've designed a Plan that actually will be used, and it's a document that we consider a living document, and we'll look at every year, check and make sure we're on track. One of the things that I tell my staff as we list things that we want to do is to under-promise and over-perform, and that I think has served us well. So we'll continue in that philosophy as we develop the Implementation Plan.

Richard Robins:

Thanks, Chris. Other comments on the Plan? Well, Mary, thanks again for the presentation and for all that you did to complete it. I'd like to thank all the Council members and the public for their input and participation in this process. It was a very long development process, but I think we've got a product that'll set the stage for improving our fisheries in the future, and I think that is a good outcome. So thank you very much. Why we don't take ten minutes, and then we'll come back for deep sea corals, and we'll turn to Kiley in ten minutes.

I'm sorry. Before we break, though, I would like to recognize and acknowledge Doug Austen. Doug is the incoming Executive Director of the American Fisheries Society. So Doug, welcome. Thanks for being with us today. Thank you. All right. We'll be back in ten minutes.

[End of Audio]

**Deep Sea Coral Amendment
August 14, 2013
Double Tree by Hilton Wilmington
Wilmington, DE**

Richard Robins: – Amendment 16, and the mackerel/squid/butterfish FMP, the Deep Sea Coral Amendment, and I'll turn to Kiley Dancy for her presentation. Or Warren, are you –

Warren Elliott: Well, just – thank you, Mr. –

Richard Robins: Warren, do you have an opening comment on this?

Warren Elliott: Thank you, Mr. Chairman. Just briefly, yeah. We did have a meeting, just to update everybody, we met yesterday, the Ocean Planning and Ecosystem Committee met, and we did have a third discussion. There were three additional amendments to the document that were offered and approved, and Kiley will be covering them today in her presentation. At the end of the day, the Committee did recommend that the full Council approve the document for public hearings, and when the time is appropriate, I'll make that motion on behalf of the Committee.

Richard Robins: Thank you, Warren. Kiley?

Kiley Dancy: Thank you, Mr. Chairman. So I'll just run through a brief presentation containing the alternatives and a little bit of overview of how we got to this point. So Amendment 16 is what we're here to talk about. It's the protections for deep sea corals, for squid/mackerel/butterfish, and the purpose of yesterday's Committee meeting and today's meeting is to review the range of alternatives and ensure that this is a reasonable range for public hearings. Okay. Sorry. So that's the goal for today, to review the range of alternatives and determine whether this is a reasonable range for public hearings.

So in February, we had an Ecosystems and Ocean Planning Committee meeting reviewing a set of draft alternatives. We also had a public scoping process in February. One of the outcomes of the February meeting was a conversation about the need to refine some of the spatial alternatives for the deep sea coral zones. So we had a workshop in April with an interactive mapping technology that brought together some industry participants and deep sea coral scientists and other participants in order to refine some of the spatial alternatives.

In July, we had some follow-up with some of the industry participants at that workshop, who volunteered to share some more information with the Council about their fishing activities in order to make sure that the information that they provided at the workshop was accurate. And I also want to point out, in the briefing book, we received a letter in July from several of the ecosystems advisors and representatives from a few other organizations that had some suggested changes and additions to the set of alternatives that was contained in the document in April. So the Fishery Management Action Team took some of those into consideration on the most recent call, and some of those were added to the range of alternatives.

Before I go through the range, I just want to note quickly that these are applicable only to the Mid-Atlantic Council Region, as per the terms of the memorandum of understanding with the New England Council and the South Atlantic Council. They would be applicable to all relevant federally managed fisheries, but not applicable to any of the species managed solely by the Atlantic States Marine Fisheries Commission, such as lobster.

And I just also wanted to point out that there's been a lot of recent research efforts to survey areas in the mid-Atlantic for deep sea corals, and some of the best available science on deep sea coral distribution is very quickly changing. We have a lot of new information that was not available at the time the initial set was developed. So the FMAT is trying to incorporate those as much as possible, but there's also some options for framework provisions as new information comes out. Some of these, after the alternatives are in place, some of these can be possibly changed via framework.

So the alternatives are designed under the authority under the Magnuson-Stevens Act to designate deep sea coral zones to protect deep sea corals, and there's some more detail on that on page 7 of the alternatives document, that if you have not received a copy of that, there's some copies on the back table.

We have six alternative sets in this document. There's a range of broad coral zone designations. I'll cover that in a second. Some management measures within those broad zones, some designations for discrete coral zones, management measures to be applied within the discrete zones, options for framework provisions, as I mentioned, and then a set of options for a VMS requirement for the Illex squid fishery.

Very briefly, the broad coral zones, it just says, a reminder, these are designed to take a freeze the footprint approach, where they are designed to exclude the majority of current fishing effort in order to prevent expansion into deeper waters and areas that are not currently being fished. The discrete coral zones are smaller areas designed for the protection of areas that are known to have corals or very likely to have corals, and these mostly are individual canyons and slope areas. And both of these could be implemented simultaneously.

In terms of broad coral zone alternatives, we have a no action alternative and then we have a set of zones based on a landward boundary at a certain depth contour, extending within the Mid-Atlantic Council boundary out to the edge of the EEZ. So we have one alternative at a 200 meter depth contour, 300 meters, 400 meters, and 500 meter depth. And that's what this set of alternatives looks like. The light green is the 500 meter, and you can see it's – the depth drops off very quickly here. And these dots here are records of deep sea corals.

So the management measure options within the broad zones are no action alternative, a prohibition on bottom tending gear, a prohibition on mobile bottom tending gear, a requirement for a Council review step for approval for fishing within certain broad zones, which could be set up in a variety of different ways, but the way that the New England Council has started to approach this is by looking at breaking up this special access into certain categories, such as special access fisheries, exploratory fishing access, and research or experimental access.

There's an alternative to exempt the red crab fishery from broad coral zone measures, given that they're fishing in a relatively narrow depth range with traps. And there is a – Alternative 2F is a requirement for increased monitoring for vessels fishing in the broad zones. Sub-alternatives for this include a requirement for observer coverage in the broad zones, and a requirement for VMS for vessels fishing in broad zones.

Alternative 2G was added at the Committee level yesterday, and that was an exemption for mid-Atlantic golden tilefish fishery from broad zone restrictions.

In terms of discrete coral zones, we have a set of canyon areas that were originally developed by the New England Council's Habitat Plan Development Team in the development of their deep sea corals action. So we've inherited some of their boundaries, and

then, as I mentioned, at that alternatives workshop and in the course of some industry follow-up, we have come up with some modified boundaries for a few of these areas, based on industry input, also taking into consideration where the records of corals are.

So we have – in this set of discrete coral zone options, we have no action, and then we have two or a few groups of lists of canyons. So the first is designations of canyons or slope areas with observed coral presence, and these were the canyons that were reviewed at those meetings where we created modified boundaries. And these include Baltimore Canyon, Norfolk Canyon, and the Mey-Lindenkohl and Cold Slope area, which includes Tom Canyon, Lennon Cold Canyon, Hendrickson Canyon, and a few others.

This also includes Block Canyon, as the result of some new research that's recently come out in the past few weeks. Corals were recently discovered in Block Canyon, so while this was – this area was previously not recommended as a discrete zone, it's – the FMAT decided to reclassify this canyon based on new information, as recommended on the basis of coral presence.

So we have a third set of discrete coral zones, which is – or a second set, which is the designation of canyons with inferred coral presence. These include Emery Canyon, Jones and Babylon Canyons, Hudson Canyon, Potomac Canyon, Wilmington Canyon, and Washington Canyon. And this is a map showing the locations of these areas.

Now I just want to point out that this inferred coral presence was based on an analysis that the New England Habitat Plan Development Team did, and the FMAT is going to be looking at – in a little bit closer detail at some of the recent research that's come out, and possibly ways to update this information.

So this Alternative 3D was added at the Committee level yesterday, and that is an alternative for designation of canyons with possible coral presence, including canyons with insufficient coral presence data to determine whether or not corals are present. And so if you look in Appendix B of that document, that goes over a little bit of what the New England Habitat Plan Development Team did when they were looking at all the canyons in the Northeast region, and recommending which ones to designate based on coral presence, based on inferred habitat suitability, or to not recommend at all. And so there's a list of canyons that were not recommended, but this alternative was added to consider

looking at those canyons, because of the new research that's coming out, and a lot of corals are being found in areas where there previously was not thought to be a lot of suitable habitat. So this list of canyons includes McMaster, Ryan Canyon, Uchupi Canyon, Spencer Canyon, South Wilmington Canyon, North Heyes Canyon, South Vries Canyon, Warr Canyon, Phoenix Canyon, and Leonard Canyon.

In terms of management measures within the discrete zones, we have a no action alternative, prohibit all bottom tending gear, prohibit mobile bottom tending gear, and the Alternative 4D in yellow there was added yesterday as well, and that was an exemption for the *Illex* and *Loligo* fisheries from the discrete zone restrictions.

We have a set of framework provision alternatives, which include no action, an option to change the boundaries for the deep sea coral zones, option to change the management measures within zones, and this is intended to be broadly applicable to changing the fishing restrictions, the exemptions, the special access programs, or the monitoring requirements that may be in place.

And Alternative 5D is an option to add additional discrete zones, and I think that this is an important one when you are considering all the new information that's coming out about, you know, where deep sea corals maybe found. There's new research planned into at least the next two years, and some of that will be in the mid-Atlantic, hopefully. So there'll probably be some new information coming out of that, as well as analysis from last year's and this year's surveys.

Now the sixth set of alternatives is a VMS requirement, which just includes a no action alternative and then a requirement for VMS for *Illex* squid moratorium vessels. And that's the – that's the full range that's included in the document as of now. Thank you.

Richard Robins: Thank you, Kiley. And Warren does have a Committee motion. We'll go ahead and entertain that, but we'll also be open to any other amendments that the full Council wishes to make prior to sending this out to public hearing, if there are any. Warren?

Warren Elliott: I move that the Council approve the range of alternatives with the additions for public hearings.

Richard Robins: Thank you. The motion doesn't require a second, so on behalf of the Committee, discussion on the motion? Laurie Nolan?

Laurie Nolan: I would just ask, before we move forward with this guy, that we talk a little more about adding some other alternatives to the document, if that's okay. I'll –

Richard Robins: Certainly.

Laurie Nolan: Okay. In Section 2, I would ask that we add a 2H in the broad zone, which would move to exempt the *Illex* and *Loligo* from broad zone – from broad coral zone restrictions.

Richard Robins: So this would be a motion to amend the existing motion, Laurie? To add that?

Laurie Nolan: Well, if – I thought we were discussing the document still before we were going to entertain this motion, but that it was just kind of up there. I mean, we don't have a second –

Richard Robins: Well, we've already got a Committee motion, so I would suggest bringing it as an amendment to that motion.

Laurie Nolan: Okay. I would like to amend the Committee motion to include 2H, exempt the *Illex* and *Loligo* from broad coral zone restrictions. I have a couple others. Should I list them?

Richard Robins: We can do them one at a time.

Laurie Nolan: Okay.

Richard Robins: Is there a second to the motion? Seconded by Peter Himchak.

Peter Himchak: To this point, Mr. Chairman, could we – could I move to table the Committee motion to approve –

Richard Robins: Yes.

Peter Himchak: – the document until we resolve additional options?

Richard Robins: Yes, we could.

Peter Himchak: That would be my preference. I would move to table the Committee recommendation to approve the amendment with additional options until later in this – until additional options are explored.

Richard Robins: Thanks, Peter. Is there a second to the motion? Seconded by Rob O'Reilly. All those in favor to table, please indicate by raising your hand. Opposed, like sign. Abstentions, like sign. Motion carries. Motion is tabled. All right. Laurie, you want to go ahead and offer your motion on a standalone basis, then?

Laurie Nolan: Yes. I would move to offer 2H, exempt the *Illex* and *Loligo* from broad zone – broad coral zone restrictions in that section, and I would ask to talk to some other sections also.

Richard Robins: All right. Is there a second on that motion? Seconded by Peter Himchak. Discussion on the motion? Laurie, can you provide the rationale?

Laurie Nolan: The goal of the amendment is to protect coral. I believe the *Illex* and *Loligo* fleet can show and demonstrate that their gear is not damaging the bottom. We heard quite a bit yesterday from the AP, and that would be it.

Richard Robins: Further discussion? Tony DiLernia?

Tony DiLernia: Didn't we do this yesterday in the Committee?

Richard Robins: No, we did discrete zones, not broad zones. Rob O'Reilly?

Rob O'Reilly: I thought this would have been done yesterday as well. At the time, I brought up the situation where after we heard discussion, that if it were going to be in the discrete zone, most of the early discussion was on the broad zone. And then I know the chain of events. I know that Laurie said that she was going to make a motion later. That ended up being tilefish, so we never did come back to that. So really, the expectation on my part was that this would have been done yesterday. And of course, I support the motion.

Richard Robins: Thank you. Further discussion on the motion? Peter Himchak?

Peter Himchak: I have the same recollection as Rob, and I think it was just an oversight towards the end of the meeting, when we did deal with tilefish, and it was just – we ran out of time, or we rushed to conclusion.

Richard Robins: Mike Luisi?

Mike Luisi: Thank you, Mr. Chairman. The one thing that I remember hearing yesterday at the Committee meeting regarding the exemption on

these squid fisheries was that it may open the door for destructive gear, claiming that they're squid fishing in these areas. Now I'm not – I'm not familiar – you know, I learned a lot yesterday just listening to the advisors on how these fisheries operate. But is that – is that a concern that needs to be considered here, whether or not – if you're – I understand that there are certain boats that fish certain ways, and their gear is very, very delicate, and, you know, those individuals are likely not going – they don't want to interact with any of the hard bottom, any of the structure that could ruin their gear. But are there other fisheries that could be operating, claiming that they're fishing for squid, in a more destructive and detrimental way?

Richard Robins:

Mike, I think that's a question that we'll want to get some feedback from the FMAT on. In other words, taking perhaps a gear-based approach to this. I think that's sort of at the heart of this motion, as I understand it, and I'll ask the maker to elaborate on that. But I think that's at the heart of it. The – yeah, the other question that I've had about this is if that gear – if that gear is on the bottom where corals are present, it's still going to have an impact on the corals. So are there monitoring tools that we can come up with to ensure that fisheries – if the boat's in the area, that the gear is not on the bottom? And I'm not sure we're at that point. I think the boats may have that technology on board, but from a regulatory standpoint, from an enforcement standpoint, I think we'll have to answer those questions as we go forward. But I think going through the public comment process will allow us to examine some of those questions.

But Kiley or Laurie, do you want to comment on the gear-based aspect of this? Do you want to leave it at this level and look to the FMAT to provide detailed feedback about the gear? Or how do you want to proceed?

Laurie Nolan:

Certainly FMAT feedback, but I think what everyone has to remember is it would never be a goal or an intent to bump into that stuff. It will ruin the gear, regardless of what you're doing, how you're fishing. And that I think is what industry keeps trying over and over again to get across here. The gear is very expensive. Some do have that monitoring equipment so that they see exactly where their gear is in relation to the bottom. Some don't. But it is never anyone's goal or intent to do something like that.

And I'll just say one other thing. The one good thing with the broad zone, at least on the landward side, we're using the fathom curves, and I'll get to that in the discrete zone. If we can use that

fathom curve as the landward boundary on the broad zones, why can't we bring that boundary into the discrete zones also? Because that would be huge. It would make a huge difference when it comes to drawing boxes in the ocean.

Richard Robins: Thanks, Laurie. Further discussion on the motion? Is there any public comment on the motion? Yes, Lars?

Lars Axelsson: Just in the form of a question. Do any of you have any more questions of me regarding how we fish, where we fish? What went through my mind all last night was the airport runway analogy seems to work for a lot of people. To add to that, you all know that airplanes need to land into the wind, so they're always approaching the airport from different directions. And in essence, that's what we do.

My complaint is that we think very two-dimensionally. We work in a three-dimensional world out there in the water. And so the airport analogy once again fits. Those of you who or anyone that understand airports and the terminal control areas, you have the upside down wedding cake type thing. So as you're approaching an airport, it – the controllers are only concerned with the heavy traffic coming into their airport, whereas general aviation can stay underneath that.

In essence, what I'm looking for is you guys would be my air traffic control, and you would tell me how I am to operate at this airport. But at times I will be flying over the coral to get to my airport. And so these are just ideas that I'm throwing out. I don't know if this is the time to discuss it, maybe at the FMAT level, but to me, it's a simple thing. I know where my airports are, where I have to land. It would almost be better to make my airports a discrete zone, because that's where I'm going to be working, you know. I'm not going to land on – in a town where people live with an airplane. I'm going to land at the airport, unless a catastrophic thing occurs, which happens to all of us all the time.

And in all of this, I have one more observation or question. The – there are times when we're fishing on the edge where I haven't heard a word about anchoring. How do anchors affect these discrete areas? Why do I raise this? There are times where we're competing for the edge, and there are some – quite a bit of recreational activity that comes out on the edge, and they actually anchor up. And so these anchors, you know, although it's a small footprint, they put out a mile line, you know, and you always have

chain involved with the anchor, to keep the anchor flukes embedded.

So while we're looking at all the user groups, don't forget other user groups, too. Thank you.

Richard Robins: Thanks, Lars. Well, I think your point about the runway is one that we heard a lot about yesterday, and we may need to ultimately establish a band within which you can approach that runway, so to speak. So that's something we'll look forward to public comment on. Howard?

Howard King: And some of these alternatives were final, though we might not feel comfortable voting from – but this is for – to document for public discussion. Regardless of the merits of the alternatives, I think they should be included.

Richard Robins: Thank you. Further discussion on the motion? John McMurray?

John McMurray: Thank you, Mr. Chairman. I totally agree with what Howard just said. I don't oppose this motion for that reason specifically. But I think moving forward, we need to be very specific with FMAT, and asking them to analyze the impact of all bottom gear being used, so we don't have a multitude of exemption amendments, and so we're in a better place to judge the merits of what should and shouldn't be allowed. And I don't know if we know – I don't know if we can just communicate that, or if we need a motion.

Richard Robins: John, I think we can communicate that to the FMAT. Thank you. Jeff?

Jeff Kaelin: Thank you, Mr. Chairman. One of the things we talked about yesterday, too, is – I was an advisor yesterday, was this WindPlot software, which the boats are using, which tracks their regular tows and defines where they really are fishing. There's a little – we don't have that kind of analysis yet, and I think when the FMAT begins to identify for us where the fishing is really occurring, it could be valuable to use that software so that the boats could provide their data directly for that purpose.

So I think – and all of this discussion ultimately will hinge on the final options in terms of which depth contours are going to be protected, too. So I think as we go ahead with the FMAT evaluation, we need to have a better understanding of where the current activity is and at what depth. So there's a lot of analysis that needs to be done, and I think that WindPlot data or software

could aid the FMAT. I talked with Chris last night about whether the Council's comfortable with the industry buying it for the Council. That did come up at our meeting Friday in Cape May. That may not be the right approach. But I think that technology can help us understand exactly where the activity is.

And then I have a question that's sort of related to this for Kiley, and that is you mentioned earlier around the exemptions for the red crab fishery that they're working in a discrete zone. I'd like to know what that depth is, and I think we need to know that, too, as – even when we're going out to public hearing, how deep do they go? Where are we exempting them from? So we need some more information, I think, about where the current fishing practices are taking place. Thank you.

Richard Robins: Well, Jeff, on the software issue, if it becomes necessary to get that, I think the Council would buy that and use that for the – some of the analysis of data. And I think John told us in the workshop that they're fishing in 350 fathoms. I think they're within 50 fathoms of that, plus or minus, but they're in a pretty tight area. But I'll ask Kiley to elaborate on that, and whether that would be specified in the document.

Kiley Dancy: Yeah. I think that was accurate. The – I believe it was something like 300 to 400 fathoms, and right around – centering around the center of that. So yeah, I think that's something like 550 to 730 meters, something like that, and that will be something that the FMAT will look at a little bit in more depth.

Richard Robins: And Jeff, I think one of the issues with the exemptions is they may be reasonable throughout the range of that depth, but if we – for example, if we find out that there's a really significant coral concentration within that depth in one discrete spot, in one part of a canyon, then it may not be appropriate to have the exemption apply to that one spot. But I think that's something that down the road as we get more survey data we'll probably have a more detailed understanding of what's in some of those canyons. But certainly in our region, it appears the Baltimore, for example, has the highest concentration of corals. But Mike?

Mike Luisi: Thank you, Mr. Chairman. Speaking in regard to the broad zones, Kiley, yesterday it came up. Today, it's come up again in the presentation about the concept of freezing the footprint. And I may have misheard you when you were presenting a few minutes ago, but it's my – the way I interpret freezing the footprint is not – well, maybe I should approach this a different way. What I

thought I heard was that the concept as you presented not only protects the expansion of fisheries, but could potentially eliminate current practice. And that – the way I think about freezing a footprint is looking at the current practice, trying to manage in some way the expansion, or to eliminate expansion, but to allow for there to be the current practices that seem to be operating in a way that aren't impacting the coral. So I don't know if you can speak to what the actual intention of freezing the footprint is.

Kiley Dancy:

Yeah. The intention of the freeze the footprint is, as you said, to sort of figure out where the majority of fishing effort sort of stops, drops off, and then sort of designate a boundary beyond which there's very little fishing occurring, or no fishing occurring, depending on what kind of data we can come up with to analyze exactly where the fishing effort is occurring. Our current fishing effort data is a little bit rough, but if we can – the range of depth contour boundaries from 200 to 500 in this document, you know, the FMAT believes that somewhere within there, after we do more analysis, we can kind of find an area beyond which there's – you know, 90 percent of the effort drops off, 95 percent, 99 percent, no records of effort beyond a certain depth contour. So that's something that we can explore in analysis, and that's sort of a decision for the Council, if they wish to pursue broad zones, where that cutoff might be, based on the data we have.

Richard Robins:

Jeff?

Jeff Deem:

I have a couple of other things I'd like to see in the public document. Is this the time to bring them up, or wait until after?

Richard Robins:

Well, we've still got a motion.

Jeff Deem:

Okay.

Richard Robins:

George?

George Darcy:

Yes. Yesterday, we heard that some vessels, Illex I think vessels in particular, use electronic gear that help them determine how the net is fishing and how far off the bottom it is. One thing that the FMAT might consider is making that a condition of exempting those vessels to go into some of these areas, if that's a way that the vessel can more confidently assure that they're not going to come in contact with the bottom. I understand they don't want to, but having that gear might be a way that helps ensure that they don't inadvertently do so. Just a thought.

Richard Robins: George, why don't we – why don't we add that as a request to the FMAT to follow up on? Because I think that's an important point. Any more comments on the motion? Seeing none, is the Council ready for the question? All those in favor, please indicate by raising your hand. Twenty. Opposed, like sign? None. Motion carries unanimously. Thank you. Are there other items that members want to bring for consideration relative to the public hearing document? Jeff Deem?

Jeff Deem: Yeah. There are two other items. First, could we have a definition of mobile versus – mobile bottom tending gear versus bottom tending gear? I don't think – I don't understand the difference. And I think what we're trying to really limit here is the mobile bottom tending gear. So I think if we could have a definition of that, it would help.

And then I – at some point, I would like to get both sides, the commercial and the NGOs and everybody involved, to pick out what types of gear – to define what types of gear would be allowed. We're talking about exemptions for long lines, exemptions for crab pots, exemptions for different kinds of things. I think before we get a document that everybody's going to agree with, we have to understand what type of gear is allowed and what type of gear is not allowed in these particular zones. And I'll leave it at that. Thank you.

Richard Robins: Jeff, I think we can look to the FMAT to further describe the different types of gear in detail in the document, but the range of options contemplated right now would allow for restrictions either on bottom tending gear that is – or all bottom gear versus mobile bottom tending gear. And we would understand mobile bottom tending gear I think to be trawl gear, even though anchor bottom gear might move around some. I think we would consider that to be trawl gear. So – but we can look to the FMAT to maybe further clarify some of that language. Kiley, do you want to elaborate on those distinctions?

Kiley Dancy: I think that pretty much covers it. The FMAT can look at the distinction, but I think it is the intention that the mobile bottom tending gear encompasses trawls, and then the – just the bottom tending gear category would cover things like traps that might move a little bit along the bottom, but not significantly. So yeah, the FMAT can elaborate on that.

Richard Robins: Thank you. John?

John Bullard: Mr. Chair, I have a concern on 2F1 on the observer coverage, but I'm not sure whether to raise that now, or when the whole amendment comes off the table. I'm not sure –

Richard Robins: Well, if you have a specific concern about it, I think it's fine to document it now, and then we can continue to discuss it as we go through the process at the next steps.

John Bullard: Okay. And I don't – I'm not going to suggest that we eliminate it, because I think public comment is good on it, and I raised this issue yesterday in committee. But I'd just like to repeat it here before the Council. And that concern has two facets. One, that any Council action that would require the Service to pay for things for which we have no funds is – we're not going to be able to do that, as much as we might like to.

And secondly, and again, both Dr. Karp and I talked about this yesterday, if we did have funds for observer coverage, we would need to think about whether or not observers are useful in terms of recovering or helping to understand how much a certain kind of gear is useful at recovering coral. And this is specific to 2F1 about observer coverage in broad coral zones. And I think VMS might be quite useful, but observer coverage, that's very expensive, and I'm not sure what kind of return we get in terms of how much coral is actually recovered. So I just want to for the record express that. I think having it go out for public comment is useful, but I want to raise those concerns.

Richard Robins: Thank you, John, and that's noted. Rob O'Reilly?

Rob O'Reilly: I wanted to come back to the bottom tending gear, and I think this might be a confusing situation, when this goes out, when the public sees the exemptions for the red crab fishery and for the tilefish fishery, which the Committee yesterday was able to do that at that point. And what the public may have questions as to the distinction between bottom tending gear versus mobile bottom tending gear, and waiting for FMAT may result in a good endpoint on this, but is there some other way in terms of going out with this document that passive bottom tending gear are what's not targeted here?

We heard a little bit earlier today some thought about anchors and things like that, but yesterday it was – in the long line, when the request came from Laurie to exempt that, there was also questions about recreational fishing. And I just think the narrower in this case – the focus is on this bottom tending gear, to give the public

the right information would be good. Otherwise, we come back here, and even with the help of FMAT, this could still be a little complicated. So is there anything at all that would help the public when we send this out to delineate between bottom gear types more so than the document does now?

Richard Robins: Rob, I'll ask Kiley, but I would think that staff could develop a description of those bottom tending gears versus mobile bottom tending gears, and also mention that recreational gears – recreational fishing is not included in that. But I'll ask Kiley if she wants to elaborate.

Kiley Dancy: Thank you. That – yeah, I think that's correct. The public hearing document would have a little bit more explanation of some of these distinctions, especially after the conversations that we've had this week, and further work with the FMAT. I think at least some initial discussions on some of those big questions would be needed before public hearing document, just so we can just clarify some of those things.

Richard Robins: Laurie?

Laurie Nolan: Thank you. I would like to go to Section 3, and I would like to add an alternative – in yesterday's discussion – I'm going to back up for a minute. I think it was Pam's question, actually, wanting Kiley to provide a little more information on where the modified boxes came from. And the problem as we hear always is from law enforcement. If it's not a straight line, it's hard to enforce or unenforceable. But when we're talking about the broad coral zone alternatives, every one of those alternatives reflects a contour line.

So I would ask that in Section 3, we add a 3B3 that would say – this may sound confusing, but it really isn't. The boundary following the 200 meter depth contour line on the landward side, that we would basically have multiple alternatives. One would follow the 200 meter. One would follow 300, 400, 500, on the landward side of all these canyons. And on the offshore side, where that contour line intersects the green, that would be what occurs outside of the 500 meter line, because while we sat with industry to develop these lines, because they have to be straight lines, they sometimes encompass more than they need, or less than they need to.

So my question, I suppose, to Kevin would be, if no – if there's no issue with the broad zone coral zone alternatives using the depth contour lines, we haven't heard one word of an enforcement issue

there, so why can't we, on the discrete zones, also use those same contour lines on the landward side, and then create straight lines once you're outside of 500 meters?

Richard Robins: Kevin?

Kevin Saunders: Thank you. I think I've been under the naïve assumption, maybe, that the contour – the depth contour lines would eventually be translated into some sort of a geometric line, and that's what we would probably use for enforcement. If we don't do that, then we kind of get in the battle between whose depth sounder is more accurate, between enforcement and industry. And I guarantee, nine times out of ten, industry's is going to be more accurate, but we're going to rely on ours for enforcement, because that's the one we validate for the case.

So for simplicity for both of us, industry and enforcement, I would think that while the line might not be perfect for the depth contour, that drawing a general line that follows the drop-off as closely as possible with – I'm not saying it has to be exactly straight, but something that I can reasonably plot on my chart plotter, that that's just where I thought we were going to go once we developed which depth contour we go with. But hopefully I'm not too far off. But enforcing a depth contour is pretty complicated for both of us, I think.

Richard Robins: Thanks. But Laurie, to follow up on that, I mean, would you – would your request be that we develop a set of lines to accompany those contour lines? In other words, if the FMAT is going to go through the process of drawing some straight lines, would you have them draw those in such a way that they follow those contour lines and provide another set of alternatives based on those?

Laurie Nolan: Well, preferably yes, but we've just been told – these contour lines aren't straight lines. That's why you end up with these funny-looking boxes. So if you're going to follow the line, how can FMAT come up with something that industry hasn't already put on the table? It's – the other thing that this all hinges on, of course, is what's the fathom line that's going to be chosen in any of these, if – the broad zone, if we want to talk about a 200 depth contour and say that there's no fishing, when we talk about impact to the industry, I don't understand – I mean, I'd also like to see that alternative removed, because I don't think it's the intent of the Council to truly eliminate all fishing 100 fathoms – that's another one.

But I do think we should try to do something to accommodate following the contour depth line, if people are uneasy with industry's boxes that they've put on the table, if something like that could happen.

Richard Robins: Well, Kiley, could the FMAT draw a set of lines that were essentially straight lines that to the extent possible follow those contours?

Kiley Dancy: Yes, I think that's something that the New England Habitat PDT had talked about doing before, approximating the depth contours with straight lines, but you still kind of run into a question of how many small pieces can you have, and at what point does that sort of become the same problem of enforcement, and how finely can you break it up? And that's still an issue, I guess.

Richard Robins: Laurie?

Laurie Nolan: And to that point, I think that's why Kiley put the effort out that she did, and industry got together. So I would not recommend that FMAT try to rearrange. I suppose I just was curious as to why we could use the contour lines in the broad zone, why we can't apply that to the discrete zones as the landward boundary lines.

Richard Robins: Further discussion? Laurie, your initial comment was a motion to add alternatives. Do you want to pursue that and seek a second, or how do you want to proceed?

Laurie Nolan: Well, I'm hearing from law enforcement that they're hoping that regardless of the choices, we're looking at straight lines, so I'd try to accommodate law enforcement in my – it's just one of those things. I thought we were using the depth contours on the broad zones, so I thought we should be able to use the depth contour on the discrete zones also.

Richard Robins: Further discussion? Jeff? Jeff Deem.

Jeff Kaelin: Oh, sorry, wrong Jeff.

Jeff Deem: Gray Jeff.

Richard Robins: I'll get used to it.

Jeff Deem: You can use Gray Jeff and – or whatever. I'd like to present Laurie's motion. I am afraid of law enforcement as well, but I think it's something that we can work out at some point. You can't

have such defeat – discrete straight lines you're going to get back into the same problem, but I do think that contour lines should be at least an option to be considered in both. So I would like to make her motion, if I can get a second, to put it in the public document, at least.

Richard Robins: So you would move to add alternative 3B3, reading that the boundary would follow the 200, 300, 400, and 500 meter depth contour lines on the landward side, and the existing alternatives seaward side?

Jeff Deem: Yes, that's it.

Richard Robins: Is there a second to the motion? Seconded by Jeff Kaelin, the other Jeff. I'll let Kiley get it up there. Discussion while she's getting that up. Chris Zeman?

Chris Zeman: I just have a question. What's the – what does that mean, the – on the landward side? I'm just – what does that mean?

Richard Robins: The landward side of the canyons, as opposed to the seaward side of the canyons? It's the shoreward side –

Chris Zeman: It's the ____ side, right?

Richard Robins: The shoal-ward side. Discussion on the motion? Jeff, does that accurately reflect your motion? Do you want to read that into the record?

Jeff Deem: Yes, it does. Move to add an Alternative 3B-3, adding options for landward boundary lines following the 200 meter, 300 meter, 400 meter, and 500 meter depth contours, and following the original boundaries of the seaward side.

Mike Luisi: Thank you, Mr. Chairman. I think this issue is something that is going to need to be explained in some way in the document. If enforcement is saying that if we use contours as a management alternative, and then they're going to draw straight lines over those contours and over those squiggly lines, I think the public's going to be very confused when we move – if we move forward with these contours, and then all of a sudden the lines are straight. I just – I feel like this is something that needs to be – we need to come – there needs to be a discussion and a decision made as to how those lines are going to be drawn, so that we're not misinforming the industry and the public on what we decide as a Council versus what is being enforced by the Coast Guard. Thank you.

Richard Robins: That's an important point. And I think this is going to require some additional work as we go forward, because we're going to get public input back. I think there's going to have to be some revision that's going to allow for the different things we're trying to do, namely protecting corals, accommodating the fishery, and coming up with something that's enforceable. In order to do all three of those, it's going to take some – take some revision, I think. Kevin Saunders?

Kevin Saunders: Thank you, Mr. Chairman. I was just talking to John. I think that there – you know, we could figure something out. We'd be dependent on using the vessel's electronics. So I think within the rule-making, we'd have to make sure the vessel's electronics was accurate within a certain degree so that we could do something. For targeting purposes we'd need a line, but that doesn't necessarily mean anything for enforcement purposes. I mean, you get a violation written based upon the enforcement regulation, which could probably maintain 200 meters, 300 meters, 400 meters, whatever.

So I'm kind of stepping a little bit outside my own self-interest, but I think that in order to meet the needs of the fishery, it's not too much of a stretch. I mean, we're breaking the one complicated rule at a time thing, but I think we can do it. We just target based upon a line, and then enforce based upon a depth.

Richard Robins: Thanks, Kevin. Further discussion on the motion? Public comment? Brad, did you have a comment?

Brad Sewell: Brad Sewell with NRCD. Again, because this is simply trying to get an alternatives document out for public comment, it's hard to be too opposed or too concerned. But I want to express one concern about this is that it runs contrary to one of the design objectives for the discrete zones, which was to pick – to determine a boundary for the head of the canyon that reflected the drop-off and the exposure, so where the canyon really started, and the start to the exposure of hard sub-strait and suitable coral habitat.

And in some cases, particularly more in the south, some of the canyons, the boundary that's in the document is actually less than 200 meters in some cases. Particularly north of Hudson Canyon, the landward boundary is significantly greater than 200 meters, because it's – it was chosen to reflect this drop-off rather than sort of an arbitrary depth contour. So the issue that's going to happen when you actually map out 200 meters, for example, is you'll see

that it chops off the heads of the canyons, in some cases, despite the fact that there's no fishing activity because of the nature of the bathymetry.

So it's just – it's contrary to the sort of – to the scientific approach for the discrete coral zones, which was to figure out where the start of the suitable coral habitat was. Having said that, it's not as if any alternatives are being taken out. It's rather what is being added. But it doesn't really seem to suit the purpose in need of this particular set of alternatives.

Richard Robins: Thanks, Brad. Yes, sir? Can you turn the microphone on?
Thanks.

Dave Stevenson: Dave Stevenson from the Regional Office. I'm on the FMAT and Habitat PDT, New England Council, that came up with a lot of these alternatives. In the first place, Brad said a lot of what I was going to say, so I won't go over that. I am also uncomfortable with the idea of using depth contours, I think because of the enforcement issues, and we had long discussions on this subject with the New England Council, and they elected to go with a depth contour for the broad zones, and a straight line approach to defining the boundaries for the discrete zones, because the canyons, as Brad said, are so – the walls are so steep and so curvilinear, and in some cases, these walls are like almost – are vertical cliffs. It would be impossible not only to enforce a boundary based on a depth contour, but probably even to determine where that boundary is. I mean, you can get from 300 to 400 meters by going about 50 feet or 100 feet in one direction.

So I just – I just – it's a caution. I think the broad zone alternative lends itself a little bit better to a depth contour, because it's not as curvilinear and not as steep. But it's certainly not something I think would ever be feasible in a canyon.

Now remember the tilefish closures that you all created. We went through this whole debate when we were creating those boundary lines, and ended up with straight lines, boundaries, and Laurie's right, they do cut off a little bit of the edge of the shelf where people like to fish, but they also cut off little bits of the canyon walls. But we rejected – the people working on that amendment rejected a depth contour approach to defining those boundaries, for good reasons.

Richard Robins: John Bullard? Dave, thank you.

John Bullard: Dave, I have a question for you. If you have a vertical wall, wouldn't that mean that the line for 200 meters is the same line as 300 meters or 400 meter? I don't understand why that makes it difficult. I would think it would make it easier.

Dave Stephenson: If you pick 200 meters, it would make it easier, but if you try to pick something between say 200 and 500, as you say, you end up in the same place. Yeah. It's the same line. Well, but you – you'd still have a hard time knowing where it really is. Maybe not if it's 200, you know, because you're up off – sort of on the top of the canyon wall. But if you picked any other depth, I think you'd have a hard time determining exactly where it is in two-dimensional space.

John Bullard: If it's vertical, it's the same place.

Dave Stevenson: Yeah, well –

John Bullard: In every place.

Dave Stevenson: Yeah. Sure. But it's not always totally vertical. But you're right. If it was vertical, it'd be the same place.

Richard Robins: Thank you, Dave. Lars, to the motion?

Lars Axelsson: Lieutenant Commander Saunders, I loved the way you put it. I've been fishing on the water 40 years. I worked the heads of those canyons. I work other bottom that's not very healthy to my nets. When I say I work that bottom, I work around that bottom. You draw the straight line. That's the heads up. My dad did this to me when I first started fishing. He said, "Lars," he took a pencil, went to the chart, and he went zip, zip, zip, made a four – made a box. He said, "Don't even turn your fathom meter on going anywhere near that box."

But when it came time to fish the area around that box, there were certain depths that I could not cross, or the net would be gone. Okay? In essence, that's the compromise. Draw your box however it makes everyone happy, but in reality, we're trying to freeze the footprint that's there.

I held up a book yesterday. We have coordinates in our PC WindPlot. We have them written down, 35,000 of them, represents everything from sunk boats to hard bottom to places we're not supposed to go to places where we can go. This already protects your coral from my standpoint. Forty years' worth of my

own gathering of information. Fishermen have been reduced in number so much so that we share information readily. Pretty much everybody has. That's why it's on the table to take the PC WindPlot, put it into all your computers and say, "Look, this is where we are. This is how we do it."

But I think if you use his analogy, Lieutenant Commander Saunders' analogy, then by allowing – I don't know the word for it, but by allowing certain fisheries to occur, FMAT can then say, "This is what you're allowed to have on board to work around there." Because my nets will not survive one little slip on the head of a canyon. It's gone. Okay?

That's the thing I'm trying to impress upon you, is we're already doing it without a law being put on us. Thank you.

Richard Robins: Thank you. Greg, to the motion?

Greg DiDomenico: Yes, Mr. Chairman. Just a – it's essentially in support of the motion, in support of what – some of the comments we've already heard. I just want to invite everybody, I have some of the WindPlot data on my iPhone that is exactly what we used to develop the current alternative in the Baltimore Canyon. I'd invite anybody, audience or in the Council, I'll sit down with them and show it, show it to you. It really demonstrates what people are talking about.

We have a dispute over what is probably in some areas less than a quarter mile. If we lose that quarter mile, you are absolutely going to be impacting the commercial fishing industry to a massive extent, and even more acutely, to certain individuals in a small, dedicated fleet that fishes out there, and you will be doing it for no purpose except for possibly achieving something that we're not even sure that we're achieving.

So I don't want to get into a situation where we do unintended harm, unnecessary harm to a fleet, so please, I invite anybody to pull me aside and I'll show it to you. Thank you.

Richard Robins: Thank you. Further discussion on the motion? Chris Zeman?

Chris Zeman: What are the measures put in place for the coral closures in Oceanographer and Ladonia Canyon that were put in place in 2005? I just want to see if there was – I mean, how did the New England Council address this?

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- Richard Robins:* George, can you comment on that?
- George Darcy:* I think they're straight line boxes, and I think it's closed to bottom tending mobile gear. I could have that wrong, but that's my recollection. Everybody back there is saying yes, so –
- Chris Zeman:* I think I – yeah, I agree with that. And I think my question is how's that – how do those two canyons play out in terms of the industry, in terms of interactions or trying to avoid or fishing through those boxes?
- Richard Robins:* Laurie?
- Laurie Nolan:* The industry in the town where I live, which is Montauk, tells me all the time what a lousy job we did drawing straight lines around those canyons, and that they're losing access, what on paper, what looks like this, is huge to them. But at the time – I think we did the Tilefish FMP in about four hours, six hours, and it came down to on the fly straight lines being drawn. And they beg all the time to go back and revisit those straight lines to adjust them. It's – you know, the scup GRA, it all falls into the same – straight lines are – can be very harsh on the industry.
- Richard Robins:* And by the same token, it sounds like what we've heard from Dave a moment ago is that – and Brad as well is that the bathymetry in the heads of the canyons is somewhat unique, and that there are concentrations of corals in those heads. So it may ultimately be necessary, if we're going to go with the bathymetric contour approach, to marry those with a specific area at the head of the canyon. That might be a possibility. But I think we can move forward, get public input, and consider that. Jeff Deem?
- Jeff Deem:* I was under the impression that the contour lines solved this problem, and that's why they were in the other one. But since it doesn't, could we add one more feature to this, one more option, being the shelf edge? Would that be definitive enough for law enforcement or for consideration? Before 200 meters, just put the shelf edge as an option for people to select? We hear from the commercial guys they don't want to fish over the edge. They want to fish right to the edge. So could we make that – or instead of the 200 meter? Is that definitive enough for us to regulate by?
- Richard Robins:* I don't know. I think we think of the edge as 100 fathoms, 200 meters, right, give or take?

Jeff Deem: Well, somebody said that some of the canyons, that wasn't the case. They were – 200 meters, you were not at the shelf edge, or you were way past the shelf edge at that point.

Richard Robins: Well, I think the point is, in the heads of the canyons, the bathymetry runs more shallow. But I don't know that we can come up with language to describe that, or whether we'd have to have a discrete box at the head of the canyon, and then marry that with a bathymetric contour seaward of that. Kiley, do you have any insight into that? Dewey?

Dewey Hemilright: I wasn't a member of the Committee, but sitting here listening yesterday, and taking in some insight today, and listening to Mr. Lars's observation, fishermen are already protecting the coral in a lot of ways. The gear you fish, certain gear is more conducive to being more coral-friendly than others. But the gear you're already using, a lot of things are already – you know, if you go sit your gear in the coral, you're not going to get your gear back.

Second of all, straight lines is – a box of straight lines is a better way than contour lines, because you know that you can't go in this box, or around that box. So straight lines is a better definition or a better way than contour lines and different things. Not only that, these terminologies of bottom tending gear, mobile gear, mobile bottom tending gear, there needs to be some real hard looks at the different types of gears and what the definition is given.

As I sit here looking on page 16 under alternative 3A, this is kind of new to me, reading this, and not new reading it here, but knowing that it was an area here. It says, "Primarily at the bottom, this is included one tilefish gear restricted area, which restricts to use of mobile gear in the Norfolk Canyon." And I guess that was few years ago that this was done.

I have a lot of questions why it was done, and – but it's – this gear, mobile tending gear, bottom tending gear, you have a lot of things here when you go out to public comment that what's the definition of each different type of gear? What is it considered under determination? And I guess FMAT or somebody is going to come up with that determination, but keeping it simple as far as drawing the lines from where you can stay out of.

But second of all the majority of the places that are probably more friendly to bottom – to coral, already not in the area fishing, because they wouldn't get their gear back, is probably one of the major things to think about, for one aspect of it. But making

straight lines and putting a box is a heck of a lot easier than going from this contour line to that contour line, and all that. It just simply doesn't work, trying to – and you've got different gears that need to get up close to that line, because maybe there's better fishing there, versus some other type of thing. But it's just a lot of – I've got a lot of questions with this document. I understand protecting the coral, but I also understand that fishermen are already out there fishing. We're not fishing where you're going to not get your gear back. I mean, that's just common sense.

And it looks like we're pretending – we're wanting to close a lot of area here, extra area, where it could be, might be, you know, might be some coral there. But it's just kind of – it needs to be simple. Thank you.

Richard Robins: Thank you, Dewey. No, I think the gear language is something that can be clarified fairly easy in the document. We'll look to staff to do that. But in terms of how the Council wants to proceed, do you want to move forward with this motion and include the bathymetric contour options, or do you want to stick with what you've got? Any further comments on that? Mike Luisi?

Mike Luisi: I think this provides a – it's a consistent approach for both discrete and the broad – the broad zones. You know, the way – initially, I thought that if we went – if we went with this motion and Laurie's initial idea of the contours, we'd ultimately end up back in the same place, with straight lines, given enforcement's comments. But at least what this allows us to do is if we end up voting down the road on some broad measure and then some discrete measure, and it ends up being that contours are both used in both of those decisions, that enforcement could – they could apply a consistent approach to each one of those to provide the lines that would be necessary.

So as far as getting public comment, it's still – the document still contains the boxes as identified as the – whatever it was referred to as, the modified boundary. So I would support the motion. I'd say the Council, we should take a vote on it.

Richard Robins: Thank you. Further comments on the motion? All right. Is Council ready for the question? All those in favor, please raise your hand. Eighteen. Opposed, like sign. Abstentions, like sign. Motion carries. Thank you.

Is there anything else that members would like to add to the document or otherwise modify the document? Jeff Kaelin?

Jeff Kaelin: I wanted to get back to the discussion about gear, and I'm not going to come up with a motion or anything, but in the discussion about the gear options and what they really mean, we've heard off and on as this developed, as industry people, that the mid-water trawls are not part of this act. And I think it would be useful to clarify that when we go to public hearing, because of the impact potentially on the squid and mackerel – or sorry, the mackerel and herring fisheries.

And I pointed out yesterday in a discussion about research priorities, the deep water exploratory surveys for those resources could be out in these areas. So I don't think it's the intent of this important amendment to capture the mid-water trawl fishery, but I think it ought to be clarified, similarly. Thank you.

Richard Robins: Kiley, can we clarify that in the language in the document, if it's not clear at this point in time?

Kiley Dancy: Yes. Absolutely. We can clarify that in the public hearing document.

Richard Robins: Thank you. Pam, did you have a comment on that point?

Pam Lyons Gromen: Thank you, Mr. Chairman, members of the Council. Pam Lyons Gromen with Wild Oceans. And I'm thinking back to Herring Amendment 1, which was a very long time ago. But during that comment period and process, there was a lot of concern actually expressed, as I recall, about mid-water trawl gear actually contacting the bottom. And I know there was an alternative to define mid-water trawl gear. I can't remember if that was ultimately selected for Amendment 1 or not.

But anyway, I think that that – we're talking about defining gears. I think that maybe we need to define what a mid-water trawl gear is, if that's not already in regulations for these fisheries, and making sure that they don't have things like rollers or large cookies or things that could be destructive if they would contact bottom. So anyway, I think that's something that should be considered. I think it was even mentioned in the original scoping document that we had on this amendment, that mid-water trawl gear has been – that there's been concern raised that it sometimes contacts the bottom.

On a separate note, I just – I feel like in the discussion today overall we talked about some different goals, mitigating fishing

impacts, protecting corals, freezing the footprint, and I think it would be really important, if the Council does have objectives for this amendment, so far, they have not really been fleshed out. There's a purpose statement, but we don't see any objectives. And I think that would really help us understand the alternatives we have in front of us, and where the Council wants to go.

Personally, I thought freeze the footprint was about the broad coral zones, and that's how it reads to me in the NOAA Strategic Plan. And I think that the discrete zones were about protecting corals. So anyway, if the Council does have objectives for what they want to accomplish, I think it should be added to the document. Thank you.

Richard Robins: Thanks, Pam. Further comments? Was there any other thing – any other issues that the Council wants to bring? George Darcy had made the point that we ought to ask the FMAT to explore the possibility of gear monitoring systems and establishing a requirement for vessels that want to fish in those coral protection areas, whether discrete or broad zones, if they want to be exempted within the *Illex* or *Loligo* fishery, that they have some sort of gear monitoring system on board to ensure that they're not making bottom contact.

I would suggest given the list of modifications that we made to the document, that that come as a motion. George, would you consider offering that?

George Darcy: Sure. I would move to add for consideration the potential requirement of gear monitoring electronics as a condition for exemption to fish in either the broad area or the discrete areas.

Richard Robins: Thanks, George. Is there a second to that motion? Second by John McMurray. Discussion on the motion? Is Council ready for the question? All those in favor, please – oh, Laurie?

Laurie Nolan: I'm sorry. I just have one question. Yesterday, we talked about an analysis as far as who is affected at what depth, and I think it was mentioned, New England's analysis said that less than one percent of the fisheries are affected inside of 300 meters. And I may not be quoting it exact, but I'm wondering, is the FMAT planning on doing any kind of analysis on what occurs in the mid-Atlantic in these areas as far as what kind of percentage of fishing would be affected, if any, if the 200 meter were to be chosen, 300, 400, 500, before we have to make a final decision?

Kiley Dancy: Yes, absolutely. I think that's one of the next steps for the FMAT in terms of analysis, is taking – and the analysis that was done by the New England Habitat PDT looking at that issue was sort of preliminary, and it was never fully fleshed out. So I think that that would definitely be something that the FMAT would be looking at.

Richard Robins: Further discussion on the motion? All those in favor, please indicate by raising your hand. Nineteen. Opposed, like sign. Abstentions, like sign. Motion carries. Thank you. Are there any other items that Council wants to bring in terms of amendments to the draft document? Seeing none, we had a motion that was previously tabled. Can we have a motion to take that from the table? Peter?

Peter Himchak: I would move un-table a previously tabled motion.

Richard Robins: Second by Steve Linhard. All those in favor, please indicate by raising your hand. Eighteen. Opposed, like sign. Abstentions, like sign. Motion carries. Motion is now before us. It's the Committee motion as amended. Warren, is it fair that those amendments would now include the amendments that have been included today?

Warren Elliott: Yes, that's correct.

Richard Robins: Okay. Any further discussion on the motion? Is the Council ready for the question? All those in favor please indicate by raising your hand. Nineteen. Opposed, like sign. Abstentions, like sign. Motion carries unanimously. Thank you. Is there anything else that's come before the committee? Seeing none, we're adjourned for an hour and a half for lunch. See you at that point in time. Thank you. So we'll be back at 1:45. Thank you.

[End of Audio]

**Omnibus Baseline Amendment
August 14, 2013
Double Tree by Hilton Wilmington
Wilmington, DE**

Richard Robins: Good afternoon. Let's go ahead and take our seats if we can. I'd like to welcome Melissa Hooper from the Regional Office, and she'll be presenting the baseline amendment to us. Melissa, welcome.

Melissa Hooper: Thank you. Did you want to wait for others or shall I just get started?

Richard Robins: Let's go ahead.

Melissa Hooper: Okay. Thank you. So my name is Melissa Hooper. I'm a fishery policy analyst from the Northeast Regional Office. I'm going to be presenting a proposal for an Omnibus Baseline Simplification Amendment. I included a fairly extensive summary of this proposal in your briefing book, so I'm going to keep the presentation pretty short, but if there's anything you have any questions about or would like me to expand on at the end, I can definitely do that.

So most Northeast and mid-Atlantic limited access fisheries have vessel upgrade restrictions of some kind. The – what this means is that currently, there's restrictions on the size and horsepower of a replacement vessel that's replacing an existing vessel with a limited access permit. This is typically a limitation to ten percent of the size: that's length, net tonnage, and gross tonnage; and twenty of the horsepower of the permit's baseline vessel.

A permit holder may upgrade these only once over the lifetime of the permit, and if the entire upgrade is not used at that time, the new size and/or horsepower of the new vessel becomes the permit's maximum. The purpose of these measures was originally to limit increases in harvest capacity of the fleet. For example, if a vessel were to land more fish per day at sea because of an increased size, it could undermine the purpose of days at sea to limit mortality. In a quota system, an upgrade could increase a vessel's catch rates and accelerate the rate at which the quota is taken.

However, since these upgrade restrictions were first adopted, many fisheries have implemented other effort controls and annual catch

limits which otherwise restrict total harvest. Meanwhile, these upgrade restrictions have become an administrative burden to the industry and to NMFS. These restrictions complicate and prolong the vessel replacement process and put a cost burden on permit holders who have to obtain documentation to prove a vessel falls within a permit's upgrade restrictions. NMFS staff put a significant amount of time into researching a permit's history to determine its baseline and whether its one-time upgrade was already used.

In light of newer controls on fishing mortality, it may be possible to simplify these upgrade restrictions without compromising conservation and fleet diversity goals. Toward this end, the Northeast Regional Coordinating Committee formed a working group in 2011 comprised of staff from the Northeast Regional Office, the Northeast Fishery Science Center, the Mid-Atlantic Council, the New England Council, and ASMFC, to explore modifications to vessel upgrade restrictions. That working group completed a white paper which recommended five suggested modifications, and publication of an Advanced Notice of Proposed Rulemaking. This white paper is included in your briefing book.

Five workgroup suggestions were published in the AMPR to spark discussion. These were to eliminate the gross and net tonnages from the baseline specifications, to eliminate a one-time upgrade restriction, to change to a system of size classes within which a vessel could move from a system of baseline specifications, remove baseline upgrade restrictions for vessels under 30 feet, or to completely remove all upgrade restrictions entirely. This ANPR was published on October 5th, 2011, and the public comment period ended December 5th, 2011.

We received a total of 35 comments from members of the public that ranged the full spectrum from supporting no change to the restrictions to eliminating them entirely and everything in between. Some commenters supported removing the restrictions on tonnages only. Others supported removing the one-time upgrade limit. Some supported removing restrictions on vessels under 30 feet, and others supported shifting to a system of size classes. And some commenters provided their own suggestions for a formula that could be used in place of the 10/20 rule, as well as establishing an exemption from baseline restrictions for vessels that fish with only rod and reel. These public comments were all summarized in your briefing book as well in the packet I provided.

So after review of public comments and further consultation with the NRCC, we came up with a proposal for an Omnibus Baseline Amendment to simplify upgrade restrictions of all Northeast fisheries. If both Councils support this action, the Regional Office would take the lead on developing the amendment in consultation with the Councils and the ASMFC to be adopted by the Councils at a later date.

We presented this proposal to the NRCC at their 2012 meeting, their fall 2012 meeting, and got the okay to bring it to you here today. I will be making the same presentation to the New England Council at their meeting next month. We are proposing to include these two alternatives because they are the least complicated and controversial and give you the most bang for your buck.

What we're proposing to include is eliminating the gross tonnage and net tonnage specifications, because these are the most variable of the specifications in terms of how they can be measured and determined. They can also be costly in terms of having to hire a marine surveyor to document them and verify them, and can take time for NMFS staff to try to verify as well. Also, because this measure would leave in place the length and horsepower specifications, we think it can be done with negligible impact to harvest capacity and fleet diversity.

The second option we're proposing to include is removing the one-time limit on an upgrade. This would provide more flexibility and fairness to vessels who may not have maximized their upgrade at the time that they upgraded their vessel or replaced their vessel, and therefore lost out on the full upgrade value. So this would provide more flexibility to them and fairness for them to continue to upgrade, up to the vessel's upgrade limit. It would also substantially streamline the process for processing of replacement applications, because it would not require the additional research to determine whether an upgrade was previously done in the vessel or the permit's history. Permit holders and NMFS could simply determine what the vessel's baseline was, and if – and from there, what the upgrade restriction is, in order to know if any vessel could fit within that now and into the future. So it would substantially streamline the process and save permit holders and NMFS a lot of time and effort.

So for this action, the process and timeline we're proposing to follow is to present this plan to both Councils at the August and September 2013 meetings. Then, if the Councils would like input from their Species Committees, I would do the same sort of

presentation of these alternatives to the Species Committees in October and November this fall. Then we would spend the winter, November to March, working on analyzing the alternatives that were to be included in the action and drafting the actual amendment document and associated NEPA analyses.

From March to April of 2014, we would present the draft amendment to the Species Committees, if the Council would like their input. Then at the April 2014 Council meeting, I would present the draft amendment to the Councils for adoption. At the June 2014 Council meetings, we would then hold public hearings, and then at the August and September Council meetings in 2014, would be final Council approval of the amendment document.

September then in 2014 to February 2015, we would work on proposed and final rule-making, with the intention of having the new rules effective for the 2015 permit year, which would be May 1st, 2015.

So if the Council supports this proposal, there are a few questions we specifically need to ask you today that are listed here. Would you wish to have the Species Committees to provide input to the amendment? And if so, would you like to schedule Species Committees in conjunction with the October and April Council meetings in order to gather that input? If a Species Committee is not scheduled to meet, should the amendment be delayed in order to give them time to do that? And how should any of the proposed changes be reconciled between the two Councils, since this would be an omnibus action for Northeast fisheries?

So that's my brief presentation, and I'll take some questions now.

Richard Robins: Thank you, Melissa. Chris?

Chris Moore: Thanks, Melissa, for the presentation. What kind of input are you looking for from our Species Committees?

Melissa Hooper: Primarily – so if they wanted to add alternatives to the action or modify the alternatives that we've proposed, or specific ideas for types of analysis that you or they would like to see in the document to evaluate these alternatives.

Richard Robins: Chris?

Chris Moore: Yeah. Thanks. I'm trying to remember the process. You have a – are you working with a team, like a PDT or a – do we have an

FMAT associated with this one? I can't remember how George – you guys set it up.

Melissa Hooper: We don't. This started from the working group that was formed by the NRCC, and that had staff members from both Councils, ASMFC, and the Regional Office and the Science Center. This would be primarily Regional Office staff, myself, writing the document, and then – but it would be a Council action, so we would do the technical work, provide it to you to evaluate and adopt, and then submit back to us.

Richard Robins: Chris?

Chris Moore: So you're going to continue to work with the working group? I think Rich is on that, right? For us? Or you haven't decided yet?

Melissa Hooper: Rich is on that.

Chris Moore: Yeah, but you haven't decided if you're going to continue to work with the working group to develop the document?

Melissa Hooper: No. George?

Richard Robins: George?

George Darcy: Since these are Council actions, I think that's kind of up to you. I think it's similar to the process that we've followed with the SBRM amendment, and I think the first time we did that, there was a joint FMAT, right? FMAT/PDT. And I think at the second go-around, you decided that that wasn't really necessary, that just bringing it before the full Council was sufficient. So I think you could go with either one of these models. If you wanted to set up a joint FMAT/PDT, that would be fine, but that's a Council decision. If you wanted us to proceed as we have been doing and just inform the Council as we go along, and you get to make your decisions and final votes, that would be fine. If you'd prefer that we use the people in the working group, we could do that as well, I think. Whatever you think, so that you're comfortable with the alternatives, and ultimately, you'll make the decision as to whether to do it or not.

Richard Robins: Chris?

Chris Moore: So I think of those alternatives, we like the last one. We could just continue to have the working group work with Melissa. I think that would help us.

Melissa Hooper: Okay.

Richard Robins: Pete?

Peter Himchak: Are you addressing hold capacity in here?

Melissa Hooper: Sorry. The hold capacity that was added for the mackerel fishery, no, that would be untouched by this amendment.

Peter Himchak: May I continue? Okay. Typically, the states, we line up behind the 10/10/20, and yeah, eliminating the gross and net tonnages is fine. Your option where you say to remove the one-time upgrade restriction, it sounds rather confusing to me, the title, because if you remove the one-time restriction, the one-time upgrade, it seems like you can upgrade continuously, whereas language that we use is that the – we use the originally permitted vessel that got that permit. The specifications on that vessel is the baseline, so that there could be any number of upgrades, but it can't exceed the ten percent on the length overall of the originally permitted vessel.

So just to give you some things we're experiencing at the state level, and now, with our recently implemented Atlantic menhaden quota monitoring, we – if a vessel upgrades in – carry vessels in the (inaudible) fishery, where we're putting in the ten percent, you can't go over a ten percent increase in hold capacity. So that's why I brought up the hold capacity issue. But we have addressed that in mackerel, and who's qualified to certify. I'm just offering that out as – offering these issues up as issues that we deal with – that we routinely deal with at the state level. It seems like permits are – they're all issued to vessels, and they're getting transferred back and forth on a regular basis.

Richard Robins: So Melissa, can you explain a little bit more the elimination of the one-time upgrade? Would it be, as Pete said, I mean, would it allow for unlimited upgrades, or would it still be constrained?

Melissa Hooper: Sure. That's kind of a confusing one, and I took a shortcut with naming it. So there is – there would still be the restriction for you have your baseline vessel, which is the first vessel permitted in the limited access fishery, or the one that was permitted at the time of the 1999 Consistency Amendment, depending upon the FMP. So within 10 percent of the length, if we got rid of the tonnages, it would just be the length, of that vessel, and 20 percent of the horsepower, would still be the upper limit on any upgrades.

Currently, the one-time restriction is that if you – say you have a vessel that only upgraded partway, so they upgraded five percent, they didn't upgrade ten percent on their size, they would be forever restricted to that five percent increase. They could never go above that. They could only stay below. So if somebody doesn't maximize and go the full 10 percent or the full 20 percent upgrade in that one time, they sort of lose out on that opportunity in the future. So this would eliminate that limit on the one time. You would still be limited to being within 10 percent of the length or 20 percent of horsepower of the original baseline vessel, but you could take as long as you wanted to get there.

Richard Robins: Thank you. Peter?

Peter Himchak: The reason I brought that up, and yeah, when I read – following the title, I understand what you were getting at, but it also works in the fisherman's advantage, too, in the event that you transfer from an originally permitted vessel to even a smaller vessel, well, the third vessel that gets the permit can get the upgrade based on the originally permitted vessel. So they don't suffer from going backwards a few feet. So we've had a lot of that occurring over the years. So I just wanted to make sure that was acknowledged and included.

Richard Robins: Thanks, Peter. Rich?

Rich Seagraves: Yeah. Glad to hear that we're going to try to reconvene a working group, because within the proposed options that you're talking about now, it looks like you've kind of taken the exemption for vessels under 30 feet off the table. And just a little background. One of the things that instigated reexamining this was interest from some of our black sea bass fishermen on fairly small vessels that are restricted by this part of the regulations, and so I think we'd be still – I think the Council might want – be interested in an exemption for anybody below some size of the vessel, with the idea being if they were to go above that, then the rules would kick on them. But I think we would be remiss if we just let that go, because that really was why this thing was brought back to the Council's attention.

Richard Robins: Tony DiLernia?

Tony DiLernia: Mr. Chairman, perhaps I'm being too simplistic with this question, but at this point in our fisheries management process, where we are – we have trip limits, we have quotas, we have so many controls in place, why are we concerned with people upgrading their vessels at

this point? I mean, if somebody wants to go after a 30 pound – the trip limits for summer flounder may go down to 30 or 50 pounds in New York State. If somebody wants to use an aircraft carrier to go after them at that point, go ahead. I don't – if we have trip limits in place, if we have these other controls in place, why are we concerned with whether or not someone wants to upgrade their vessel at this point? We're not going to increase – yeah, we might increase the fishing power, but that – they can't use that fishing power because of the other controls that we have in place.

Now Rich is perfectly correct. If I'm a sea bass pot fisherman and I'm in a 29 foot boat and I made a couple of bucks and I want to run a 36 foot boat, a little bit safety – for a safety reason, why not? I'm still constrained by the trip limit that the state has in place. I'm still constrained by the whole quota. So I'm wondering – unless I'm missing something, I can't see why we're still concerned with vessel upgrades.

In the old days, when we had an open access fishery, say with groundfish, and folks were still getting into the fishery, I could see it at that point, but we're well beyond that. We're 20 years past that at this point. I'm not sure this is – this is necessary. Thank you, sir.

Richard Robins:

Thank you, Tony. And I think what we'll need to do either as a Council or at the Committee level, with the benefit of the working group's analysis of this, and some staff input, is to really sort of scrutinize the different fisheries and see if there are any where it would have an impact. The fisheries that still have days at sea management, like part of the component of the sea scallop fishery is one where there would be a big impact, if you were able to increase fishing power. But most of our fisheries in the Mid are probably not going to fall into that category, because we're using different types of technical measures to manage them. But there still may be some issues that come up as we scrutinize it. But George?

George Darcy:

Yeah. When we first got into this, we frankly thought a lot of people would feel the same way Tony just did, that – or at least I thought we would get a lot more comments saying just get rid of the whole thing. That isn't what we got back through the ANPR. And if I get this wrong, Melissa, correct me. But I think the two major issues that come up were the horsepower restrictions and their impact on scallop dredging in particular, clams perhaps, too, but particularly in scallops. There was concern about getting rid of

that one, which is one we thought might – it's a difficult one to deal with, and we thought that one might go away.

And the other thing was the fleet diversity issue, where there was – there were significant comments that felt that doing away with this could lead to people getting larger and larger vessels and losing the diversity of the fishery. So what we've – what Melissa has presented to you is kind of the clearest path based on the comments we got back. It doesn't mean that you have to follow that path. You could do something else. It'll – you know, it could push the timeline out. It would make it more complicated. That's also one of the reasons we thought that the two Councils might want to engage their Species Committees, because what might not be an important issue in black sea bass might be an important issue in scallops.

And the other point I'd make is a complication of all this is most vessels have multiple permits. They might have three, four, ten permits. So while they might have a black sea bass permit and what you say might be fine for them, they might also have a scallop permit, or something else. So you have to balance all that out as well. That's why it's not quite as straightforward as you expressed.

Richard Robins:

Thanks, George. Other questions or comments about this? Okay. Why don't we plan on reviewing this at the October meeting, and I'll talk to Chris and see whether – what sort of staff evaluation we might get of this as well. And then either we'll configure our Species Committees or convene as a Committee as a whole, but go through each fishery and see what we think might be of concern relative to any of those proposed changes for each of those fisheries. Comment?

James Fletcher:

I would ask you to look at changing a few of the regulations you have on landings, and allow the fishermen to have the safest platform that they can possibly afford (inaudible), change their whole thought process. God only knows how many men have been killed by regulations in this Council, and y'all are soon to forget it. Figure some way in this thing to give the men the safest equipment you can, and then say that there is only one legal measurement, and that's through Coast Guard documentation.

We now have National Marine Fisheries that have a length overall measurement that's not correct. But put it on record that the only legal documentation is Coast Guard. Thank you.

Richard Robins: Thank you, Jim. Are there any other comments on this action at this point in time? Melissa, do you need any additional feedback from us? I mean, I think we would like to have some more evaluation of this at the species specific level or FMP level, and discuss it in October. So do you need any additional feedback right now?

Melissa Hooper: I don't think right now. I think if you can think about how you would – maybe we can see if any differences crop up between what the New England Council and Committees would like to see, and the Mid-Atlantic Council and Committees would like to see, to see how we might reconcile those, but we could address that as we go.

Richard Robins: Thank you. John Bullard?

John Bullard: Mr. Chair, despite what – the concerns that George raised, I do want to underline what Tony said, and that is, as the Species Committee meets on this, I think, you know, everything that's in there that gets measured is work that somebody has to do. And so if a management plan has a quota in there, then I would hope that every committee looks at this and say, do we really need to have something else? Because if we don't, then why do we have it in there, other than to feel comfortable, because it's familiar. If we don't need it and it's not there, then it simplifies the rule, nobody's got to measure it. That saves a lot of time that can be spent doing something else.

And in an era of limited resources, that's important. If we can take stuff out of rules that's not needed anymore because we've changed from effort-based management to quota-based management, things get simpler. Simplicity has some virtues.

So while fleet diversity is important and things like that, you know, if we can – we've moved to a different way of managing. If we can remove things that require work because we really don't need them anymore, let's take an opportunity to do that.

Richard Robins: Thanks, John. Peter?

Peter Himchak: Yeah, I was reacting to Tony's comments, and I looked for our Commercial Regulations Publication. Only tautog doesn't have a trip limit, but on summer flounder and black sea bass, when we set up the quota systems, the seasons, we used the vessel size. For example, the summer flounder inshore summer seasons, we have six seasons for our summer flounder quota. So we partitioned the

annual quota into the size of the landings on a temporal basis, and also on the basis of the vessels that caught, so that the inshore fleet wouldn't be – have the liberty to become the offshore fleet, and then transfer – they can transfer their permit to a replacement vessel, well, then they can just say, oh, well, I'm going to transfer to another vessel. And then – in other words, there was an allocation of the resource that was built into the fleet characteristics.

Richard Robins: Tony?

Tony DiLernia: Pete, I understand that, and that's great, but why should the feds be involved in measuring a boat and an upgrade? If somebody wants to buy a bigger boat, they shouldn't have to be – excuse me, but looking out for your back. That's your decision to make, and how your state wants to manage it. But at that point, if – it's a decision a vessel owner makes, considering the constraints operating within his own state.

Richard Robins: All right. Any further comments? Absent any, we'll plan on reviewing this again in October in more detail at the species level. So thank you all. Melissa, thanks for the presentation.

Melissa Hooper: Thank you.

Richard Robins: Our next item is surfclam and ocean quahog. We'll be behind Tab 6. Jessica, we'll give you a minute to get set up.

[End of Audio]

**Surfclam and Ocean Quahog
August 14, 2013
Double Tree by Hilton Wilmington
Wilmington, DE**

Jessica Coakley: All right. We're all set?

Richard Robins: Go ahead, Jessica Coakley. Thank you.

Jessica Coakley: Okay. Well, good afternoon, everyone. As Rick pointed out, the information we're going to be talking about is behind tab 6 of the briefing book. It's a brief memo for this discussion, about two pages behind there. So just so you all recall, in June, there were two additional surfclam and ocean quahog issues that were presented to the Committee and the Council. One dealt with updating surfclam and ocean quahog biological reference points, and the other dealt with how the optimum yield range in the Fishery Management Plans related to acceptable biological catch specification by the SSC, and how catch limits are set by the Council.

So the mechanism to update biological reference points, this became an issue because the quahog overfishing definition from SAW 48, which was done in 2009, has not been updated in the Fishery Management Plan. And that was brought to the attention of the SSC and the Council. So it's been five years and it's not been updated, which is clearly not a timely and responsive way to have those reference points kept up to date in our plans.

And part of the reasons is amendments really are not the most efficient mechanism to update those reference points in the fishery management plans. Amendments have uncertain timelines. Some move through relatively quickly. Some have multiple issues, take a very long time. So having it linked to that makes it difficult to get it updated very rapidly.

Some of the other Fishery Management Plans we have have actually incorporated an improved approach. Summer flounder, scup and black sea bass, and the dogfish Fishery Management Plans have had a mechanism incorporated into those actually since 2007, is when it went into place for summer flounder, so that the biological reference points or – also called stock status determination criteria – can become immediately available for the Council to use in specs, and it doesn't actually require any additional action by the Council or NMFS to make that happen.

So essentially you add this administrative mechanism into the FMP once, and once you've done that, any future updates to your biological reference points just sort of get incorporated automatically. It reduces the burden on staff, not just Council staff, but also NMFS staff and resources, by allowing that update to occur more smoothly, and by not having to go through the process of trying to incorporate any changes through an amendment.

So this mechanism to update those reference points was completed as a framework for both the summer flounder, scup and black sea bass plan, and dogfish plan. However, the surfclam and ocean quahog Fishery Management Plan has less flexibility built into it, in terms of what can be frameworked. It has a much more constrained list. So to try to address this issue for surfclam and ocean quahogs, it would require an amendment, but it could be a categorically excluded amendment, so you wouldn't – it wouldn't have to be an EA or an EIS under NEPA. It would be excluded from NEPA, so it would be very short.

The other issue dealt with the optimum yield range. This range was developed in the Fishery Management Plan for both surfclams and ocean quahogs in the 1980s. This was well before the 2007 reauthorization, the 1996 reauthorization, or the ITQ fishery went into place in the 1990s.

This range limits the Council's flexibility to set recommendations outside of that range, either higher or lower. However, the science – Scientific and Statistical Committee is not limited as to how acceptable biological can be set, and the Council cannot exceed the acceptable biological catch that they set. So that disconnect between this range and what the SSC is able to do came to our attention this last go-around, which was really the first go-around where the ACL/AM amendment was fully implemented for setting specs for surfclams and ocean quahogs.

In the National Standard 1 Guidelines, it states that NMFS believes that in order to prevent overfishing and achieve optimum yield, both scientific and management uncertainty need to first be addressed. So that implies that optimum yield is something less than those ABCs and ACLs that are being set by the Scientific and Statistical Committee and the Council.

So the SSC essentially would set that upper bound on what the OY range can be, and that's something that is going to change with time. It's not necessarily a fixed value, whereas this range is fixed

in the plan. There also was some confusion at the June meeting that the range in the plan is given in landings, but optimum yield or maximum sustainable yield is often provided as catch in terms of the way it's presented in the assessments.

So staff recommend that the Council consider the utility of this range under the new catch limit system, and how it fits with those SSC recommendations for ABC, and how all those pieces align.

The optimum yield range is in the list of frameworkable items, so it could be completed as a framework. I did speak with National Marine Fisheries Service staff a bit, and it would likely fall into that categorically excluded category, if it were to be a framework.

So there are a few other issues that were highlighted in the memo behind tab 6. The cost recovery amendment, which is the next major action in queue, also includes updates to – it was supposed to include the update to the quahog overfishing definition, and updates for essential fish habitat. That amendment has been in the works for about five years now, and we've had other things going on. We were dealing with the Data Collection Protocol FMAT and other actions in the interim. However, it's approaching the point at which NEPA typically recommends rescoping. They start raising that issue when you hit the five year mark, of going back out and rescoping and reacquainting the public with the issues that are being included in the amendment.

In addition, the Cost Recovery FMAT that was formed to work on that amendment has not met in the last three years, so in the interim, those FMAT members have other work, responsibilities, and priorities that have come into play. Some that were on the FMAT, like Joel McDonald, have retired. So at this point, that FMAT is a little stale, for lack of a better term.

The amendment numbers have also changed, and this amendment, which was originally numbered Amendment 15, would now be Amendment 17, and that's because the Omnibus ACL/AMA amendment that went into place in '11 took up number 16, and the Standardized Bycatch Reporting Methodology redo is taking up number 15. So we now have – would have a new amendment number as well.

So based on all of this information, the staff is recommending that the Council consider including alternatives for those two outstanding issues, the reference point update issue, and the OY range, and the Cost Recovery Amendment, which would be

Amendment 17 now, that the Council request a new FMAT be formed for Amendment 17, and that the Council rescope Amendment 17 to reacquaint the public with the intent of the action, the timelines, as well as the new amendment number, because people kind of get used to calling by a certain amendment number, and it's changed at this point. So those are the three staff recommendations that were presented in the memo behind the tab. And that's what I have for the Council right now.

Richard Robins: Thank you, Jessica. Questions for Jessica on her presentation? Jeff?

Jeff Kaelin: Thank you, Mr. Chairman. So the idea in Amendment 17 would be to allow biological reference points to be set in the future simply through a framework action for surfclams and ocean quahogs?

Richard Robins: Jessica?

Jessica Coakley: No. What we could potentially do is include an alternative in the amendment that would enable the reference point criteria to be broadened, clearly describe how our reference points are peer reviewed, and once that broadened definition is incorporated into the amendment, from that point onwards, so long as new reference points are developed based on those criteria, they'll automatically be available for the Council to use.

So when I mentioned the framework in my presentation, I wanted to put that out there as an option, that if the Council wanted to build this flexibility in, it could be done through a framework. But ultimately, since this Amendment 17 is in queue, it would make sense to put that mechanism in the amendment and deal with it there. But once that – those alternatives are addressed in the amendment once, it wouldn't require any subsequent frameworks or amendments or actions to update those reference points. It would become automatic.

Richard Robins: So – and Jessica, is that – that process is essentially how reference points are updated in several of the other FMPs, right? So spiny dogfish, summer flounder, scup, black sea bass, are all of those on the same –

Jessica Coakley: Yes. That's exactly how that works. And so for summer flounder, this mechanism was put into place in that plan back in '07, and we went through the Data-Poor Stock Workgroups with scup and sea bass in '08. We had a new '08 summer flounder assessment that

had occurred, and all of those reference points that were developed there were available for the Council to use in the upcoming spec settings without staff being required to do amendments to update that.

Richard Robins: But they still have to go through the peer review process that's – is that prescribed in the language in the amendment?

Jessica Coakley: It is. So the two – the way this alternative would be structured is first, it broadens the definition of the reference points within the plan, and it broadens them to be consistent with what the National Standards 1 and 2 Guidelines require in terms of how these biological reference points have to be defined. So that's the first part, that broadened criteria.

And then the second part is the alternative clearly lays out what the peer review mechanisms have to be for those reference points to be acceptable. And effectively – essentially, they're the NRCC approved peer review processes that we go through now. So it would include an SSC – or could include an SSC review, a Council externally-contracted review with independent experts, a NMFS internally-conducted peer review with technical experts, a Commission CIE externally-contracted review. So all the peer review tools right now that the NRCC approves for stock assessment processes, those would be expected for these metrics.

And once you have those two pieces in the alternative and you build that into the plan, from that point forward, you don't have to do additional amendments or frameworks or things to update it.

Richard Robins: Thank you. Jeff, did you have a follow-up?

Jeff Kaelin: Well, I just – I raised the issue because NEPA contacted me about this, trying to understand what's being proposed, and I know there's members of the industry here that might have some other questions, but I know just generally – I guess in my other question – can I ask a question to Jessica, or should I do it through the chair, Mr. Chairman?

Richard Robins: Yeah. Go ahead and ask.

Jeff Kaelin: Yeah. My question is the last time the biological reference points were updated was following the '09 SAW, correct? Is that correct? So the question that was raised with me is what – why wouldn't the Council wait until the next SAW before going down this road? That's my last question, Mr. Chairman. Thank you.

Jessica Coakley: Well, right now, you have reference points from '09 that have not been updated. And if you waited, we have Amendment 17 that we're going to be working on now. If you waited until the next SAW, then you have to wait until whatever the next amendment is to try to hitch the reference point update to that amendment. So at this point, you've been outdated five years, and it may take another two, three years before the next assessment comes up on the SAW, so you would have been outdated eight or nine years. And then once you get those reference points and go through an amendment process and get that updated, that's probably right around the time when you'll have a SAW for one of the other species, and you'll get new reference points. And then you have – then you're outdated on that species, and you have to update it.

And then – the reason I point this out is this is what we've done through the summer flounder process, is we would update the reference points for one of the three species through an upcoming amendment, and by the time you got that one done, you had another assessment for another one, and you were out of date, so then staff had to then take the time to put that in the next amendment. And in particular, where this process was first evolved was going back to summer flounder in '07, we had new reference points that came out that the Service – the old reference points indicated that if catch levels were set at that level, overfishing would occur. The new reference points didn't. So staff at that time was tasked with, in order for the Fishery Service and Pat Kurkul at the time to be able to accept recommendations at this level, these new reference points need to be on the books, and staff had to drop everything and rush to try to update that.

So it kind of puts – it puts a lot of burden on staff in terms of resources and in terms of trying to keep these things updated, and as I said, at this point, we're five years out, and we don't have updated ones on the books, so that's the process.

Richard Robins: Other questions of Jessica? Are there public comments on the proposed actions? Tom Alspach?

Tom Alspach: Thank you, Mr. Chairman. Tom Alspach of Seawatch International. Our company's a processor of offshore federal ocean quahogs and surfclams. The – just to be clear, these recommendations would pertain to changing the way that we may adjust OY and the BRPs for both surfclams and quahogs? Is that correct? Or is this just directed at quahogs?

Richard Robins: Jessica?

Jessica Coakley: No, this is directed at both.

Tom Alspach: Okay. Certainly, the notion of improving the expediency with which we can make adjustments to these important parameters is something that is worth considering. But just a couple of observations. One is relative to the question of timeliness, we're talking about two species here, one of which is extremely long-lived, much more long-lived than any of us, 200 years plus, that being quahogs. And surfclams at 30, 35, 40 years of age. So year – the quahogs in particular, a delay in getting something accomplished in three or four or five years is not as critical as it would be with respect to other, more short-lived species.

Secondly, I think we would need to look very carefully at how these future peer reviews would be done under an amended process for updating the biological reference points on a more regular basis. And that's because the – to this point, the reference points have always, at least in my experience, I've been through assessments now going back at least 15 if not 20 years, the peer review always occurs in connection with – as part of the peer review of the assessment itself. And it's very rigorous. I mean, it's – we're talking about days and days of activity.

As a consequence, a fairly reasonable degree of confidence can result from that kind of review. And the concern I would have is that we in this proposed Amendment 17, there would be alternatives set out so that one would include for further consideration retaining the level of peer review for these changes that we have right now.

The reason I say this is that the definition of what a peer review can be is continuing to evolve. In the most recent guidelines on National Standard 2 that were just released a couple of weeks, they talk about this. They talk about peer reviews that can be done by exchange of letters or exchange of documents and so forth. And I don't think that would be – that kind of peer review would be adequate for the kind of issues we've had to address in our fishery when we've been looking at biological reference points.

So I guess I would just personally reserve judgment on that until we see what the amendment would propose. Certainly, there's nothing wrong with proposing a change by way of an amendment, but I think it's important that we not lose the rigorous nature of the peer review that's been conducted to this point with regard to the

reference points for both of our – both of our species. So those are my comments. Thank you.

Richard Robins: Thank you, Tom. Is there any further public comment on this? Or Jessica, you had a comment? Sorry. Go ahead.

Jessica Coakley: I just wanted to have a quick response to some of the comments that were made. This process doesn't propose changing how the peer reviews are done for any of the assessments. All it is is to change the mechanism by which those reference points that come out of the process get incorporated into the Fishery Management Plan. So all our species, like for summer flounder or for surfclams and ocean quahogs or dogfish that have gone through the SAW-SARC process on whatever timelines have been approved by the NRCC could continue to go through that. That doesn't – this doesn't propose modifying that. All it does is list out what acceptable peer reviews would be, of which the SAW-SARC is part, to make it clear that the reference points can just be incorporated into the amendment.

So I just wanted to point that, because I think there's a little bit of confusion about what this is trying to do, and it's just – it's just an administrative piece for how it gets into the plan itself.

Richard Robins: Thank you, Jessica. Further comments or questions on the proposed amendment? Lee?

Lee Anderson: Thank you, Mr. Chairman. As Chair of this Committee, I've talked with the staff on this, and Jessica and I have gone over this. This seems to be very reasonable recommendations. The one with respect to the BRPs, as I understand it, Jessica, and correct me if I'm wrong, it'll go through the same process, but if we take this thing, this change to the plan, as soon as it goes through a SAW-SARC process, it is – the same process, it is automatically in the plan, takes us no independent action to do it. Is that the short and sweet of it?

Jessica Coakley: That is.

Lee Anderson: Okay. That – to me, that seems pretty logical. And the other issue of the OY range, it's something that we haven't looked at it. It seems like that's something that would make sense to do that. So if you're ready, Mr. Chairman, I have some motions.

Richard Robins: I'm not seeing any further comments, so go ahead and make your motion.

Lee Anderson: Okay. Now the staff have made two or three recommendations. One is for a change in the Amendment – what is now Amendment 17, and some other administrative details. I would like to separate those into two issues for clarity. And what I would like to do, then, and I'm sorry I haven't had time to get this to you, but I would like to make a motion that Amendment 17, the Cost Recovery Amendment, be changed to include considering the BRP issue in the way that it has been in – well, I don't know if we have to put that in – to address the BRP issue and to address the OY range issue. And you'll have to go through the (inaudible). Is that enough to get us going?

So we're going to still have the cost recovery issue. We're going to look at these two things, and staff will come up with alternatives that we look at.

Richard Robins: Is there a second to the motion? Seconded by Peter Himchak. I'll wait till the motion's up there, Lee, and we'll see if it's like you want it, and includes everything you need it to include.

Lee Anderson: That is what I said. I'm happy with it, and I would ask – we haven't had – Jessica, do you see – does that convey your staff recommendation number one?

Jessica Coakley: Yes, it does.

Lee Anderson: I'm happy with that as it is on the screen now, Mr. Chairman.

Richard Robins: Okay. Discussion on the motion? Howard?

Howard King: Yes, thank you, Mr. Chairman. Jessica, what would the timeline be, then, if this is adopted?

Jessica Coakley: Well, the timeline would be the timeline that's going to go along with Amendment 17, and I think the next step is going to be to address the FMAT, potentially, and so once the FMAT meets, we would have a more clear timeline on how long this might take. At this point, I'm not real sure what the current timeline is for that cost recovery amendment. Sorry. I wish I had a better timeline answer for you.

Richard Robins: Lee, staff had also recommended rescoping 17. Can we incorporate that in your motion?

Lee Anderson: I'm – I was going to – yes. You can put all of those in there if you want, rescoping and requesting a new FMAT. I do want to have motions on those or have Council take action. I just separated it to see if we wanted to say yes or not to this.

Richard Robins: Okay. We can go ahead with this question, then, and we'll take your other question separately. Is there any comment on the motion? Is Council ready for the question? All those in favor, please indicate by raising your hand. Sixteen. Opposed, like sign. Abstentions, like sign. Motion carries. Thank you. Lee?

Lee Anderson: Do we need a motion to – for these two things, or can we – can you just direct the –

Richard Robins: I think rescoping is – just make – if you would, make a motion –

Lee Anderson: I will make – I will make a –

Richard Robins: Create a new FMAT and rescope the amendment.

Lee Anderson: I will move that we rescope Amendment 17 to reacquaint the public with the intent of the timeline, and to reacquaint them with – not reacquaint them, but to – we don't need all that. I move we rescope the amendment so that the public is aware of the changes, and I would also request that a new FMAT be formed for this amendment.

Richard Robins: Thank you. Is there a second to the motion? Seconded by Steve Linhard. Discussion on the motion? Council ready for the question? All those in favor, please indicate by raising your hand. Seventeen. Opposed, like sign. Abstentions, like sign. Motion carries. Thank you.

Jessica, is there anything else in terms of decision points relative to the amendment that you need from us?

Jessica Coakley: No. I think that's it for surfclam and ocean quahog business.

Richard Robins: Is there anything else to come before us on this issue? Yes, George?

George Darcy: I was going to report on this tomorrow in the RA's report, but since there are representatives from the clam industry here, I thought I'd do it now. You may recall that the Council and the industry had requested that we reopen a large portion of Georges Bank to the clam fishery, and based on comments we've gotten from the New

England Council, we notched out a portion of that and held it back. We have completed a final rule that will reopen that area as well, and that will be filed tomorrow, published this Friday, and effective this Friday. So with that, the entire Georges Bank area that you requested be reopened will be reopened. Thank you.

Richard Robins: Thank you, George. Any questions for George on that? George, thanks again for following up on our request on that issue. Thank you.

Our next item is going to be two different butterfish presentations. Why don't we take a five minute break, and then I'll ask Jason to make those introductions when we come back. Thank you, Jason.

[End of Audio]

**Butterfish Research
August 14, 2013
Double Tree by Hilton Wilmington
Wilmington, DE**

Tony DiLernia: Hey, congratulations, guys.

Richard Robins: Thanks. Thanks. Appreciate it. If you could, let's go ahead and come back to our seats, please. Thank you. This afternoon, we have two different butterfish presentations, and I'm going to turn to Jason Didden on our staff to make the introductions relative to the presentations, Jason?

Jason Didden: Thank you, Mr. Chairman. Council members may recall at the June Council meeting I mentioned there were several ongoing butterfish research projects that going forward over time may have relevance to how the council treats butterfish vis a vis landings or the cap, and so those two projects have wrapped up. We have Greg Ardini here as a recent University of Delaware grad. He's going to do one. There's a Duke project. They weren't able to make it up, and instead of having me present their work, on Monday night I recorded a webinar presentation, and I'll just play that, because I think it's better for them to do it rather than me do it.

So I'll turn it over to Greg first. Thank you.

Richard Robins: Thank you, and good afternoon, Greg.

Greg Ardini: Good afternoon, everybody. Thank you, Jason, for the introduction. Before I give my talk, I just wanted to thank Jason for inviting me, and for also being a part of my master's committee. Secondly, I want to thank Lee Anderson, who was my advisor at University of Delaware, and without the help of these two, there's no way this research possibly could have been completed. And finally, I just want to thank the Council for allowing me to speak here today.

So what I'll be talking about is management of Atlantic butterfish, and specifically how to make allocation between allowable landings and allowable discards in the longfin squid fishery. So the contents of my presentation, really, the central issue is how should we make an allocation of allowable butterfish catch between landings and discards. And so I'll start with some very brief background on these two fisheries, as well as the introduction

of the discard cap. Next, I'll be moving forward with my policy questions, and finally, a summary of the results and recommendations.

So the issue of butterfish allocation, essentially, the annual catch target of butterfish is the allowable amount of catch per year that the Council sets, and the ACT is divided between three different components. There's the landings quota, there's the discard cap on the longfin squid fishery, and there's also discard set-asides for other fisheries. Now for my talk, we're not going to worry about these discards in other fisheries, as they're just set-aside. So from this point forward, when I talk about butterfish allocation for the ACT, I'm talking about these two components. And I will be looking at how should the ACT be divided in order to maximize revenue between the longfin squid and the butterfish fishery.

So really quickly, taking a step back, these are the two fisheries I'm focused on, the longfin squid fishery, caught primarily by auto troll from Maine to North Carolina, with recent annual X vessel revenues in the \$20 to \$25 million range. Butterfish is caught as bycatch in large quantities by longfin squid fishermen, and currently, annual X vessel revenues have been low in recent years, around \$1 million.

The butterfish discard cap stipulates that the longfin fishery will close if the discard cap is met, and the butterfish discards are estimated based on observer data as well as longfin trip data. And the ACT divided between those two allocation sources is set annually before the season starts for these two fisheries.

So the policy questions that I looked at is what conditions will result in early season closures for the longfin fishery, the butterfish fishery, or both. Secondly, what are the likely short-term outcomes for these two fisheries? And thirdly, the most important, is how should we make an allocation of the ACT between allowable landings and discards in order to maximize revenue between these two fisheries?

So part one, the possible outcomes that we have, there are four possible scenarios based on the catch of longfin squid and butterfish relative to the allowable catch and these are the four different scenarios that are possible. We could have neither the longfin quota nor the butterfish ACT be binding. We could have only the longfin quota be binding. We could have only the butterfish ACT binding. Or we could have a case where both of them are binding.

Now for the issue of allocation of butterfish ACT, we only need to be concerned about these last two, because when the butterfish ACT is not binding, allocation will not be an issue, and there'll be enough to go around between the two fisheries.

Part two, which scenario are we most likely looking at in 2013? So to begin, for the longfin squid fishery, I looked at 30 years of catch rate data per vessel. I then applied these catch rates to two different fleet sizes for 2013, and these fleet sizes were 150, representing a smaller fleet, and 200 representing a larger one. And these are the results that I came up with. The number on the right, which is pretty small – you may not be able to see it – is the longfin squid quota for 2013. It's 22,049 metric tons. That represents – that is indicated where that dashed line is in each of these figures.

The entire – the distribution that lies to the left of that dashed line for each of those figures represents the probability that the longfin squid quota will not be used up in the year 2013. The top figure is with the smaller vessel – smaller fleet size of 150 vessels, and as you can see, virtually the entire distribution lies to the left of that dashed line of 22,0549 metric tons.

For the larger fleet on the bottom figure of 200 vessels, we still have most of the distribution lying to the left of the longfin squid quota of 22,049. So in both of these cases, with the smaller and the larger fleet, it appears that the longfin squid fishery will not have an early season closure, and if we can avoid the discard cap, these fishermen should be able to operate throughout the year.

So longfin quota is unlikely to be binding. Will the butterfish cap allow for a full longfin fishing season? Now the prediction for butterfish really is pretty straightforward here. The landings quota for 2013, 2,570 metric tons. Last year, landings of butterfish were only 620 metric tons. Talking to members of industry, when butterfish was previously a very large export fishery to Japan in the eighties and the nineties, they would catch in excess of 2,600 metric tons. However, this export market, which currently is minor, will take time to rebuild, likely a number of years. So such an increase in landings from 2012 to 2013 is unlikely.

Our discard cap for 2013 is 3,884 metric tons of butterfish. Looking really quickly at the last two years of butterfish catch, we had 885 in 2011, 1,500 in 2012. Now the squid fishermen have the same incentive to avoid bycatch as in the previous two years.

Looking at the combined butterfish catch of 2011 and '12 being less than the current discard cap, it seems unlikely that the entire discard cap for 2013 will be fully utilized.

So my conclusion is that both the squid quota and the butterfish ACT are not likely to be binding in 2013, and looking at recent catch reports, my conclusions are reinforced by this statement. However, if butterfish landings and/or discards increase, you may be faced with a binding ACT moving forward, and if this situation is to occur, it is important to evaluate allocation tradeoffs.

So the third part of my talk here is the tradeoffs between fisheries when changing the ACT allocation. How should the allocation between butterfish quota and cap be made? What I did was using the 2013 original specifications and a hypothetical fleet of vessels, I built an Excel simulation to show how changing the ACT allocation will affect the two fisheries.

These are the three categories of vessels I used. The A vessels here target longfin squid, and they generally treat butterfish as a bycatch stock. The second category of vessels target longfin squid as well, and treat butterfish as a secondary species, but also discard a great deal of butterfish. The third category of vessels target butterfish, but also land some longfin squid as well.

And on the table in the bottom right hand corner is the butterfish discard rate. The A category of vessels discard 84 percent of their butterfish because they're relying mostly on longfin squid. The B category are discarding 70 percent, and the C category, which are targeting butterfish, are only discarding 10 percent, as most of their revenue is coming from butterfish.

As an aggregate, these three categories combine to discard 63.5 percent of the butterfish that they catch, and the initial ACT I set was based on this percentage. When the ACT is set based on the discard rate, it's going to create an equal season length for the two fisheries, whether or not there's an in-season closure. And this method of allocation is going to maximize revenue if there is no change in targeting behavior among the fleet members throughout the season.

Now this next slide is a bit complicated. I'm going to just move through it. I'm sure there'll be questions later on. I'll be happy to answer them after the presentation.

Here, this is an example of a butterfish ACT of 1,000 with 600 metric tons going to the quota and 400 going to the cap. If we had 60 metric tons of butterfish landed per month with 40 metric tons discarded per month, we're going to have a butterfish season of 10 months, and we're going to have a longfin squid season of 10 months. As I mentioned, there's an equal season length between the two fisheries.

Now we'll show what happens when there's a reallocation of 60 metric tons shifting from the quota to the discard cap. We now have a butterfish landings quota of 540 metric tons and a discard cap of 460 metric tons. Assuming the same catch rate of butterfish of 60 metric tons landed per month, we're going to have a shorter season by one month, because the quota is less than it was prior to the reallocation. As you can see, those are the two numbers that I'm comparing, the ten months versus the nine months.

Also, assuming the same discard rate of butterfish per month, 40 metric tons, after 9 months, there's going to be 360 metric tons of longfin squid discarded – butterfish discarded. In that tenth month, we're now going to have 100 metric tons of butterfish discarded. This is because we originally had 40 metric tons discarded, and the 60 metric tons, which were previously landed, can no longer be landed, as the butterfish quota has been used up for the season.

As a result, the longfin squid season is going to remain at ten months. So with this reallocation, we've created a shorter butterfish season, and the same length of longfin squid season.

So to recap, we know how to maximize revenue between fisheries with constant targeting behavior, as I just showed. When I made the reallocation, there were fewer butterfish landings, resulting in less revenue. However, this was based on an assumption of constant targeting behavior. Fleet members are going to have incentive, if they can no longer land butterfish, to change their targeting behavior. So what if targeting behavior is not constant throughout the season? How can we maximize revenue between the two fisheries?

And here, I looked at three different cases. The first was the baseline case, based on the 63.5 percent discard rate. The second case was a shift of ten percent of landings quota to the discard cap. And the third case was a shift amount equal to ten percent of quota from the discard cap to the landings quota.

This is the baseline case, which I had shown previously with the constant targeting behavior. Both fisheries are going to close simultaneously in the season. For the second case, there'll be a shift from the quota to the discard cap. Due to the lower butterflyfish quota, that fishery is now going to close first, and the assumed discard rate after this closure occurs is 100 percent.

There's also an assumed change in targeting behavior that I put in, and this assumed change is that 50 percent – there'll be a 50 percent decrease in butterflyfish catch after the quota was met, as vessels will no longer have – they will have an incentive to avoid butterflyfish, as they can no longer be landed.

And the third case, a shift from the discard cap to the butterflyfish landings quota. Now we have the longfin squid fishery closing first, as the discard cap has been lowered, and the assumed change in targeting behavior that I put in here was that the longfin squid vessels, those category A and B vessels which receive most of their revenue from longfin squid, are simply going to stop operating when the cap has been met.

So really quickly, to recap, case one, if we allocate based on butterflyfish retention rate, there'll be equal seasons for the two fisheries. This is the baseline, case one. Case two is shifting from the quota to the cap, resulting in a longer longfin squid fishing season, but a shorter butterflyfish season, due to the lower quota. And the third case, shifting from the cap to the quota results in a longer butterflyfish season, but a shorter longfin squid season because of the lower discard cap.

So how will the change in season length affect the revenue? Here is case two relative to the baseline case one. When we shift from the quota to the discard cap, the longfin squid fleet is going to increase in revenue. The butterflyfish fleet is going to decrease in revenue, due to the lower landings quota. However, what we're really concerned with is how can we maximize total revenue for the entire fleet. And here, transferring from the quota to the cap is going to increase our total revenue.

For the third case, transferring from the cap to the quota relative to the baseline, the longfin squid fleet is now going to suffer because of the lower discard cap. The butterflyfish fleet is going to increase their revenue relative to the baseline because of the higher quota. But the total fleet revenue is now going to decrease, and this kind of shows the relative dominance of the longfin squid fleet over the butterflyfish fleet.

So to recap, a higher discard cap relative to that baseline can increase fleet revenue when there is a change in targeting behavior during the season. And again, the change in targeting behavior that was assumed here was that fewer butterfish would be caught after the quota was met. And the reason for the higher revenue is a longer longfin fishing season after the butterfish landings quota was met. There were fewer butterfish being caught; consequently, there were fewer discards once the quota was met. Relative to the baseline case, which had a longfin squid season closing in November, the higher cap resulted in a squid season now closing in December, and a longer squid season allows for more opportunity for revenue collection from that fishery.

So fleet revenue is maximized when the longfin squid fishery operates throughout the year. If I continue to raise the butterfish – the butterfish discard cap relative to the landings quota until the longfin squid fishery could operate for the entire season, it would maximize revenue between the two fisheries.

So quickly, it doesn't appear that the issue of butterfish ACT allocation will be a binding constraint in 2013. If we do have a binding ACT, we have kind of two different methods to allocate. We can allocate based on fleet-wide retention rate, and this is going to maximize our total fleet revenue if there's no change in targeting behavior. However, as vessels will have an incentive to change targeting behavior if they can no longer land butterfish, shifting more butterfish to the cap has opportunity to increase revenue.

Really quickly, just some considerations for these fisheries moving forward. We now have higher butterfish trip limits in place than in previous years, and this could increase butterfish fishing in the future, and we just need to keep in mind the tradeoff that I just illustrated between the quota and the discard cap. And another consideration is the longfin squid fishery ability to avoid butterfish bycatch or bycatch altogether. If longfin squid fishermen are able to avoid butterfish bycatch, then the cap potentially would not be as threatening to their fishery.

So some really quick recommendations for the Council. Continuing to improve butterfish discards estimates is very important, not only for in-season tracking, but also to appropriately set the ACT allocation. Secondly, continue to protect the more value longfin squid fishery when the ACT appears to be binding. As I illustrated, the longfin squid fishery is significantly more

valuable than the butterfish fishery. If we have a higher discard cap and the vessels are able to avoid butterfish, that can result in higher revenue for the fleet.

A third recommendation, I had previously considered looking at eliminating this allocation issue altogether, do away with the discard cap, do away with the landings quota, and simply use the butterfish ACT as the threshold for total butterfish caught. I think this would be an interesting case to look at. However, it would also be potentially damaging to the longfin squid fishery if the butterfish – if butterfish caught – landed could comprise the entire ACT, this could leave little discards left for the longfin squid fleet, and potentially a loss in significant revenue.

So I want to thank you for letting me talk here today. I just wanted to include for the summer I'm living up in Maine, and just wanted to make everybody jealous of how nice it is up there. Thank you.

Richard Robins: Greg, thanks for the presentation. When you – when you went through the assessment of the fleet and separated out the boats that fished incidentally, secondarily, and then directed on butterfish, how did you make those distinctions, based on did you have a threshold for pounds or percentage of the trip that was . . .

Greg Ardini: Excuse me. The fleet that I composed was not actual data. It was based on representing what I felt could be happening moving forward with increased trip limits of butterfish. And my thought is there's going to be some boats that can land large amounts of butterfish, and I included those. There's going to be boats which can land some butterfish, and there's going to be some which are going to continue to avoid it altogether, or just discard it if that's caught.

Richard Robins: Thank you. Other questions? Jason, do you have some questions?

Jason Didden: Just a couple of comments. You know, I think last summer, in June, and the summer before that, when the Council was presented with a substantial more butterfish ABC, a lot of the discussion was, you know, let's not mess up the squid fishery because of this, and kind of proceed cautiously in terms of how that's used. And I think this kind of reinforced that. And it's nice to have it kind of be done in a modeling exercise versus me just kind of thinking, okay, I can imagine some things that could happen, so let's be careful.

But I definitely – we haven't gotten into a lot of consideration. I mean, how does that vessel behavior change? And you start

making them discard more butterfish because you shut down the butterfish-directed fishery, that just transfers things into discards. I think there was a nice illustration there, just trying to keep that in mind as we move forward.

And also, that last point I think was interesting also. The Council is presented with some – has been presented in the last few years of you should get rid of the discard cap because you have so much more butterfish to work with. And that was – the last scenario he was describing, where you just use the ACT, once it hits the ACT, butterfish is closed and longfin as closed. But as you kind of came to the realization from the modeling work, if you do that, and the directed butterfish guys go out and land a lot of butterfish in January and February, that could just shut the whole thing down. And then, obviously, you've lost a lot of revenue in longfin squid for the rest of the year.

So I just – the other thing I was thinking is some of his conclusions about – as we look at the performance of longfin and butterfish this year, it seems obvious, but again, a lot of this work was done a year or two ago. So it was I think prognosticative of what's happened so far. But that's it. Thanks.

Richard Robins: Thanks, Jason. Any other questions or comments on the presentation? Greg, thanks again for doing this, and we look forward to following up afterward. Thank you.

Greg Ardini: All right. Thank you.

Richard Robins: And Jason, you have one more butterfish presentation?

Jason Didden: Yeah. It'll take me one minute to set up.

Richard Robins: And immediately after this, we'll have a public hearing for the South Atlantic Council on their dolphin/wahoo amendment.

Anthony Rogers: Hello, everyone. My name is Anthony Rogers. I'm as of now a current master of environmental management via Duke University. With me on this project, there were two other people working, Keith Carlisle and Jiayi Wang. Unfortunately, both of them are off traveling the world and couldn't be here today.

So this project, as you can see the title on the screen here, we sort of began wanting to explore the interim steps between single species management and ecosystem-based fisheries management. In other words, what were the implications of sort of multi-species

management? And we eventually got – settled at looking at the butterfish/longfin squid issues as sort of a test case, since the two species kind of co-occur throughout the year.

So this project has three objectives. The first was to conduct a geospatial and statistical analysis to determine whether there were patterns in the longfin squid landings and the butterfish bycatch. The second was to analyze the landings ____ data and sort of help further characterize the fisheries. And the last one was to build a test bioeconomic model of the fishery and determine some of the management constraints and the ecosystem interactions, and how that affected the economic turns.

So again, as I said, we are sort of – this project was exploring this middle area here, trying to go from single species management to the messy ecosystem-based approach. Just looking at multi-species management and sort of the implications of that, our management, as you all know, butterfish occurs as a high percentage of bycatch in the longfin squid fishery.

I won't recount the ups and downs of the management regulations for the past few years, but suffice it to say, there's been some tension about where exactly to allocate the butterfish ABC. There had been at one time a directed butterfish fishery, and there's some talk of rebuilding that, and there's also some talk of how high the butterfish cap should be, and so on and so forth.

So one – to further complicate the matter, a key component of the management of these two species was that they were split into three trimesters, each with its own individual cap on butterfish landings, and there are more details to that. I'm sure many of you already know them. I won't get into that here.

But the trimesters roughly approximated the butterfish and longfin squid movement from inshore to offshore over the years, with trimester two, the sort of warmer months, representing the inshore months when the species move closer to shore. This is important, and we'll come back to this in just a second. But first, as I said, the first part was our geospatial analysis of the observer data for these fisheries, and we wanted to see if there were any patterns in the landings and bycatch. Maybe there was a spatial issue.

So here we have our maps of butterfish and longfin squid landings. It is a pretty messy picture, as you can see. We then decided to look at the butterfish bycatch rate on the map, and we started out looking at high bycatch rates, and then we moved to a little lower,

and then a little lower, and then a little lower, and finally, even lower.

And I need to – I first need to point out there's sort of three distinct areas here. There's kind of this inshore area over here, sort of this continental shelf area all along here, and then there's this third area over, kind of in Georges Bank, that's offshore, but sort of – there's a little bit in here, but mostly they're kind of grouped into one or the other.

The key that we found, looking – again, this is a very messy picture, but using GIS data and our physical analysis, we kind of found if we averaged the bycatch rates in each of these three distinct areas I just mentioned, we can see that the offshore continental shelf here in the middle had a considerably higher bycatch rate than the other two.

We then took that same data and plotted it on a graph, and we can again see sort of a dip in the warmer months here, which, again, coincides with the offshore – excuse me, the inshore fishery. We also found that – we then looked at this on a pure numbers basis, and found a statistically significant correlation between the (inaudible) shore and bycatch, although we – and although we were unable to take this portion of our analysis any further, we believe kind of what this map is showing and what our numbers are showing is that this is an area that definitely we should highlight and needs to be explored further, because there appears to be some sort of correlation, at minimum, between where bycatch is highest and where these landings are happening.

So the second portion of our project, we wanted to look at the fishery and kind of tried to characterize it further, and specifically see if there were very – if there are different groups fishing during the inshore and offshore months. What we found was that more than half of – on average, of the offshore fishery had unique vessels landing in it, and likewise, almost half, about 42 percent, on average, of the vessels landing longfin squid during the inshore months did not land significant amounts of longfin squid during the other two trimesters.

We then took a look at the number of participants in each trimester. As you can see on this first graph here, we found a clear – we could see a clear decrease in the number of permit holders in both trimester one and trimester three, i.e., the offshore landers. Furthermore, as you can see on the left, trimester two is allocated only 17 percent of the longfin squid landings, but for the past five

years has been bringing in more than 30 percent of the total landings.

With that in mind, we then decided to dig into the relative importance of the fishery to each distinct group. First, we took a look at a bunch of the top offshore longfin squid landers, and looked at the relative – the proportion of revenue for the species they landed in trimester one and trimester two. What we see for the offshore guys is that –

[Crosstalk]

Jason Didden:

I'm going to pause it for a second just because the – whoops – because the timing of the slides and the audio – just mute yourself there, Jan, seems to have gotten off. So what I'm going to do is – I think we have – I'm just going to run through the rest of it, because otherwise, it's going to be too confusing. But it was a good try using that technology.

So he came up with a couple – they came up with a couple of other interesting findings, and this slide was just trying to show that the trimester one folks, they have a fair bit of – this is describing the offshore squid fin landers. See, they kind of looked at the offshore fleet and the inshore fleet. And the offshore folks, in trimester one, this red area here is their longfin squid, so they're pretty dependent on them, but they have a mix of some hake, scup, some other things.

In trimester two, those offshore folks switch to Illex, and their landings are really dominated by Illex. Vice versa, if you look at the top inshore landers, and again, this is looking at actual data here, the inshore folks in trimester one, they really have a real mixed kind of basket of fish. Some are flounder dominating, but they've got hake, scup, herring, cod, longfin. However, those trimester two folks, those inshore folks, along comes trimester two, and their revenue is almost entirely from longfin squid. So there's a real dependence on that inshore fleet on longfin squid in trimester two.

So kind of with some of that spatial thing, looking at inshore/offshore, looking at some of the fleet dynamics of who's catching what when, they wanted to say, okay, can we look at this whole process and learn something kind of from the ecosystem point of view? And they said, okay, well, first, let's think, what changes butterflyfish stocks? You've got typical fishery assessment, the basic thinking. You've got growth, predation, bycatch, direct

harvest on – for butterfish, and on longfin squid, you've got growth. You also have benefits of more butterfish, maybe, if the squid are eating the butterfish. And then you also have direct harvest.

So what they tried to do is start to model this, of is there some value of butterfish left in the water? And if that helps squid grow a little bit, is there some gain from that? So they're trying to start to get to this question of some of the interactions between species.

And Anthony was very keen to say this is really kind of a proof of concept exercise. They were not trying to say this is actually how it's working, but they were trying to say, if you believe these connections exist, there are some modeling approaches to try to get in and say, okay, maybe what is the value of that?

And so they started off with, okay, how are they thinking about predation, and just kind of very simple in their model when they run it through. On the vertical axis here, they have, okay, this is the amount of butterfish you can land. Horizontal is the predation rate. And as you assume more and more of those butterfish are getting eaten, they're kind of treating the other predators like a fleet, at some point, predation gets high enough, and in order to maintain a stable butterfish biomass, there's nothing left to catch. And so that's just kind of one part of their model.

And again, they were just trying to play with this, of how can you model and start to think about this? And then also there's the bycatch applications. And they said, okay, in terms of why do we care about bycatch, well, we care about bycatch because it obviously can impact the stock, or with the butterfish/longfin squid issue, it can close the longfin squid fishery.

And what their model essentially suggested was kind of a similar thing to what Greg found, and their interpretation on this is just that they're – the – with longfin squid landings up here, you're going to get up, as you're catching more and more longfin squid, you're catching more and more butterfish, although there's a maximum on longfin squid you could go. And so longfin squid stops at its quota, and you can't get any more cap, because longfin squid is closed.

And this big chunk over in this area here is kind of like the butterfish is always going to be left on the table. Because of the bycatch rates recently, they're kind of saying, okay, you've put a lot into the cap, and yes, it's going to let you catch your full longfin

quota, which you get up to here, but it's still leaving this big chunk of cap on the table.

And they put different assumptions in about costs of fishing, things, and they kept getting this – the same finding, where it looks like with the current allocation, between how much butterfish is put in the cap, that it's probably going to – you know, it looks like it's going to be year after year, where you're going to be leaving a fair bit of butterfish in the cap. That's certainly where we are this year, but a lot of that is driven by the fact that there's been very little longfin squid caught.

They just kind of toyed around with the ratios a little bit. If longfin squid was maxing out its catch, we'd be on a similar trajectory for the butterfish cap this year. The big reason why it's so low is just longfin squid has been low, at least this year.

And so they said, okay, well, look, you look like you've got a giant butter, essentially, about 1,900 metric tons, that we don't think you're ever going to catch in the gap. If you took that 1,900 metric tons and converted it to butterfish landings, you're maybe leaving about \$3, \$3.5 million on the table every year, and yes, they understand, because I made them understand, that there's a big cost there, if all of a sudden you unexpectedly come and constrict the longfin squid fishery, but the tradeoff of having the cap we have right now is – might be leaving a fair bit of butterfish on the table.

As Anthony was presenting this, I said, "Well, look at what happened this year. They've been able to catch butterfish, but they haven't been able to find marketable-sized butterfish out there." There's plenty of butterfish landings. Even though you have this situation, the fishery is just leaving butterfish on the table, in the water, because they can't find at an economically viable rate sizeable butterfish to catch, and there's no trip limits on butterfish right now. The quota is open. They found them, they could catch them in probably a month, but as it stands right now, there's butterfish landings on the table, too, just because it's been hard to find in an economic way.

So they found that, and the last thing they wanted to look at was this last thing here, that there are these benefits of more butterfish in the water, maybe, also. And so they started creating these matrices – I just need to zoom out a little bit so – there we go – where you've got some assumptions about what does predation do for you here. And here, they've got a zero effect or even just a very small effect here, and they say butterfish gives you a one

percent change in how much – what the productivity of longfin squid is, and essentially what they found, as you kind of would expect, that as soon as you start putting some small positive change there, that leaving butterfish in the water is going to help longfin squid. You do that, you're going to help longfin squid, maybe you have more longfin squid to catch. You have some benefits there.

And they're just highlighting that – to try to – that the Council faces that tradeoff. You are – may lose some butterfish revenue on the dock. You may gain some longfin squid revenue on the dock, if butterfish in the water is helping out longfin squid.

So just kind of going through the conclusions, based on – and I'm just going to – I'm just going to go back to it, because the presentation was kind of getting mixed up at that point. They found that this area here had a higher butterfish encounter rate than this inshore summer area, and then this southern flank of George's area over there. So that was one of their just findings.

Another one is that – and again, tied to that is that this longfin – that the inshore fishery has a longer bycatch rate. That was definitely the theme of Amendment 10, that there seems to be that differential.

They also noticed that the trimester two landings and participation have seemed like they're a larger share in recent years. We've seen this last year and the year before in kind of grand fashion. While they caught all of their trimester allocation, rollover from trimester one and then some, and this year, it's finally started to ramp up. But '11 and '12 were quite spectacular summer squid seasons.

And based on that, from their point of view, there's some squid left on the table there. If you're reserving it for one and three but you never catch it in three, and they could have caught it in two, maybe you should consider having more in two, as I've had some discussions with Jeff, and I think he'll mention, Jeff Kaelin, there's more going on there, but Jeff will bring that up.

And so kind of the grand conclusion, that as things are set right now, it doesn't look like the longfin squid fishery is going to get jeopardized by a 3,884 metric ton butterfish cap. And, you know, how much of a buffer do you want? And keep in mind that the bigger you have that buffer, where you're really certain you're not going to have longfin squid, but it means you're potentially giving up butterfish, at least if the fishery can find butterfish to catch.

And in regards to the ecosystem stuff, even – and he really kind of wanted to emphasize this strongly, was that even with this really simple two species model that they had, trying to get some connections between longfin and butterfish, in order to – for anything to make sense and to be halfway believable, it just required an intense amount of data into that model, and to where they had at least a little notion that maybe it was reflective of reality, and that if the folks are serious about ecosystem-based fisheries management, there's going to be – have to be kind of a huge devotion to resources, to actually get that kind of information and transmit it in these models so that the information coming out of them is believable.

So that was that presentation, and I – if folks have some questions, I definitely would like Jeff to chime in. He had some really good ideas earlier about, you know, concerns he'd have. But we can go from there. Thanks.

Richard Robins: Jason, thank you. Questions on this presentation, or comments?

Jeff Kaelin: I do have some comments, Mr. Chairmen. I read both of these pretty carefully, because we're obviously very sensitive about when we're going to be able to have access to the Loligo. And there's a recommendation here that we move a significant amount away from the summer months. I thought it was good that this analysis identified the AP performance reports that we use, but I don't think it was read very carefully. And what was missing, I think, here, is the economic value of the winter squid and the quality of the winter squid over the summer squid. The last thing you want to do is put more poor quality squid in the marketplace. And if you want to do that, you want to increase the summer fishery, I think.

The bycatch rates that are described here I think has more to do with the two different fleets than where the butterfish might be overall. I'm not really sure.

There were some things in here I really liked. First of all, though, I didn't agree with the premise of the whole study, and that was that single species management ignores predation, bycatch, and directed resource health. I think we do that already. So he sets up the argument that you've got to start looking at the ecosystem-based aspects. He also says that the introduction of ecosystem-based fisheries management is going to create greater uncertainty in the management process, and we've been afraid of that for a long time. You mentioned the amount of data that you need to

crunch to be able to do those things. And so we're I think long-term kind of concerned about that.

He also went on to say that the National Standard 1 requirements to achieve OY from each fishery is incompatible with the ecosystem-based fisheries management, and I think that's why some of us are on Capitol Hill arguing that you've got to create more flexibility in the act to fish one stock up and the other one down. So I think he makes a good point. We don't have that flexibility in the law right now.

So there was – the chart that's on page 40 – which one is it? On 61, page 61, has the price chart by trimester on there, and I think that makes my point about quality and value. And I certainly – I know this isn't before the Committee or anything. I don't even know if I'm going to be on the Committee. But I think there's a lot of reasons to argue against the conclusion that a significant amount of squid ought to be moved into the trimester two fishery because of the value of that squid that's being caught in the wintertime.

The other point he makes, and I think it's a really good one, is that catching butterfish at the end of the fall migration when they've stopped eating and are full of fat and not feed is the higher quality butterfish, too. That's the winter butterfish. So I think for my analysis, as somebody who's been out in the audience for a long time, I think status quo prevails over this. But it was a really interesting exercise. So those are some of my thoughts after reading this carefully.

Richard Robins:

Thank you, Jeff. Well, Jason, on the value issue, what did he use as the metric for defining the value? Was it simply the dollar value of X vessel landings?

Jason Didden:

I think that's mostly what they were looking at. I think they assumed some underlying fishery cost structure, because cost is very hard to come by. So actually, they did use some – they used some actual dealer data for prices, and then put in some assumed costs to get net present – profits, essentially. So it came from the data.

But I think part of the reason why I wanted to kind of bring this to the Council, at this point I thought it was useful, is there is no decision to make. And I think these have flagged to me some considerations, especially on the size of that butterfish cap, and that as we go through the next round of specifications, just kind of – I know I'll do – try to really lay out that tradeoff. And we did it –

we've done it some the last few years, at least qualitatively, but I think there are some tools to illustrate quantitatively a little bit of how that tradeoff between butterfish in the water, on the dock, or as bycatch, kind of help the Council way that a little bit.

Because the last few years, at the June meeting there have been some folks who say, give us more butterfish. Some folks say just put it in the cap, so make sure you don't interfere with longfin. So hopefully, I think this will contribute some tools to try to structure that a little bit.

Richard Robins: Thank you, Jason. Other comments or questions on the presentation? Okay. Thank you very much, and with that, our next item is going to be the South Atlantic public hearing, and I'll invite Kari Maclachlin to come on up. Kari, do you need a couple of minutes to set up, or . . .

[End of Audio]

**SAFMC Public Hearing
August 14, 2013
Double Tree by Hilton Wilmington
Wilmington, DE**

Richard Robins: Kerry, good afternoon.

Kari Maclauchlin: Hello. Thanks for having me.

Richard Robins: Are you ready?

Kari Maclauchlin: Do you want me to just get right into it?

Richard Robins: You can go ahead. That's fine.

Kari Maclauchlin: Okay. My name is Kari Maclauchlin. I'm Council staff for the South Atlantic Council, and we have five amendments. Three of them are joint amendments with the Gulf of Mexico Council, but we have five amendments that we need to have a public hearing in the Mid-Atlantic Region for. So that's what I'm here to present.

You had a document in your briefing book. I don't know what number of how you number that, but – number 8? And then there are also some hard copies back on the table, and then also hard copies of the public hearing summaries that we've been using, if anybody needs those.

And so what I was going to do is just kind of run through this. This was – I put this together, and it's just information that I thought would be of the most interest to the Council members and the public in the Mid-Atlantic Region. And then if anybody has any specific questions, you can ask me, but other than that, it's just – we're just getting public comment, if there is any, today.

So we have Dolphin-Wahoo Amendment 5, and it has four actions in it. The first one, this one really just updates the ABCs and the ACLs for dolphin and wahoo based on some updated landings, information – commercial information, and then updated MRIP. Let's see if I can make this a little bigger.

There is a preferred alternative for both of these, too, and it will actually increase the ACL for both of these, for dolphin and wahoo. *[Under breath]* There's also an action to revise the accountability measures for dolphin and wahoo. There are no preferred alternatives, but basically, we are also trying to be a little more consistent with our AMs across the board, because right now,

you know, sometimes there's an in-season closure, but – for some species and not others, or a payback for some species and not others.

So for mackerel, we had set it up where there was only a payback if the total ACL was exceeded. So a recreational or a commercial payback if the total ACL was exceeded. So we're looking into doing that with dolphin and wahoo also. And there is an in-season AM in place to close the harvest for commercial.

Then we have just – excuse me – updating our framework procedure. This is just updating language, all the new language for the ABCs and the ACLs. And this one would establish a commercial trip limit for dolphin. However, this action would not change the trip limit in the Mid-Atlantic Region. And there's no preferred alternative at this time. The Council's considering a 1,000, 2,000, 3,000, 4,000, 5,000, 10,000, and then there are sub-alternatives to only – for the north and south of the 30 degrees north latitude, and that's around Brunswick, Georgia.

So they may pick a trip limit of 1,000 pounds in one place and then 4,000 in another, or however they want to do it. But this does not – this will not apply to that 200 pound combined trip limit for dolphin and wahoo that you have in the Mid-Atlantic Region.

The next is the Generic Dealer Amendment. This one – going back to the Dolphin-Wahoo, it's scheduled to be for final review by the Council in September.

The Generic Dealer Amendment is a joint amendment with the Gulf of Mexico Council. It was actually approved for submission by both Councils last year, I believe last fall. And there have been some revisions to it before it can be approved, and then it came up that there was concern that there weren't hearings in the Mid-Atlantic. So that's another reason why we're here.

This amendment will set up a federal dealer permit, just one for all the Southeast species. So it's just to help – so that – right now, there are several dealer permits, and then – but there are not dealer permits for all the species. So this just sets up one for all of them. And then it also sets up that they report electronically and weekly, and then there's an exception for catastrophic events. And then to maintain your dealer permit, you have to also submit a no purchase form, if you are not making any purchases that year.

And it's the Council's intent that the permitted vessels can only sell to permitted dealers in those fisheries where a dealer permit exists. This will also apply to for hire vessels with a for-hire CMP permit, and the vessels with a federal spiny lobster tailing or spiny lobster permit. And this applies for any dealers purchasing the species Atlantic dolphin-wahoo, South Atlantic golden crab, South Atlantic rock shrimp, South Atlantic snapper-grouper, Gulf reef fish, Gulf and South Atlantic coastal migratory pelagics, Gulf and South Atlantic spiny lobster, and Gulf red drum.

Okay. Moving onto the Mackerel Amendments, which is the Coastal Migratory Pelagics Amendment. We have three that are scheduled to be approved by the South Atlantic in September, and approved by the Gulf in October. ____ coming down, and we're – both Councils are holding their hearings for these right now.

Nineteen has three actions. The first one would prohibit bag limit sales or sale of recreationally caught king mackerel and Spanish mackerel that we call bag limit sales. It means the same thing. And the preferred alternative would prohibit all the bag limit sales – all bag limit sales of king and Spanish mackerel, except for state permitted tournaments in the South Atlantic region. We had some states in the South Atlantic, North Carolina particularly, that wanted to continue to allow tournament sales, and they have a license system set up. So the South Atlantic Council set that up for that – that occur in their region.

Then the second one is elimination of inactive king mackerel commercial permits. There are – about half of the king mackerel commercial permits are inactive, or haven't – don't have any reported landings for the past few years. This is pretty common for fishermen, to hang onto a permit, you know, to keep the option open, but the Council wanted to – the Councils wanted to look into a reduction of those inactive permits.

So they set up some qualifying time periods and minimum pounds, and then inactive reduction that would eliminate permits or some passive reductions, such as a two for one program, where new entrants would have to buy two king mackerel permits to enter the fishery.

The Gulf Council has a no action preferred alternative, and the South Atlantic has preferred alternative to set up the two for one program. They have to agree, and so they'll have to agree at the September and October meetings for this to move forward.

The last action would modify or would eliminate the income requirements for the commercial king mackerel and Spanish mackerel permits.

Amendment 20 is another joint amendment with the Gulf Council. The first two actions are for the Gulf Group king mackerel, changing the hook and line trip limits in some of the zones and then the start of the fishing seasons in some of the zones and sub-zones in the Gulf. Another to – another action to establish a transit provision to allow transit through closed areas. This one, action 4 would set up an ACL of the Atlantic Group king mackerel and Atlantic Spanish mackerel, a separate commercial ACL for North Carolina, or split it into two zones.

So the background on this is that North Carolina was interested in just – in getting an allocation of the commercial ACL of – for king mackerel and Spanish mackerel, similar to what is set up here in the mid-Atlantic. And none of the other states were really interested in having a state by state quota, so we have one alternative that would just allocate a portion to North Carolina, and then everyone else would fish on a general ACL. And then another option that would just lump the mid-Atlantic with North Carolina into a northern zone and a southern zone.

We also have an action to modify the framework procedure. Again, this one is just updating language that we're using. And then we had a stock assessment for Atlantic Group cobia and Gulf, and so there's an action that would update the ACL for this. What this is going to do is that the biological boundary used in that stock assessment was moved to the Georgia/Florida line. And so the Gulf Group cobia go all the way around Florida.

So the South Atlantic Council set that Atlantic Group cobia ACL, and it only applies to Georgia north. And then the Gulf Group cobia ACL, there's an allocation to the Florida East Coast.

The last mackerel amendment is a framework action. This is just for the South Atlantic. It just has two actions. One would set up a provision for transfer at sea for the Spanish mackerel gill net fishery when they exceed the trip limit in one set. This is similar to your scup and otter-trawl provision that you put up – you established a framework adjustment for, to the Summer Flounder, Scup, and Black Sea Bass FMP.

In this, we used – we actually took the language from that amendment to use it and tweaked it so that it applied to Spanish

mackerel, but it's the exact same situation. It's to – if they are not allowed to transfer part of that, then they have to discard it, and the fish usually die. So this is a way to reduce waste in the fishery.

And then the last is to modify the king mackerel commercial trip limit in the East Coast Florida subzone. And this is one that has a step up, and that just kind of modifies the step up to the last month, and changes that threshold to 70 percent of the – less than 70 percent of the quota has to be taken for them to get that step up.

And that is all. You can – we are accepting comments until August 18th, and then we have everything online, the summaries, the documents, videos, and then we have all of our information for all the leads on these amendments. And I can answer any questions, or we can just take comments.

Richard Robins: Kerry, are there any changes proposed for recreational measures within the Dolphin-Wahoo Plan, or just changes in the quotas and the AM?

Kari Maclauchlin: It's just the quotas and the AMs.

Richard Robins: Thank you. Other questions on the proposed amendments? Dewey Hemilright?

Dewey Hemilright: I have three or four questions and then some comments. What years were chosen for the years for your dolphin quota? What years were picked, where you arrived at getting your percentages?

Kari Maclauchlin: For the rec and commercial allocations?

Dewey Hemilright: Yes.

Kari Maclauchlin: I don't know off the top of my head. Those were established at an earlier amendment, but I can get that information.

Richard Robins: Dewey? Okay. Are there any other questions at this point? Or comments from the Council? Yeah, Rob?

Rob O'Reilly: I had a question on the king mackerel, on the passive method for eliminating permits. I thought I'd picked up your public hearing comments, but I guess I got the summary. What has been the reaction to that so far, and is that based on status of the stock, or what is that based on, really, that there's a concern about eliminating permits?

Kari Maclauchlin: Well, there are a few things that brought this to the table. One is that there is some concern with the Atlantic Group king mackerel. The landings have been down. Over the past few years, a lower and lower percentage of the commercial ACL for Atlantic Group king mackerel has been caught. So there has been some concern from the industry that there's a problem with the stock.

Then there's another group that says, no, it just goes up and down. This is what this fishery does. They're just cycling. So they want to wait and see. We have a stock assessment that will start this year, and wait and see what happens with that stock assessment before they make any changes.

In general, we have both of the advisory panels, the Gulf Council and South Atlantic Advisory Panels, have recommended no action. They felt like at this time there wasn't a problem. A lot of the fishermen have spoken out and said that they feel uncomfortable with anybody taking away a permit in a limited entry program like that, and some of the folks have kept them for a long time as part of their permit portfolio, and they keep them and don't fish them because – just in case something happens and they do need to switch for a regulatory closure or environmental or economic, which is characteristic of the fishermen. They fish a lot of different things throughout the year.

So in general, the most vocal has been in opposition of any kind of reduction, but there are some folks that are supportive of a passive reduction, like setting up the two for one, so just over time, the permits are retired and not let back in. And this just may be something they address later.

Richard Robins: Chris?

Chris Batsavage: Thank you, Mr. Chairman. In Amendment 19, this preferred option is to prohibit bag limit sales of king and Spanish mackerel, that wouldn't apply to state waters, correct?

Kari Maclauchlin: So the Dealer Amendment, when it gets – if it gets approved, the one that will set up the federal dealer permit requirement, that will require anyone purchasing the – I'm sorry, I have to think about it. It's a little – it's a little confusing, because if you have a federal permit, king mackerel or Spanish mackerel permit, you will have to sell to a federal dealer. This is a discussion that's come up, and I'm sorry, but – and there's something about the permits on the vessel, and if they're fishing in state waters – I may have to get back to you. I'm sorry.

Richard Robins: Are there any other questions? Kari, are you ready for comments at this point on the proposed amendments? Okay. Dewey, did you have a comment?

Dewey Hemilright: Because I'm not probably have an opportunity to go to the meetings, but a couple of comments. One is for the Amendment 5 to the Dolphin-Wahoo Plan. I'm fine with the preferred alternative for the allocation issues. I think the best thing that would have been used was the previous five years of the recreational/commercial split. I think that's what the Advisory Panel advocated for, and I think that should have been used.

Also, I don't understand – a few years ago, there was a proposal from the South Atlantic for trip limits on dolphin, on the mahi-mahi, and that was turned down by Secretary of Commerce for biological reasons, and I don't understand why I haven't heard of any biological reasons that's come up new from the South Atlantic Council. So I'm against a commercial trip limit for the dolphin. Currently, the last couple of years, we've pulled about half of our annual catch limit, and there's basically no need for it.

Second of all, when you get down to the Coastal Pelagic Amendment 19, I'm against taking two for one of the commercial permits. It seems like with the South Atlantic Council, there's no end game on where they're trying to arrive at on this. They did the same thing a few years ago with the snapper-grouper permits. I personally – I mean, I think it's de-commercialization. You have 1,500 permits. You have about 800 active. You have a part of down South that's looking for some more quota and permit reduction.

I don't think the South Atlantic Council has spelled out where they want to go to, what's the playing field going to look like. They basically just said, you know, let's – here's some latent permits. You know, if somebody wants to enter in new fisheries, they've got to go buy two permits. That's going to do nothing but increase value of permits. I think the South Atlantic Council should have an end game of where they want to get to by just simply taking permits, and that's – I saw that with the snapper-group permits.

Something else that's really important is the – when you get to talking about the state-permitted tournaments, that's a recreational caught fish, and it's being sold on the commercial market. I understand that each state, you know, have state-permitted tournaments. North Carolina can tell you how much of their fish is

being caught. Florida cannot. Florida has a majority of the tournaments. And before we go taking people's permits two for one or whatever, passive or whatever, we need to know who's catching the fish and how they're being sold.

So before we jump up that ladder of taking people's permits, possible livelihoods or parts and things they need to make their living, we need to know who's catching the fish, whether it's recreational or commercial. But that fish that's caught in a tournament is a recreational caught fish, and then it's sold on the commercial market. Second of all, a majority of your fish that's in the recreational tournaments are targeting the large female fish, the king mackerel. That's something else to think about. I understand that a lot of the tournaments, you know, they give money to charities, donations, soup kitchens, and everything else. But we need to know who's catching the fish before you go taking somebody's permits.

Second of all, I also think there needs a – find out a little bit – back to Chris's question about if your state water fisheries and you're selling it to a federal permitted dealer, that might affect a lot of people that – Spanish mackerel fish with pound nets. That might would have to make them go out and buy permits to go sell their king mackerel or their Spanish mackerel to a dealer, a federal permitted dealer. So that's something that needs to be checked out.

But – and to follow up, before going and taking the permits you need to find out who's catching the fish and where they're going. And if a state can't decide or have a tournament, they should be registering them tournaments, and them tournaments should be telling how much fish is being caught and the poundage that's being caught. It shouldn't be incumbent upon the backs of commercial industries for the permits to be taken. And it should be an end game for the South Atlantic Council to say where we want to get to with these tournaments – or not the tournaments, but with the king mackerel permits and Spanish mackerel.

I've had one for about 20 years now, and I haven't fished for it probably in about 6 or 7 years, king mackerel, but the way things look, I might be king mackerel fishing this fall. So the uniqueness about North Carolina and other parts is you need all your lug nuts on the tire and your permits to make your year. So thank you for allowing me to comment.

Richard Robins:

Kari?

Kari Maclauchlin: I have a real quick comment about the dolphin-wahoo recreational and commercial allocation. In Amendment 5, there's no change to the current recreational-commercial allocation, but starting in December, the Council will look at – they're going to do a generic allocation amendment, where they're going to look at the rec and commercial allocations of dolphin, wahoo, and then a lot of the snapper-grouper species. So that will be scoped in at the beginning of next year.

Rick Robins: Thanks Kari. Are there any other comments on the Amendments? Do any members of the public have any comments? Ok, thank you Kari, we appreciate it. Thank you. And with that we're adjourned.

[End of Audio]

**Business Session & Reports
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Double Tree by Hilton Wilmington
Wilmington, DE**

Richard Robins: Good morning. Let's go ahead and take our seats, if you would, please. I'd like to welcome everybody, and I'd like to begin by thanking Dr. Anderson and Sheila and his daughter and son-in-law for a magical evening at their home. The food was fabulous. That was great, Lee. Thank you.

[Applause]

Richard Robins: We got dinner and a show, right? That was fun. I'd also like to welcome this morning Captain Chris Scrabo from the Coast Guard 5th District. Chris, if you'd like to come up, and welcome to the Mid-Atlantic Council meeting.

Chris Scrabo: Thank you very much. I was telling several people this morning that I had Kevin's job here 25 years ago, 1988 to 1990. I was the first Coast Guard officer that they put on the Mid-Atlantic Fishery Management Council. So the scallop industry has changed quite a bit in 25 years, and we're dealing with very similar issues as you're all dealing with now, but as we know, the stocks continue to be challenging out there from a depletion perspective, and it's always been a challenge, as I know, to balance the regulatory and the enforcement aspects, and where you have good regulations that you can enforce, which the Coast Guard and the NMFS agents do from NOAA, makes it a lot easier to ensure that the stock in the fishery can remain their healthy levels.

And that's our goal here, working very closely with the Council as one of our partners, and working very closely with our fellow service the NMFS agents, and NOAA. It's critical, as we know, to keep these natural resources there in place, and despite the budget cuts that the federal government has, we will do our best to continue to provide that offshore presence. Different cuts have been made throughout the different agencies, but Kevin, who's been on your Committee – your Council here for a couple of years, and myself, will be working very closely with you and with the NMFS agents to ensure that we can maintain that offshore enforcement in locations that we deem that have the highest threat area.

So I really appreciate all the hard work and effort that you all do, and I thank you very much. Appreciate it.

Richard Robins: Captain Scrabo, thanks for being with us this morning. We appreciate it. The first report is going to be the Regional Administrator Report. I'll turn to John Bullard or George. George?

George Darcy: Thank you, Mr. Chairman. Just a few items to report today. ON August 2nd, we published an advanced notice of proposed rule-making to establish a new control date for the Illex squid fishery, which you had asked us to do. So the new control date will be the date of publication, August 2nd.

Also, we have published a notice of availability for your Amendment 14 to the Mackerel, Squid, Butterfish FMP. That was published August 12th. The notice of availability starts the comment period on the amendment itself, and that will be open through October 11th, 2013. We will be publishing the proposed rule that would implement the measures, if approved, I expect within the next week or so, and then there will be a 45 day comment period on the rule as well.

On August 6th, we published a temporary rule to adjust the scup winter 2 quota period based on unused quota in the winter 1 period. As you probably recall, the regulations require that any unused quota from the winter 1 period be added to the winter 2 period, which we have done. It was a substantial amount, 3.7 million pounds, and so the quota for winter 2 will now be 6,932,998 pounds, and the possession limit per trip will increase to 8,000 pounds during the winter 2 quote period, based on the regulatory provisions of the FMP.

As I reported to you yesterday, we are filing today and we'll publish tomorrow a final rule that will reopen the remaining corner of the PSP closed area on Georges Bank to surfclam and ocean quahog fishing, and that will be effective on publication. So as of tomorrow, the entire area that you had originally asked for will be open to the clam fishery under the new protocols.

Under herring, we have published a proposed rule for Framework Adjustment 2 and the 2013, 2014, and 2015 proposed specifications. Now we published that on August 2nd. The comment period on that proposed rule closes on September 3rd, 2013. As I think you're aware, on July 18th, on behalf of the Secretary of Commerce, the Agency partially approved

Amendment 5 to the New England Council's Herring FMP. Most of the provisions were approved. However, there were a few that the Agency felt lacked adequate rationale and development, or had sufficient legal impediments that they could not be approved, and they were a dealer reporting requirement, a slippage cap, requirement for 100 percent observer coverage of category A and B vessels, and a industry-funded contribution of \$325.00 per day toward observer costs.

We have published a proposed rule on July 11th that would reopen some of the groundfish closed areas to fishing under certain conditions, seasonal conditions and gear restrictions, and we expect to be publishing a final rule shortly. We received over 81,000 comments on those rules – on that rule.

We announced on August 7th the listing decision on river herring. As you know, we have been petitioned to consider listing that, river herring under the Endangered Species Act, and the agency found that there was not adequate cause to list them at this time as either threatened or endangered, and we'll continue to work with the Atlantic States Marine Fisheries Commission to do whatever we can to improve the status of those stocks. But the determination was that listing isn't warranted at this time.

And under Large Whale Take Reduction Plan, on July 12th, we published in the Federal Register a Notice of Availability of that Plan, and the draft Environmental Impact Statement, and a proposed rule on July 16th that describes how that Plan would be implemented. We're holding public comments during – public hearings during August and September. Three will be held in the Mid-Atlantic, and they are in Wilmington, North Carolina on the 26th of August, Virginia Beach on the 27th of August, and Manahawkin, New Jersey, on the 28th of August. The comment period of the DEIS closes on September 13th, and the comment period on the proposed rule closes September 16th.

And finally, we published on August 13th a final rule that would correct and clarify the tilefish IFQ regulations, largely administrative. It doesn't really impact how the fishery operates. It was kind of a clean-up rule to clarify certain and correct certain provisions that were put in place to implement that tilefish ITQ program. And that's it. Thank you.

Richard Robins:

George, thanks for the report. Questions for George regarding his report from the Northeast Region? Laurie Nolan?

Laurie Nolan:

Thank you, Mr. Chairman. A comment more than a question. On the scup rollover into winter 2, it's great that we have that mechanism to do that, but the concern I've heard over and over again, and this kind of magnifies the importance of the issue of the trip limit in that period, and while the trip limit increased to 8,000 pounds, we're talking about this winter 2 is November and December. So that's a 60 day period now to catch all those fish. So that means we need 399 successful 8,000 pound trips in order to harvest the quota allocation.

You've got weather issues kicking in and stuff like that. So over and over again, industry is asking us to please address the trip limits with these rollover provisions, because if you don't increase the trip limit enough, the chances of harvesting the quota allocation, it's not going to happen. So I think to expect 399 trips in a 60 day period of November and December, that's over 6, almost 7 trips a day half to land on the dock from these vessels. And the fleet gets small, because it's the winter fishery.

So it's just to show the importance of adjusting trip limits with the rollover provisions that the Council maybe has to go back and revisit, in order to allow the industry that's involved in the fishery in that period to actually harvest those – the fish, and the extra fish, in this case. So I just wanted to point that out.

Richard Robins:

Thanks, Laurie. Any other questions? Peter Himchak?

Peter Himchak:

Not a question so much as a comment on the NMFS proposed rule. The implementation of the Shark Conservation Act – I probably butchered the name, but the statement – this generated a lot of discussion last week at the ASMFC Meeting Week. And according to the NMFS rule that specifically states that states that have put in place shark – the sale – the prohibition on sale of shark fins, if they are caught in the – if the sharks are caught in the EEZ, then that particular ban does not apply to sharks taken under the E – under the Magnuson Act.

So there's this confusion going out, and it generates a lot of conversation. And I asked again and again – it becomes an enforcement nightmare now. Where was the shark taken? Was it taken in shark waters? And then the state law applies, and they can prohibit the ban of the – the sharks are landed with fins naturally attached, according to the ASMFC Plan, but once they are removed, they cannot be sold in that state. And this applies to Maryland and New York, Delaware? Delaware as well. But then the NMFSs coming out, you know, very bluntly and saying, "You

cannot – you cannot usurp the authority of the MSA Act if these sharks were taken in the EEZ."

So I just wanted to bring that up. It's not in the briefing book, but just as an information to everybody around the table.

Richard Robins: Thanks, Pete. And it's my understanding some of those bans are being litigated right now. I don't know what the status of that is. So – and I don't know if Denise has any comment. You will at the next meeting? Okay. Thank you.

Okay. And I had some calls last night about the proposed Large Whale TRT action, and George made reference to the fact that there are a number of public hearings in the region coming up. We have one in Virginia Beach, I know, on August 27, and he went through the others. But it's my understanding right now that the main implication of that rule is that it would require different gear marking in the Mid-Atlantic, and then to the north of us and the Southeast Region, it might require some different measures for pot and trap type gear. But that's something that we ought to continue to monitor as it goes forward. It could have – I think in the Southeast, it will probably have more effect on gear, and perhaps, again, north of us, but – George, did you have any additional comment on the TRT action?

George Darcy: Just that I just sent to Rich, Dave Govea's cell phone number, and he – they can be in touch directly, and whatever specific questions you have can be asked of Dave.

Richard Robins: Rich?

Rich Seagraves: Yeah. The issue that you raised this morning was whether or not there was a requirement to have or a prohibition of single traps in the Mid-Atlantic. I'm going to be covering this under the Science Report, but I looked at the Plan, and I can't find anything. I'm pretty sure singles are currently allowed in the Mid-Atlantic area, so – and there's no proposal to change that in the proposed rule.

Richard Robins: Thank you.

Rich Seagraves: But I'll verify that with Dave.

Richard Robins: Yeah. It appears that there would be new marking requirements on the lines, and so additionally the states I think could be asked to submit annual reports of effort and gear that – pot type gear that's in use off their coasts.

Rich Seagraves: Yeah. I'm going to cover that in the Science – I'll give a quick overview of the thing.

Richard Robins: Thanks, Rich. Thank you, George, for the report. The June minutes aren't available yet, and as soon as those are posted, Chris will let us know, so we'll have to take those up at the next meeting. The next report is the Science Center. Dr. Karp?

Bill Karp: Thank you, Mr. Chairman. It's a busy time at the Science Center. I guess it's always a busy time, but summers seem to be where it's particularly – particularly a broad range of interesting activities, a lot of field work going on.

The 2013 Sea Scallop Survey was completed at the end of July, primarily on the UNOLS vessel Hugh R. Sharp, which – and that included a lot of dredge tows as well as the use of the NOAA HabCam. The HabCam – excuse me – some surveys were also conducted by VIMS aboard the Kathy Marie, and some video drops of – camera surveys conducted by SMAST.

The 2013 ASMFC Shrimp Survey aboard the NOAA vessel Gloria Michelle is continuing. That started in late July, and we expect that to be completed within the next several days. The 2013 Industry Cooperative Surfclam and Ocean Quahog Survey began this week on the commercial vessel ESS Pursuit. The – we have a new survey or at least a new pilot survey that is actually starting today, and that is a flatfish survey on Eastern Georges Bank using an industry vessel and industry gear, and this is really a feasibility study, if you will, to evaluate the potential for working with an industry vessel and industry gear for addressing some outstanding questions regarding the status of particularly the yellowtail flounder stock, but also other flatfish. And we hope that from this, we can develop a protocol for a new annual survey, which we'll develop a time series to support stock assessment.

We're also planning some side by side comparative work in the fall with – between the Bigelow and the standard survey gear, and then a typical industry vessel and gear, to compare catchability and catching efficiency for flatfish, because that's an area where there's intense interest from the industry as well as from the Agency.

The 2013 Autumn Bottom Trawl Survey on the Bigelow will start in early September.

We completed about three weeks ago SARC 57, the benchmark on summer flounder and striped bass. The results from that are not yet available in terms of the reports from the reviewers, but neither stock is overfished or subject to overfishing.

Speaking of reviews, last week, we held a Center program review. If you recall, I reported to you some meetings ago that the Agency has established a process for program reviews on a five-year cycle. So each Science Center will have a similar review or review around a different topic each year. This year, the focus was on the data sources that support stock assessment under Magnuson-Stevens. Next year, it will be on the stock assessment methodology itself. I thought last week's review went very well. We had an excellent panel, which was comprised of scientists – national – from the national and international community, with expertise in fishery dependent – fishery independent data and stock assessments.

I've just seen the preliminary report from the reviewers, and they point out areas which we're – which are not news to us, where we need to do work. But for the most part, the feedback was positive. A lot of constructive criticism, and I will be writing a response to the – to their recommendations, and we'll publish both the response and the recommendations within 60 days on the Center's website. I'll provide a more detailed report to you on those findings and our strategy for responding to them at the next meeting.

We have coming up a meeting in Narragansett, Rhode Island, in early October, which the Center is conducting in collaboration with TNC and Commercial Fisheries Research Foundation. It's an international collaborative research summit where researchers and managers are being brought from several countries to look at examples of how cooperative and collaborative research have informed and supported the management process. And the idea here is to look at some case studies, to compare with some of the things that we're doing in this region, and look at places where there are opportunities to move forward and be innovative in the way that we conduct our cooperative and collaborative research.

On the climate side, we cosponsored a Climate Change Workshop in Rhode Island in late July. This was in response to an initiative that's in the President's budget for 2014, which if funded would provide \$10 million to support largely academic research related to climate and fisheries in the Northeast. And we felt that it would be a good idea to bring experts from the region together to talk about what is going on and to define research priorities for the future, so

that we'd be collectively well-positioned, if this funding does come, but even if it doesn't, it provides us a strategic basis for moving forward to respond to other funding initiatives, and to take some initiative to address some of these compelling research topics.

I wanted to just give you a little bit of an update on some climate research that's going on at the Center, just as a follow-on to that. We're conducting a Climate Vulnerability Assessment. This is part of a national initiative, where the goal is to estimate relative vulnerability of managed fishery species to climate change, in this case in this region, and through that, inform management and guide research.

A protocol, a national protocol has been developed by the Agency, which looks at – on a stock by stock species basis evaluates vulnerability in response to a number of different factors, and uses that as a way of identifying stocks that are more vulnerable, and then setting research priorities.

The first region to carry – to follow through on this assessment is in fact the Northeast, and we hope to complete that work this fall. So again, we should be able to report back at either the next meeting or the one after that. And we're looking at about 60 species that are managed by the two Councils in this region and Atlantic states, as well as some species that are of concern under ESA.

The – in the larger Northeast shelf marine ecosystem, we're seeing that temperatures have moderated since the record levels set in 2012, but they still remain above average. And we're also experiencing changes in the timing of thermal events. So spring warming is occurring earlier in the year in all parts of the region, and the spring transition has advanced in the order of two weeks. And that is the process that mediates the timing of plankton blooms, which really greatly effect productivity and the opportunities for young fish as they hatch to be able to feed successfully and potentially build a good recruitment in the managed stocks.

So the spring plankton bloom is usually a prominent feature of the production cycle in the Gulf of Maine, and an intermediate – and an – excuse me, an intermittent feature in the mid-Atlantic. But in 2013, the bloom was greatly reduced in the Gulf of Maine, but was substantially above average in the mid-Atlantic. So these kinds of

changes are going on inter-annually as well as over the long term, and they're the kinds of things that we're tracking.

I know that there's particular interest among some Council members about the work that we're doing on ocean acidification, and I understand that Beth Failon from our lab in Sandy Hook is going to come and speak to the Council about that at the next meeting, so I'm not going to elaborate on that during this report.

Mr. Chairman, that's all I have to report.

Richard Robins: Dr. Karp, thank you, and we'll look forward to the vulnerability assessment results when those are available. I think that'll be very interesting, to see what the future might hold for some of those stocks. That's obviously of interest to us. We had highlighted it within our Strategic Plan as well as trying to have a risk assessment of those susceptibilities within our managed stock.

The work that's going to be done on an industry vessel with Georges Bank yellowtail, what's the timeframe on that survey work?

Bill Karp: It starts today. We had a lot of activity going on this week to finalize the contracts and make sure we had all the necessary permits, but it should actually start today.

Richard Robins: Okay. I think that's very encouraging. It'll be interesting to see what the results of that are. One of the things that we will need to coordinate with you through the NRCC process, just following up on the last meeting, when the SSC deemed the quahog reference points to be non-credible, we had requested that we set up a new benchmark assessment for quahog. So that's something that we'll have to coordinate through the NRCC process, but we'll want to put that on the radar and on the schedule as soon as we possibly can. But we'll look forward to trying to work with you to schedule that.

Bill Karp: Mr. Chairman, understood. And we have an NRCC call coming up at the end of the month, so we should be able to pay some more attention to that. One thing that I really should emphasize, though, is that we have reached a brick wall with regards to demands that are being placed on Center staff for assessments. So understanding the need to put some significant energies into prioritization, we simply cannot conduct all of the assessments that are being asked of us in the timeframe that's being asked of us by the Councils.

And so we're really going to have to get our heads together to figure out how to address this challenge.

One thing that we've done is we've started to talk to a group that is part of the Army Corps of Engineers that has particular expertise in a public policy arena of working with different stakeholders to try and set agreed upon priorities for managing around limited resources. So in short, that means I think they might be able to help us by bringing an objective framework to making some of these decisions, which are becoming increasingly difficult for us to make.

Richard Robins: Thank you, Dr. Karp. Other questions for Dr. Karp of his report? John Bullard?

John Bullard: This is not so much a question as a comment, and one I made before. But this issue in all its dimensions is going to continue to tax us and challenge us as we understand how it affects us. And I want to begin by congratulating – it seems I do this a lot, but congratulate the Mid-Atlantic Council for investing the most precious resource, which is all of your time, in trying to understand the dimensions of climate change with presentations that get made, whether it's forage fish or our next presentation in Philadelphia on acidification or what's going to happen in March on climate change.

And I know in the Regional Office we're going to lean heavily on the Science Center so that we can understand, how do we manage when things get on the move? And we're aware of two things. One, that the Science Center is a repository of a great amount of information on climate change, and we need to absorb this. And two, as Bill said, they're very taxed by existing demands on stock assessments and other things. So we don't want to press them for a lot of work.

There was a conference recently in Portland, Maine, on climate change that I attended. But how do you manage when things start – everything's moving north and offshore? Are there different things as stocks move? Do you manage the leading edge of a stock differently than we're used to? Do you allow for stocks to establish? How do you manage with ocean acidification? I don't know. I assume that's going to present problems that we're not used to dealing with.

And so I think, as we invest time in understanding these problems, that's a wise investment of our time. And I congratulate Chris and

the Council for being willing to invest that time, and I know, Bill, that we're all going to be looking to the Center, because you do have a lot of expertise in that, and we're going to need to all increase our capacity for understanding what is acidification going to mean for the stocks that we're responsible for? Because it's not just temperature change. There's a lot more going on than temperature change.

So this is going to place a lot of demands on us, and you have a lot of – in the Center, in the people in the Center, you have a lot of knowledge that we're going to need to be sponges on.

Richard Robins: Thank you, John. Any other questions or comments on the report? Okay. Seeing none, the next one is the Office of General Council, Denise Desautels.

Denise Desautels: Thank you. Very quickly, the Flaherty case, popularly known as the river herring litigation, on July 27th, Judge Kessler granted the defendants, that's NMFS's and NOAA's, unopposed motion for a 90 day extension of time to comply with the court's August 2nd, 2012 memorandum order. By doing this, she stayed vacatur of Amendment 4 to the Atlantic Herring FMP until October 23rd, 2013. At that time, NMFS must file a report describing all remedial actions taken in response to the court's order. That includes completed NEPA analysis for the 2013 to 2015 specifications and management measures, demonstrating a hard look at the environmental impacts of the remedial actions, and then including appropriate range of alternatives, including addressing minimization of bycatch to the extent practicable, to the current accountability measures, including monitoring alternatives, and to the interim ABC control rule, at least one of which shall be based on the most recent, best available science for setting ABC control rules for herring and other forage fish.

Within 90 days, NMFS will file a supplemental explanation setting forth consideration of whether Atlantic Herring FMP minimizes bycatch to the extent practicable. And then also another case, ESA related, Humane Society versus NMFS, a recent stipulated settlement agreement and order was filed, and that case involves four BiOPs, Section 7 BiOPs from 2010, that address the effects of continued operation of American lobster, Northeast multi-species, spiny dogfish, and monkfish fisheries.

On four species of listed as endangered Atlantic large whales, those are the North Atlantic Wright whale, humpback, fin, and – a biologist needs to help me here, Sei, S-E-I. I don't know how to

pronounce that. Is that right? Thank you. The complaint originally alleged unauthorized take and jeopardy of continued existence. An amended complaint was filed following a 2012 BiOP regarding the effects of continued operation of American lobster, finding continued operation would likely adversely affect but not jeopardize the continued existence of these ESA-related whales. And the alleged operation of the lobster fishery is causing unauthorized take of ESA related whales and other claims.

In the settlement agreement, NMFS will complete a Section 7 consultation on continued operation of the American lobster fishery by August 1st, 2014, and then publish a final vertical line rule, if warranted, by July of 2014.

And then finally, in the two New England related cases, which I'm sure Gene spoke about last – at the last meeting, Conservation Law Foundation versus blank and Commonwealth of Massachusetts versus blank, the administrative records were filed.

Richard Robins: Thanks, Denise. Any questions or comments on the report? Thank you. The general – the law enforcement reports at this point, Lieutenant Commander Saunders?

Kevin Saunders: Thank you, Mr. Chairman. Appreciate your patience as we're setting up.

Richard Robins: No problem.

Kevin Saunders: I'm kind of forfeiting my report. It's in front of you. I usually summarize that, but in the interest of time and trying to get through the enforcement precepts which I think are valuable for everybody after this week, including myself, we want to go through this presentation. We were trying to set this up like almost a law enforcement panel. That's why Britta is sitting up here with me, as the General Counsel Attorney that visits case packages. I from the Coast Guard represent the on-water enforcement spectrum, and then Scott Doyle, he'll probably walk in right after I finish, will be the shore side enforcement component of that.

So I'd like to start out with a quick analogy. You know, from an enforcement point of view, I always equate what the Council does to baking a pie, but you want to bake the pie that tastes good to everybody. You know, the fishermen, the NGOs, and it's my kitchen that we're using. The problem is, I've got to have the right tools and the right ingredients to make this pie that you guys are developing the recipe for.

And this is going to be a tough analogy, don't repeat this, but let's say Britta also lives in this house, and she has to walk into the kitchen and see the mess I made when the pie is completed. Now ideally, at the end of the day, everybody takes a bite of this pie and it tastes great, but the more complicated the ingredients and the recipe is and everything that we put together, the harder it gets for everybody to taste.

And that's kind of where we're going. I'm laying out the capabilities of the kitchen for you guys and my capabilities as an enforcement officer to develop the right ingredients to make the right regulations, so that everybody enjoys the pie at the end of the day. So thanks.

Richard Robins: So Kevin, do you have a recipe for coral pie?

Kevin Saunders: Not edible.

Richard Robins: I think we're going to be counting on you for that one.

Kevin Saunders: So you guys really have four tools that you're dealing with when talk about – hopefully everybody can see what's on the screen over there. Four tools. We have dockside enforcement, which is primarily your output controls. And pretty much every regulation you guys put forward has some level of an output control. These are your landing limits for the vessels that are monitored at the pier, and also your accountability measures. They can go into that.

I come into place, and I used to have a much greater role than I do now for the at sea enforcement with the effort controls. We talked about some effort controls today. They could be anything from prohibited species, which are very, very simple for me to enforce. If you have the fish, that's bad, if it's a prohibited fish. They could also be very complicated. The volumetric regulations that we were proposing earlier this week, that's tough for us. Very few boarding officers that we put on your vessels when we're doing boardings have naval architecture degrees, for instance. So that's a little bit harder, and that is one of those regulations that could draw the line between a dockside and at sea enforcement thing.

Now not quite connected to the rest of it, but very important for enforcement, is the electronic monitoring component. This is VMS. It could be record keeping. It could be any number of things. It's very, very difficult for us to – and Britta will back me up on this, I believe – to complete a good case package, represent a

violation of a vessel, just based upon electronic monitoring equipment. So that really also has to be backed up either by a boarding at the dock, pier side, or underway by Coast Guard boarding officers.

And then there's the fourth component, which I'm happy to say that this Council doesn't do a lot of, but that's the wishful thinking component. That's hey, we need a regulation to appease the people that might be taking a bite out of the pie. We know that this ingredient doesn't really exist, but we're going to make something up that sounds good just to say, you know, hey, basically changing the name of the pie in order to make it taste better, if that makes sense.

We don't do that a lot here, and I appreciate that. But that's definitely a component of regulations that could creep onto the table, and it's my role on the – at the table right here to say not enforceable, as you've heard me say a couple of times.

In the back of the handout that you had for the enforcement report, I included this chart, because I really think this is the bread and butter of what we do. You can see exactly where the regulations will be enforced, depending on what you propose. Now ideally, the regulations that you guys put forward, we'll be able to enforce at least two of the components, right? Either at sea or dockside or via electronic surveillance.

As you can see on there, there's none of them that can really be enforced green across the board. Something to keep in mind and look at as you propose new regulations, and I gave it to you for you to refer to in the future.

So what is the perfect regulation? What is the perfect recipe that we can put forward? Now I'm a realist, and I don't want you guys to base your recipe based upon the ingredients that we have in the kitchen when we're baking this pie. I want you to base it upon your consumer that's going to be eating it. So I understand that in some cases sacrifices are going to be made.

So we've got to look at the goal of the action, and we've got to gauge a recipe to accomplish that goal, and that's the number one thing. The disadvantages and advantages of any regulation, I usually point out the disadvantages when I say something's unenforceable or not. Consider the enforcement availability, and that's a tough one right now. So if Scott was in here, I would ask

him how many agents he had in the mid-Atlantic right now, and he'd probably say less than a dozen.

Now if you were to ask me how many vessels I had in the water right now, I wouldn't tell you, but it's not as much as I'd like it to be. Enforcement availability has increased, as you go back to that original chart we had, and you make it so it can be enforced in more than one sector at the same time, at sea and at the pier, or using electronic surveillance, or using aircraft. So just another tool to think about.

Difficulty of the regulations. I am not a master chef. I am a – I took home ec in high school, and I can follow a recipe okay, but as far as putting together the perfect pie, if you leave it up to me, it might not turn out the way you want it all the time. So we try our best in all sectors of enforcement, but the more complex the regulations are, not only the more difficult they are on guys like Dewey, but they're also difficult on our boarding officers who have to enforce them. And that's a really quick way to make it so that I don't have a very clean kitchen at the end of the day, and Dewey doesn't like the way his pie tastes.

Consider the number of similar regulations already in place. This is a good one. So with this Deep Sea Coral Amendment, we're proposing 200 meter, 300 meter, 400 meter. At the end of the day, I hope everybody settles on – and this might be naïve – but one depth that all my boarding officers can look at. If each discrete zone has a different depth, that's crazy for me to enforce. I want to be able to tell my boarding officers, when you're in these areas that we're drawing out, this is the depth we need to be looking at. It shouldn't have to change from zone to zone. If we can simplify that and make it easier by having a consistent depth, that really amplifies my ability to enforce it.

And consider stakeholder buy-in. It's a – may be overestimated, but I'd like to think underestimated tool that we have, that we're not the only people enforcing things on the water. There's something I like to call peer enforcement that's out there, and most fishermen, I really do believe are probably trying to do the right thing, and they'll know the guys that aren't doing the right thing, because they usually call me and tell me who's not doing the right thing, and ask why I'm not boarding him and violating him instead.

So I think the more stakeholder buy-in we get, the more we can do to convince out constituents that this is an enforcement action that's reasonable for them to do, then the more compliance you're

going to get. So I drew up a little math equation. Oh, sorry. We'll go with this first.

Real quick, what kind of vessel is this in the background? I blurred it out a little bit to make it a little bit tougher on you. So I want you to imagine this. Boarding officer, he graduated high school, you know, a year ago, goes to Fish School, Boarding Officer School, gets his quals. This is his second fisheries boarding. He walks on board. He sees this. What does he think in the back of his head?

I'll give you a hint. There's not too many of these in the mid-Atlantic. Right, Laurie. That's a tilefish boat. Yeah. Yeah. So – and I point that out there just to show that as a boarding officer, I can't take the fisherman's word for everything, because that would be like me pulling over a guy for speeding and the guy saying, "Nope, I was going 55, not 75," and I say, "Okay, you're right. Got it."

So I've got to have a little bit of knowledge in my back pocket, and I don't get to exercise all this knowledge all the time equally. There's not as many tilefish boats out there as there are scallopers out there. When I get on board a vessel like this, I'm expected, required, to enforce the regs equally as well as I am on a vessel that I do a ton of boardings on all the time. It makes things difficult. So the more consistent we can make the regulations, regardless of the fishery – I know that's not always practical – the easier it is on my boarding teams.

So I don't have a vote on this Council, as you all know, and I'm very thankful for. But it's important to remember that from an enforcement point of view, we're not trying to keep fishermen off the water. We're trying to keep them on the water, but we're trying to keep the bad fishermen off the water. So that's why I wanted to put this slide in here. To keep them fishing. I don't like to catch fishermen for making mistakes that honestly I probably would have made in the same situation, because the regulations are hard.

To compound that, if the regulations are so hard that I have trouble interpreting them to enforce them, more likely than not, Britta's going to look at my case package and say, "Hey, what were you thinking?" So simplify regulations is a number one thing on that list.

Reduce the number of regulations. Most of these things are committed to memory by the fishermen, so the shorter that list is, the more compliance you're going to see on the water.

Account for trace fisheries products. That's something I was going to ask Scott to talk about, but basically, I want to be able to account for that fish all the way through the system, from at sea to dockside to maybe even when it gets to the plates. The striped bass fishery is a good example of how they do that with their tagging program, and how we're improving on that.

Using VMS. You know, we had kind of a game-changer in the Coast Guard a few years back, where we were to a large extent able to take the search out of search and rescue. And we did that by when you did a radio broadcast, we would have basically a line that would draw a line of bearing to where that broadcast was coming from. And if we got a couple of them to cross, we had a pretty good idea of where you were at, even if you didn't know where you were at.

VMS allows us to do that with fisheries. It allows us to take the targeting out of doing fisheries boardings. It saves us some time, allows us to have more resources on the water – I'm sorry. A better unit of effort per each boarding, because we can do more with less resources on the water.

And the last thing is observers. So the observers are not – I'm going to repeat this – they are not an enforcement component. They're actually there to back up the scientists, to support data that goes in to feed the whole system later, but they are something that's on board that we as enforcement officers need to look out for and make sure they're treated fairly.

So as you put observers on vessels, you have a gain, but you also have kind of a loss, too, and that loss is something that we have to spend our resources monitoring when we could be looking at other things, as well. So now we'll go to my math problem.

Here we go. Do the math. So the more enforceable the regulations you guys create, the greater chance I have as a boarding officer of finding the infringement of that regulation while I'm doing the boarding. That just makes sense, right? So we're going to go on.

So the probability of detection times the consequence of the violation, meaning the dollar amount of the fine, that is what compels compliance. So in other words, I could have a really good

success rate with finding guys fishing for striped bass illegally, but the fine's not super high, to be honest. So to them, it's a cost of doing business to some degree, and that doesn't really compel compliance. So if the fine was higher, then I would have a little more ability to compel compliance with the regulations, and they would hold themselves more accountable, too.

Once you have compliance with the regulations, that equals effective management. And just to put the little word pictures in your head, that's happy fishermen and happy fish. So I know this seems like a little pie in the sky image I've presented to you, but I really think that with the right balance, and I know I'm not always going to win, I'm going to make a little bit of a mess, and I might get a phone call from Britta, but if we can salvage the case package at the end of the day, and we get the bad guys off the water, we allow more good guys to fish, and we do our best to address the needs of the stock, which is another thing that the regulations obviously do, then everybody can at least stand to eat the pie, and they might even ask for seconds.

So with that, are there any questions?

Richard Robins: Kevin, is that Weber grill on the back deck, is that legal tilefish gear?

Kevin Saunders: I was going to say something cute, but I decided I exhausted my –

Richard Robins: Fair enough. Kevin, thanks for that. I think we do take a lot of enforcement issues for granted, or the enforceability of regulations for granted. Just looking at things like closed areas, you might think it'd be simple to enforce, but looking at the example of the striped bass EEZ closure, you see the scale of it and the amount of assets that are required to try to enforce something like that, it becomes a pretty daunting task. So appreciate you laying all this out to us.

Kevin Saunders: Right. If I could just give you some real life cases that we're kind of going through right now, if you have a closed area, right, and you draw your lines, and we say, okay, keep everybody out, then that's – we can enforce that pretty easily, and surface value. But then when you provide exemptions, then, okay, there's vessels that are going to be in there, so it's another thing to keep an eye on for us.

For VMS, you can say, okay, well, we're going to provide exemptions, but we're going to make sure these vessels have VMS.

Okay. Well, I can look at VMS and see what that guy's supposed to be fishing for. But then I have to continue to do some surveillance and some boardings periodically to make sure that they're actually transmitting the right VMS, so that they're not breaking the law anyway.

So you see a very surface simple regulation as easy as a closed area, which is probably one of the simplest things, can rapidly become something that doesn't really – it's not as easy to enforce as you would normally think. But I understand the balance that we're trying to protect, and I understand that a little bit of education on the boarding officer point of view, we can do this. We can make it work as a team.

We have a system set in place where if a guy has a – what he thinks is a case, he'll call me up and kind of run it by me with a gut check, and then we'll either give him the thumbs up or give him the thumbs down, depending on what the case is. And that kind of is a little bit of a check and balance. And then we to Britta's check and balance, usually by way of Scott, but he hasn't showed up yet.

So they will also give us the thumbs up or thumbs down along the process. And at any point we can always rescind the violation. But the end goal is not to draw the fishermen through that if they don't deserve it. So like I said, everything is a balance. Everybody wants to be to eat the cake – or, I'm sorry, the pie, and thanks.

Richard Robins: Thank you, Kevin. Any questions for Kevin? Jeff?

Jeff Kaelin: Well, I don't have a question, Mr. Chairman, but I just wanted to thank Kevin and also the Center. We were able to get a day at sea restored after one of our boats towed another boat in a scallop day at sea under the Good Samaritan exception, and I reached out to Kevin, and you were a big help in that. I think we – it was like .45 percent of a day, but it was a real good example of the kind of cooperation and leadership that Kevin – and eventually the Center agreed with Kevin's determination. So I just wanted to thank him for that publicly. It was a great example of cooperation.

And then the other thing I wanted to comment on, with the Coral Amendment we were talking about over the last couple of days, there's some thinking that perhaps some electronic monitoring can help determine where the gear is in relationship to the bottom of the ocean and the coral and so forth. And there's a couple of grants that have been allowed recently that will allow us to put more electronic monitoring on our boats. And I'm not really sure what

that means at the moment, but I just wanted to say that I'm going to look forward to continuing to work with you to look at this technology and determine whether it has any value for that kind of management measure.

I don't think we even know what the gear can do yet, so I just wanted to – I know I can reach out to you at any time, so we'll be doing that, and I appreciate your help.

Richard Robins: Other comments or questions? Laurie?

Laurie Nolan: Thank you. Not a question, a comment, and one of thanks to the Coast Guard, just to say a Montauk man went off a lobster boat a few weeks ago, and he was in the water for about 12 hours before the Coast Guard found him. And while the guy was in the water, hanging on his boots, which he used as flotation, he saw all the boats that were looking for him. I mean, all the boats in the area immediately stopped what they were doing to look for this guy.

And the guy in the water saw all the boats steaming all over the ocean looking for him, and they didn't see him, because he was just a head in the water. But the Coast Guard found him. And it was 12 hours the guy was in the water, and it made for a really happy day in Montauk, to have you guys come up with him, because everyone was thinking he wasn't going to be found.

And their perseverance and your search was – is terrific, and we just really appreciate that you guys are there for something like that, because the industry, they were trying, but they wouldn't have come up with him. So I'd like to thank the Coast Guard.

Richard Robins: Thank you, Laurie.

Tony DiLernia: Thank you, Mr. Chairman. Mr. Chairman, as you know, I'm the director of maritime technology with the City University of New York, and since 1988, we have had the privilege of being able to drill with the Coast Guard in doing at sea rescue operations and hoistings. Originally, we would drill with Air Station Brooklyn, and once Air Station Brooklyn was closed, the operation was moved to Air Station Atlantic City. And the Air Station Atlantic City has continued to be a wonderful partner in providing training for our graduates, for our maritime graduates.

You may recall the US Air flight that went into the Hudson River a number of years ago. Four ferry boats responded. Three of the captains were graduates of our program. The New York City

Police diver who jumped out of the helicopter and who swam into the plane, the first time he ever saw that training was from a rescue swimmer at Air Station Atlantic City. So this training that Air Station Atlantic City has provided to us, and I want to thank Kevin Saunders for facilitating that training in recent years, has resulted in directly saving lives, and for that, I appreciate it, and I thank you, Kevin, and to the Coast Guard, thank you very much, sir.

Richard Robins: Thank you, Tony. Other comments or questions? Kevin?

Kevin Saunders: Thank you. I just want to introduce – in the back of the room is Rick Detar, right over here, and Jenny Conan. They're the local enforcement arm for the sector Delaware Bay, which covers Delaware as well as Philly, where we'll be in our next meeting. So any enforcement thing that happens, they have skin in the game there. Thank you.

Richard Robins: Thanks, Kevin, and thanks for being with us this morning. Britta, would you like to follow on this with any additional comments or with your report?

Britta Henderson: Thank you, Mr. Chairman. And if I didn't have a chance to meet you at the last Council, I am very happy to be here. This is my second meeting. It's been a great opportunity to work with the Coast Guard, and apologies, as Scott Doyle from NOAA's Office of Law Enforcement is unable to join us. I'm not sure exactly the conflict, but he would be here if he could. So I'm happy to answer questions or send anything back to him and have a follow-up if folks have any questions on enforcement matters that have recently come up, or how our office is working currently. There's another new attorney, Joe Heckwolf. He is covering the Mid – or sorry, I'm at Mid. He's up in the New England Council, covering those matters. But in the event that we have to tag team it, we'll be working with both Councils.

And we are working with the Coast Guard, our JEA state partners, and with the Office of Law Enforcement, covering the entire New England Northeast Region, from North Carolina to the Canadian border.

Richard Robins: Thank you, Britta.

Kevin Saunders: Sorry. If I could say one more thing. With these enforcement mechanisms we'll talk about, Scott and I work very, very closely together. His office and the Coast Guard, I mean, all last week we were lockstepping in movement the whole time, doing some

enforcement stuff. And I know I made some jokes about him earlier because he's a fun guy to joke with, but I can't say enough good things about him in this area. So thanks.

Richard Robins: Thank you, Kevin. The next report is the ASMFC Executive Director Report. Bob Beal is not with us this morning. Do any of the members of the Commission have anything they'd like to bring to our attention? Peter Himchak?

Peter Himchak: Yeah. I'm always reluctant to move into this issue, but one thing that would benefit the knowledge of all Council members, in addition to that shark issue that we'll hear about at the October meeting, is that – the big – outside of American eels, the other big issue last week was on the menhaden bait availability issue. And for the first time in 2013 there's a total allowable catch of Atlantic menhaden, and that is partitioned into individual state TAC's.

And I think what we're realizing, many states have realized, and I'll speak in new Jersey in particular, is that even with the tack that we are given for bait, I think it is recognized that in past years, there has been a – I would say a gross underreporting of menhaden, and in – that's utilized by bait in other fisheries. And we're beginning to realize that this – early in this part of the year, our purse seine fishery closed a couple of weeks ago, and they had 39 million pounds.

So we keep getting calls from the – everybody to the north of us, and the lobster fishery is scrambling for bait. They're worried about meeting their bait needs throughout the rest of the year. Maybe Rob can talk about what Virginia's encountering. We are the two biggest TAC holders on the Atlantic Coast. But every state is realizing that the movement of bait amongst their different fisheries, be it crab, lobster, or whatever, is really having some – and could have some even more severe impacts later this year.

So hopefully in 2014, the ASMFC can address what we set the bait TAC as or start the process for dealing with some of these issues. And surprisingly, with the herring ABC being set so low the last three years, it was down 30,000 metric tons, and then the New England lobster fishery really wanted that menhaden. And our landings jumped from about 40 million pounds to 85 million pounds over the course of 3 years. So now we're cut back tremendously, and I guess they got spoiled on the menhaden.

So even with the increase in the tack of the Atlantic herring, they're still clamoring for menhaden for the lobster fishery. So I just

wanted to bring that point up as a point of information for all the states here.

Richard Robins: Thank you, Peter. I think it was probably known to some degree that the bait landings were not fully understood going into that process, to the extent that the reduction landings might have been understood. But it'll be interesting to see how that continues to play out. Rob O'Reilly?

Rob O'Reilly: Thank you, Mr. Chairman, and I guess really sometimes you don't want to talk about menhaden, but a little bit is – my perspective is the Council would like some updates as we go through this. It's not a perfect system. The reporting is certainly one that hurt a lot of states, New York and New Jersey notably. And the fishery itself, Virginia has a reduction fishery and a bait fishery, and we also are finding out this year, the bait fishery's been kind of slow, although it has picked up recently. And I think there's just going to be a lot to do in the future. I can't imagine that menhaden is going to be anything but a staple of the Atlantic States Marine Fisheries Commission.

We do everything legislatively in Virginia, and so that's another situation. We don't for other species. And it means that there was, for example, a sunset clause in the recent legislation for January 1, 2015. It turns out the benchmark stock assessment will be delayed to some extent, so that'll be one item to go to the legislature to either remove or change that date. And there will be some other items as well.

So I know it's of interest because of its link to many other fisheries, so just I think it suffices to say that it's going to be a continuing part of ASMFC, more so than ever before.

I did want to talk, however, about two other species that are of big interest to all of us. One is striped bass, and with striped bass, the decision at ASMFC was not to start drafting a reduction plan. You may know a lot. I'm not sure how much you do know. But there were very poor year classes coming out of the Chesapeake after about 2007, average to below average in both Maryland and Virginia. And then by 2011, all of a sudden it was a banner year in Virginia, and the fourth highest since 1954, I'll say, in Maryland.

So that helps a little bit. The rule of thumb is about 25 percent of that 2011 year class will be in the 18 inch or larger range for 2014. Nonetheless, you have this trough of production from the Chesapeake, which is usually cited as about 75 percent of the

overall coastal production. That's there, and that's going to stay there, and projections show that the biomass does erode as we go forward. And what's looked for is other good year classes to come in. But keep in mind, it's four years before any year class is fully exploitable by the fishery, and not by all the fisheries because of the size limit differences.

So we'll wait and see. The early part of the Virginia survey this year is it's a little bit above average, which is good. I haven't heard the Maryland numbers exactly. But the ASMFC wanted to hold off any action, because the peer review has occurred for striped bass and for summer flounder, as you know, and the comments and everything else are still not available, so it will be the October meeting, the annual meeting, before the ASMFC decides what's the next step for striped bass. Is it status quo or is it some change? As you might recall, back in 2011 at the annual meeting, there was a pretty strong push to reduce fishing mortality rate, and that did not go forward to the public. At that time, it was up to a 40 percent reduction in fishing mortality rate, and it did not go forward.

One problem then, since I was on a development team for that addendum, was that it wasn't clear what was being looked at as far as the currency of the reduction. And this time around, the Management Board was asked to be pretty specific on what the goals are, what you want to achieve, if you have a reduction.

And part of the complexity is that there are different regimes of size limits, so it's not an easy thing to talk about a reduction in F. It's probably better to talk about changes in percentage of MSB, maximum spawning potential, SSBR, things like that. But we'll see, and can give an update later.

Summer flounder, a lot has *[audio glitch, no audio, about four minutes, audio resumes at [Chris Moore:09:50]* – back, so there are so many factors at play, and a lot of these factors may be tough to get to a situation quickly where we can have equitability. And I think across the board in the conference calls I've been on, every member of the Management Board, wishes to have equitability. So we'll see how that goes. Thank you.

Richard Robins:

Rob, that's an encouraging report, to hear that they're making progress on that question. When will the or where will the October annual meeting be held for the Commission, if you know?

Rob O'Reilly: That's taking place in Georgia at the island, what's the name of the island? St. Simon's. Thank you. I've been there, but – yeah. And that'll be in late October.

Richard Robins: Thank you, Rob. Tony?

Tony DiLernia: Thank you, Mr. Chairman. I was going to bring this up under new business, but since Mr. O'Reilly has spoken to the point, I'd like to take this opportunity to speak to two of the points that he raised.

Firstly, as someone who has fished for striped bass for almost 100 days a year for the past 20 years, I've seen a significant decline in the striped bass stock, and I'm hoping that the Commission acts in the future to protect the 2011 year class. We're seeing – I'm seeing evidence that 2011 year class is all over New York Harbor. They're small fish. They've filled a void that has existed for the past four or five years regarding the absence of smaller fish. And I hope and pray that the Commission takes some action to husband that year class through, because that is the future of our fishery. And I really believe that we need – I'm a charter boat captain, and I'm telling you that we need additional stricture regulations for striped bass in order to protect that stock, and so I hope the Commission takes some action regarding striped bass in the future.

Regarding summer flounder, I was going to ask to speak to this issue under new business, but because Mr. O'Reilly spoke to the issue of summer flounder, I'd like to speak to the issue now.

Richard Robins: Tony, go ahead, and we'll take those comments now. That's fine.

Tony DiLernia: Thank you very much, sir. First of all, I'd like to say that I appreciate the fact that the Commission and the states recognize the difficulty that New York State has been in over the past few years, and I appreciate the effort that's being made to try to address the issue. But a long term solution I believe could take longer than we would like, and I believe I have a possible short term interim action that can occur until we come to a longer term solution.

In order to – some of the issues are a bit complicated, so I've written down my comments, and excuse me for reading them, but I think in the interest of expediency, it'd probably be best if I did.

The issue I'm asking to speak to today is the recreational management of summer flounder. I've asked for a few minutes today to introduce the concept of regional management for this fishery because I wish to give Council members and the agency

time to consider the facts prior to our December meeting when decisions have to be made.

As you know, each December our Council must decide whether to recommend to the Agency the use of coast-wide measures or conservation equivalency based on data developed from the 1998 recreational fishery. I would like to ask Council members to consider recommending during our December meeting the use of conservation equivalency only if, let me emphasize, only if the conservation equivalency process utilizes a regional management approach instead of the state by state approach.

What would this regional management look like? States should consider voluntarily pulling their quotas into three regions and having the same season, size, and bag limits for each region. The three regions would be one, a northern region composed of the states of Rhode Island, Massachusetts, and New Hampshire; two, a central region composed of Connecticut, New York, New Jersey, and Delaware; and three, a southern region composed of Maryland and Virginia. Finally, I believe North Carolina should receive a de minimus status in this process.

What is the rationale for the structure for these three regions? The current state by state process creates a system whereby boats from two neighboring states are fishing alongside one another in the same body of water – I just lost my place here – same body of water, fish under different regulations. This difference in regulations creates confusion and often results in noncompliance.

One of our management goals should be to develop easy to understand regulations which encourage compliance rather than developing complicated regulations that can result in noncompliance. The regions as described above eliminate the state boundary overlaps and result in the same regulations for each body of shared waters.

The above proposal eliminates the 125 miles of boundary overlap and confusion between Connecticut and New York in Long Island Sound. It eliminates the 50 miles of overlap between New York and New Jersey in New York Harbor and Raritan Bay. It eliminates the 140 miles of overlap between New Jersey and Delaware in Delaware Bay. And it eliminates the 125 plus miles of overlap between Maryland and Virginia in the Chesapeake.

Now why should these states create these voluntary regions? Magnuson defines a fishery as, and I quote, "One or more stocks of

fish which can be treated as a unit for the purposes of conservation and management, and which are identified on the basis of geographic – " let me emphasize geographic – "scientific, technical, recreational, and economic characteristics," end quote.

My emphasis on geographic distribution was for a reason. Recently, the Northeast Fishery Science Center has issued a paper authored by David Richardson, et al, titled "The Evaluation of Changes in the Spatial Distribution of Summer Flounder." This paper was reviewed during the most recent stock assessment, and I'm sure it's available for Council members to review.

The paper states, and I quote, "Analysis of survey data demonstrates a progressive northward shift in distribution is evidence with increases in length for summer flounder." Reading further into the paper, it appears that the epicenter, if you will, of the summer flounder stock has moved northward from an area off Southern New Jersey to an area offshore of Northern New Jersey and Southern New York, about a 75 mile move or so.

This is an approximately 15 percent change in the location of the stock, and for the fish – for the recreational fishery, a 15 percent change is significant. I believe this change has resulted in a 2013 fishery that is different than the fishery that existed in 1998. I believe this is due to climate change.

National Standard 6 of the Magnuson-Stevens Act states, "Conservation and management shall take into account and allow for variations among and contingencies in fisheries, fisheries' resources, and catches." Thus, if the distribution of the stock in 2013 is different than the distribution of the stock in 1998, which means then that the fishery as we define a fishery in 2013 is different than the fishery in 1998, if the Council does not recognize this difference in the fishery by continuing at the December meeting to recommend no change in the management of the recreational fishery by supporting continued use of the '98 landings data for current state by state conservation equivalency process, I believe the Council will be violating National Standard 6.

If I'm right, then we will have no choice but to put in coast-wide measures in place for three to five years to establish a new baseline for the development of future state by state allocations. I do not want that, nor do I believe other states want that to occur.

I believe the Council should recommend the use of the regional management approach as described instead of the current state by

state process. We would be – by doing this, we would be addressing and mitigating the effects of stock shift without having to default to coast-wide measures. To this end, I hope the Council would ask our S&S Committee to review the Richardson paper which I quoted earlier and to give us guidance regarding the description of the 2013 fishery as compared to the 1998 fishery prior to our December meeting. Thank you, sir.

Richard Robins: Thank you, Tony. Dr. Boreman, is that a paper that you all could review at the upcoming SSC meeting?

John Boreman: Yeah, we can talk about it. We have a pretty full agenda. Probably we can redo it – review it outside of the meeting and put a group together to take a look at it, and maybe have a webinar or a conference call to talk about it, and then get back to the Council with our recommendations. If we can just get the request from the Council in writing, so we know exactly what you want us to review when we look at the paper and what types of recommendations you're looking for.

Richard Robins: Okay. Comments on that? Are there any questions? I think without objection, we'll ask the SSC to take a look at the information presented in that paper. I think that – it sounds like that information tracks along with the presentation we had had from John Hare at the Science Center about the shifting distributions of summer flounder in response to changing ocean temperatures. John McMurray?

John McMurray: Thank you, Mr. Chairman. What's the process for doing something as monumental as Tony – and necessary as Tony is suggesting here?

Richard Robins: Chris, do you want to comment on the conservation equivalency and regional management and what it would take to do that?

Chris Moore: So every – thanks, Mr. Chairman. Every year we get together and – with the Commission, and decide how best to manage summer flounder recreationally. Decision's usually two options, coast-wide or conservation equivalency. We rejected coast-wide for a number of years because of the lack of analysis and information on that particular alternative, which is something that we're hoping to fix this year.

If the Council decides to go with conservation equivalency and make that recommendation, then it's up to the Commission to decide how best to do that. So it's – and I asked – as an aside, I

asked Denise to investigate whether or not the Council could actually make a determination or a recommendation that says you must do conservation equivalency this way.

However, the states can implement sub-regions using conservation equivalency. One of the things that this Council has done to support that is pay for the development of a – excuse me – a model, computer program, to evaluate regional bag size seasonal limits. That particular model and program is going to be reviewed by the ASMFC Technical Committee I think the first week in September. And hopefully they'll find it useful and be able to support this process. So the bottom line is that all of this conservation equivalency stuff happens within ASMFC.

Richard Robins: Tony?

Tony DiLernia: Thank you, Mr. Chairman. I believe, though, if the Council makes a recommendation regarding using conservation equivalency versus coast-wide measures, the Agency must determine whether or not the recommendation of the Council is consistent with national standards. If the Agency decides that the Council's recommendation is not consistent with national standards, then I believe the default position then becomes coast-wide management.

Richard Robins: Chris?

Chris Moore: Yeah. In that case, Tony's right. If the Agency rejected the coast-wide – or, I mean, if the Agency rejected the way that the states handled conservation equivalency, the default is coast-wide.

Richard Robins: Tony, I think the point you make, though, is an important one. I mean, this is an issue that needs to be resolved. It is clear that conditions have changed in the fishery since 1998, but management's been static. We – it does need to be resolved, and I appreciate the suggestion you put forward. It sounds like there is some modeling work, and it also sounds like the ASMFC group is working to look at some additional solutions to this. But I appreciate the – appreciate the interest in it and the predicament that New York has been in for a long time now. John McMurray?

John McMurray: I'd like to move on to some questions on striped bass, if we're done with this. So maybe wait.

Richard Robins: Peter Himchak?

Peter Himchak: Yes. Just to this point on the summer flounder, an additional – I don't disagree with Councilman DiLernia's observations and the Richardson paper. What we have been seeing in New Jersey has been, if you check the VTRs of the commercial summer flounder fishery, I think that also lends support to this issue of the northerly migration of the core distribution of the resource. And we had a rash of vessels fishing – southern vessels fishing up off Long Island late in the year, and a lot of the landings were coming in to Cape May under safe harbor conditions.

And if you check – which leads us to believe that the issue goes beyond just the recreational fishery, and the entire issue – I guess the Atlantic states would have to look at the entire allocation of the fishery, not just on the recreational side, based on 1998 landings. But the – also the commercial allocation as well. They'd have to probably do that through an amendment rather than an addendum.

So what can be put in place for next year? I don't know. That'll come up at the December meeting. But I think this should be on everybody's radar screen, and I think it will be at the Commission's annual meeting at the end of October.

Richard Robins: Thank you, Peter. Tony?

Tony DiLernia: I understand what Councilman Himchak is saying and the point that he's making. That's why I offered – in my comments I suggested that this be an interim action, this pooling of recreational quota being interim action until a final solution to the issue is found. So I hope that the states could come together voluntarily, and the process allows for a voluntary agreement at this point, to create an interim action to adjust the recreational fishery.

As that – and once we've addressed the recreational fishery, I think we could then turn our attention to the quota distribution in the commercial fishery. Thank you.

Richard Robins: Thank you, Tony. John, if you want to go ahead with your question about striped bass?

John McMurray: Yeah. Thank you, Mr. Chairman, and I want to echo what Tony has said about his observations regarding striped bass. And we're starting to see that 2011 cohort move through as well, and I hope that we do – the ASMFC does everything they can to protect it.

But my question was on the 2012 benchmark. I think you mentioned it will be considered in October. Is it going to be

available to the public before that? That's my first question. Why don't you go ahead and answer that, and then I'll ask the second one.

Richard Robins: Rob, if you know?

Rob O'Reilly: It is – it's actually the 2013 benchmark. It just occurred in July. All that has been released so far is the information that was presented by the Technical Committee of ASMFC, and so no one really has the peer reviewed comments yet. And that's why ASMFC is waiting.

As far as the public process on that, I think, again, it's time for once it's released, then it becomes public through the ASMFC website or other means. And there is – the only thing that I – the type of information that I think everyone has seen is that the stock is not overfished. Overfishing is not occurring. The biological reference points are recommended to change, to be narrower or more conservative, but at the same time, I think there has to be that feedback that's available from the peer review before anyone really knows the direction.

Richard Robins: John?

John McMurray: Thanks for that. You also mentioned something I didn't quite understand. I thought you said that the board is moving away from consideration of reducing F and instead controlling MSB. Maybe I heard that wrong. My understanding is that you reduce F to get to where you want regarding MSB. Maybe you could explain that a little better for me.

Rob O'Reilly: That's partly what I was trying to indicate. With the last – with 2011, when there was a addendum ready to go out to public, the marching orders for the Plan Development Team and ASMFC has to put together the documents was to reduce fishing mortality rate up to 40 percent. It became very complex to try and figure out how to do that, because of different size limit regimes, for example, different standards or targets for fishing mortality rate.

So at that time, one thing that was talked about was that it would have been a lot more straightforward to look at changes increasing maximum spawning potential. I mentioned that just because that occurred before. That has no bearing on what the ASMFC will finally want to be looked at if reductions of some type, whether fishing mortality rate or methods that would increase MSP or other

types of ways that they want to try and help the stock, if that's what occurs, that still has to be decided.

The idea was that when that Plan was done, that addendum was done by the Plan Development Team, there really was not very good direction coming from the Management Board, and that was reiterated at this past ASMFC meeting of the Management Board, that please give the Technical Committee or the Plan Development Team this time around some very clear direction as to what would be needed if and when that decision is made at the October annual meeting. So I hope that helps out.

Richard Robins:

Any other comments on the ASMFC report? Okay. Thank you all. The next reports, for the liaison reports, Preston Pate is not with us, but the South Atlantic Council Meeting Summary is behind Tab 10. Dewey, I don't know if you have any comments on the last South Atlantic meeting or snapper-grouper, but we had the presentation yesterday, the public hearing that was presented by South Atlantic Council staff. So that was on dolphin-wahoo and their dealer amendment, among others.

I attended the New England Council meeting. That report is behind Tab 10. They did initiate an amendment to add to their Sea Herring Plan a river herring and chad catch cap. That will largely mirror what we've already done here at our Council with our Mackerel Plan. They're developing a range of options for that, and that'll begin to move forward.

They're also clarifying the goals and objectives in Amendment 18 to the Groundfish FMP, and Amendment 18 would take up the question of excessive shares and fleet diversity, among others. And they did agree to keep the excessive share issue in there, after some debate. There has been an agreement to pursue trading mechanisms on the trans-boundary stocks between the US and Canada, so they've – the New England Council has agreed to request trading to take place.

The SCC reported out on monkfish, but they didn't provide specific management advice, so there will be another iteration before they provide advice relative to the ABCs for the monkfish fishery. Those ABCs and specifications will be done through an upcoming framework, and I believe our Committee members are following that, and they'll obviously be participating in the Committee meeting process.

On the Habitat Omnibus Amendment, that Amendment's been ongoing now for over eight years, and it's beginning to get close to the finish line. There were a number of items added and options added to the Habitat Omnibus Amendment. One of those was added at the request of the Fishery Survival Fund that would allow for enhanced access to the Northern Edge, which is a habitat closed area that's of significant interest to the scallop fishery. If that is opened, it would help to mitigate some of the recent downturn in those specifications.

And that's all I have on the New England Council. George or John, I don't know if you have any follow-up comments on the last New England Council meeting, but – okay. Jeff?

Jeff Kaelin:

Thank you, Mr. Chairman. My – I read very carefully the Agency's decision on river herring, to not list it, and – the other day. It took most of the day to get through it, because I was falling asleep through half of it, but I read it all. In the end, the last couple of pages, there was a matrix of risk. None of this is quantitative. It's sort of qualitative. And I don't understand how in that matrix incidental catch of river herring was rated as a more significant risk to river herring stocks coast-wide than the directed fishery for river herring, because my understanding is that the directed fishery for river herring kills more river herring than the incidental fishery does.

And I note that on August 27th, the Council's – New England Council's Herring PDT is going to be meeting to flesh out Framework 3 and identify a cap, and I think – I may end up on that Committee. We don't know what's happening yet as far as committees go. I would assume that I'm going to go up there for the Committee meetings.

I don't know – first of all, we've heard from the PDTs for some time that they don't know how to set a biologically appropriate cap. So I just am seeking some guidance on how that risk assessment was put together and what the quantitative values around it might be, because I don't understand the qualitative ratings that were provided in the decision on river – not to list river herring. So that's my thing – that's what I've been thinking about the last couple of days. I just don't understand it. So I think it needs to be teased apart. And that'll come back here in the specs for mackerel next year, I think, this whole discussion.

There's also a discussion in the final rule that there's a five-year plan to look at data and continue to assess what management is

necessary. So should we put off river herring catch caps until that process takes place over the next five years, or not? And again, I think as one Council member, I'm going to need a lot of help around the quantitative nature of that risk assessment that was provided in the final rule. Thank you.

Richard Robins: Thank you. John or George, do you have any comment on the final rule?

John Bullard: I don't have a comment other than that not only the – I don't have a comment on why the directed catch was listed as less of a risk than the bycatch. I know that also efforts to rebuild river herring habitat was a major issue, and that was taken into consideration. And so there's been a lot of progress in that area, as you know, Jeff.

Jeff Kaelin: That's right. And the most – may I, Mr. Chairman?

Richard Robins: Yes, Jeff, go ahead.

Jeff Kaelin: Thank you. Obviously, dams was way up high. It was like a 4, and so forth. So I just – I'm just looking forward to when we wrestle with this as a Committee, if I do end up on the Herring Committee, September 19th. Some evaluation of that risk assessment I think is going to be helpful for me, anyway. So I look forward to that. Thank you.

Richard Robins: Thank you, Jeff. Any other questions on the New England Council? Yes, Laurie?

Laurie Nolan: Thank you. Just to add to framework, the H permit issue is attached to that framework also, so that's a good thing.

Richard Robins: For the Monkfish Framework?

Laurie Nolan: Correct.

Richard Robins: Thank you. Thanks for the clarification. Okay. The Executive Director Report is next. Chris Moore?

Chris Moore: Thanks, Mr. Chairman. The next meeting is scheduled for Philadelphia, beginning October 8th through 10th. I expect a very busy meeting, so plan accordingly. Probably a full day on Tuesday, full day on Wednesday, and a good half-day on Thursday. And the reason that it's a busy meeting is that it's our joint meeting with the Atlantic State Marine Fisheries Commission's Summer Flounder, Scup, Black Sea Bass, and

Bluefish Board, to set specifications for those species. We'll also be discussing Amendment 15 to Squid, Mackerel, Butterfish, and hearing presentations on ocean acidification, talking about sharks, and a bunch of other stuff. So again, a very, very busy meeting.

If you look at the material behind Tab 11, there's a number of charts and tables there detailing the status of our specification documents and amendments. Amendment 3 to spiny dogfish, which we put on hold for a while so that Jim could complete the Omnibus Rec Amendment has been submitted, so we did submit that.

In terms of that Omnibus Rec Amendment, things are moving well. We completed the deeming of the regulations for that particular amendment. We expect that the proposed rule will be coming out soon, and of course, the final rule after that, well in advance of our January 1 target date. So that's good.

Also behind that tab is a detailed list of all the things that are happening or have happened over the last couple of months. One of the things of note is that we did have the review of our scup allocation project. That was completed on August 1st. That review went well. The report's going to be available soon, and as soon as we see that report, we'll decide how best to handle that particular project.

Also of note, if you look at the schedule for September, it's very busy, a number of meetings in support of the Summer Flounder, Scup, Black Sea Bass, and Bluefish Specification Project that we have scheduled for October.

One of the other things that we put behind the tab is the deep sea coral MOU. So you heard reference to that a couple of times this week. That's the MOU between the New England and South Atlantic Councils. We just wanted to make sure that you had a final version of that particular MOU.

Also is the press release on deep sea corals. Our deep sea coral actions have been picked up by the press, and they continue to track how we're doing with that particular amendment.

The other thing of note behind Tab 11 is our operating agreement. This is the – we were the first – I think John or George mentioned this the other day. We're the first Council in the nation to actually complete that particular task. The operating agreement is

relatively straightforward. It's signed. It was signed on July 22nd. And again, first Council in the nation to get that done.

George has mentioned this. There's a notice behind Tab 11 from NERO establishing August 2nd as the control date in the Illex squid fishery. Then there's a series of letters behind the tab that we wanted the Council to look at, because there's implications for our actions. One is a letter to Rip Cunningham from John indicating the partial approval of Amendment 5 to the Herring FMP, and John and George have already discussed this.

There's also a letter from Rip Cunningham to John indicating his dissatisfaction with the disapproved portions of that particular amendment. And again, these letters have implications for what might happen with Amendment 14, Squid, Mackerel, Butterfish.

There's also two letters in the back of Tab 11 related to the development of industry-funded monitoring and cost-sharing programs. If you've got a chance, you should take a look at those.

Finally, there's a letter from Tom Nies to me that discusses New England actions that may result in some work for the Mid-Atlantic Council. Specifically, it's a heads up letter from Tom indicating that they've taken action to establish sub-ACLs in the New England Multi-Species Plan that relate to windowpane flounder in Georges Bank, yellowtail flounder. So take a look at those – or that particular letter as well, because it will result in some discussion, probably beginning at the next Council meeting, related to AMs related to those sub-ACLs.

One of the other things that happened recently is that Rick and I attended, and Rick provided testimony at a Senate hearing on Magnuson. Hopefully, you had a chance to look at that. The video is available, if you're interested. One of the things that came up – a number of things came up at the meeting, and Rick has talked about a few of them. One of the things that we haven't talked about is spiny dogfish.

Of all the species that were discussed at that particular hearing, spiny dogfish was the one that we heard about the most, and it relates to the underutilization and/or the marketing of spiny dogfish. Prior to and after the hearing I heard from several folks about potential Council involvement in the marketing of spiny dogfish, and this relates to the fact that, if you remember, we have MSC certification for spiny dogfish. As a result of that MSC

certification, the expectation was that the market would improve dramatically for spiny dogfish, and it hasn't.

So there's some interest expressed by several folks, basically asking whether or not the Council wants to get involved in spiny dogfish marketing or helping that particular effort. There's been discussions about changing the name of spiny dogfish to help with that particular marketing approach. And it's something that we'll probably talk about as we get into the spiny dogfish specifications for the next year.

One of the other things I wanted to mention to the Council is something that John mentioned earlier, and I think we've talked about this. We've started working with Fisheries Forum to set up a workshop in March of 2014 to address the issue of climate change and governance. So you've heard about that a couple of times today as it relates to summer flounder and some of the other species. So I think it's a timely workshop. We'll be looking at that – setting that up, again, for March of 2014.

Last but not least, we have a flower fund that I think most of the Council members are aware of. The flower fund was established basically to allow for the Council to make contributions in memory of particular individuals that have passed away or in support of someone that's in the hospital. We have a zero balance in the flower fund at this point. So if you're interested in contributing to the flower fund, see Jan, and we'll be glad to take your contribution. And with that, Mr. Chairman, I'd be glad to answer any questions.

Richard Robins: Thank you, Chris, and with respect to the name change on dogfish, you know, Jim Fletcher isn't here today, but he had asked that I mention it under new business. So what is the repository for the names of these fish? Is it with AFS? Is it with the Agency? Where does that reside? Dr. Boreman?

John Boreman: AFS has a Names of Fishes Committee, and they are constantly looking at updating common names and scientific names. So they put out periodic publications on that. So I would look to AFS first. In terms of marketing, I mean, you can just change the common name or use an alternate common name. I don't know if it needs to be official at this point.

Richard Robins: Well, I guess if it's just a trade name, that could be done privately. But I guess it'd be interesting to see if there are specific guidelines relative to common name changes or things of that nature. So

maybe if we can follow up with you and see if there's any guidance available, we can report back at the next meeting. John?

John Boreman: Yeah, they do have a publication called *List of Common and Scientific Names of Fishes*, I believe it's called, or something like that. And in there, it has a protocol for what it takes to get a name change.

Richard Robins: Thank you, John. Other questions? Or questions of Chris? Chris?

Chris Moore: Just as a follow-up, so when this came up, I asked Jim Armstrong to look into it, and as John has indicated, the common and scientific name is handled by AFS. In terms of marketing names, though, the FDA gets involved for some reason. And they I guess actively accept or reject names. So one possibility was rock salmon, and so someone had checked with the FDA and they said, "Well, no, you can't use salmon." So they started thinking about other ones. But the FDA does manage a list of marketing names.

Richard Robins: Tony?

Tony DiLernia: Mr. Chairman, the New York Seafood Council used to promote dogfish as cape shark. As a matter of fact, it was served as one of the primary ingredients in the 1992 gubernatorial inauguration. Yeah, cape shark, 1992. New York Seafood Council.

Richard Robins: Sorry I missed it.

Tony DiLernia: Yeah.

Richard Robins: Okay. Well, we'll follow up on that at the next meeting. Any other questions for Chris? All right. Seeing none, the next report is the Science Report, Rich Seagraves.

Rich Seagraves: Thank you, Mr. Chairman, and Jan's going to bring up – I have two items behind Tab 12 that I'll be talking about. The first is the final rule was recently published for National Standard – the guidelines for National Standard 2, of course, which relates to scientific information used in the federal fishery management process. Again, the final rule was published July 19th of this – about a month ago. This is not working, Jan. Okay.

So the rule was developed to – reacting to the last reauthorization of Magnuson in 2007, designed to improve the scientific integrity of information used in the management process of our living marine resources. Next.

It provides guidance on one, what constitutes the best scientific information available. It develops and discusses scientific peer review standards, clarifies the role of the SSCs in the review of that scientific information, and also clarifies the role of safe reports, the content – relative to their content and availability. Next slide.

In terms of best scientific information available, the guidelines provide the guidance on what constitutes BSIA for improving fishery conservation and management. It follows the 2004 National Research Council recommendations, which recommended that the following sort of factors be incorporated: relevance, inclusiveness, objectivity, transparency, timeliness, verification, validation, and peer review.

And also, there's a lot of discussion in the rule in the discussion part about the fact that they don't want to be too prescriptive about what constitutes best scientific information, because science is such a dynamic, evolving process. Next slide.

In terms of peer review standards, the reviewer selection criteria were evaluated. There were some modest changes. Basically, reviewers must abide by conflict of interest rules, and obviously not have contributed to the development of the work that's under review. And the intent of the Magnuson Act was to provide the Secretary and the Councils with some discretion to establish peer review processes. That was reaffirmed in this final rule, and it was deemed that the MSRA peer review standards are now consistent with the Information Quality Act and the OMB Final Information Quality Bulletin for Peer Review. Next slide.

Clarification on the role of the SSCs. It reaffirmed that the function of the SSCs is to evaluate scientific information and provide recommendations to their Councils. SSCs can assist in peer reviews of scientific information. That was reaffirmed. And participation of SSC members in any peer review process is – should not impair their ability as an SSC member to fulfill their advisory responsibilities.

However, of course, if SSC members do participate in any peer review process, they must be subject to the peer review selection criteria as described. The real gist of this, there was another part – this slide show was sent to me by Bill Michaels from headquarters, and what didn't get in here was one of the big questions was if you – you have an established peer review process, say SAW-SARC,

that doesn't preclude the development of other peer review processes if the Council sees fit. And that raised the issue of, well, if you had two competing sets of advice, if you somehow had two different peer review processes in play and they offered up different advice, then would – there was some interpretation of that by some people that you would use the lower of the two numbers, say for a OFL-ABC determination.

This rule definitely clarifies that the role – it's the role of the SSC to make that ABC and OFL determination. The buck stops with the SSC, and if there's conflicting information from some other peer review process, that the SSC trumps that process. Next slide.

In terms of safe reports, the guidelines basically offer up what should be in them, clarifies the purpose and content, and they also must be made publicly available via the website of the Council or the National Marine Fisheries Service. Next.

In terms of benefits, there were only modest adjustments, interestingly. This announced notice of proposed rule-making for this action was in 2008, and so by 2013, they finally published a final rule, and in fact, there were only modest changes to those current operating practices. It also aligns the MSRA Magnuson Science with the President Obama and NOAA Scientific Integrity Priorities – or Policies, and formalizes the guidelines, emphasizing the importance of transparency in the review process, and it should strengthen the reliability and credibility of scientific information used by NOAA and ultimately provided to the Councils, and hopefully will improve public trust and benefit stakeholders, which we know is a major issue that we faced when we went out to – in the visioning process. And I think that's the last slide. Yep.

So I have one other slide, a little short presentation. Do you want to take questions on NS 2 right now? The other thing relates to the Atlantic Large Whale Plan.

Richard Robins: Well, Rich, are there any outstanding questions in your mind relevant to these –

Rich Seagraves: No. I think there were a few – the one – the real big one was what if you have sort of competing advice from different groups, and how does Council make a decision, and the decision's simple. The SCC has the final say. So that's their primary role.

Richard Robins: Dr. Boreman?

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- John Boreman:* Yeah. Just a question. Is the rule now clearer on who makes the decision on what constitutes best available science? Does that reside with the SSC, or does it still reside in the Agency?
- Rich Seagraves:* Very good question.
- John Boreman:* This is an ongoing discussion we've had for years.
- Rich Seagraves:* Yep. I would say for practical purposes, my interpretation, I think it's clear that it's the SSC. But the Agency may differ on that.
- Richard Robins:* Well, Rich, I think when we're convened here making a decision on a quota, it is the SSC, and in the final approval process, it's probably residing with the Agency, but –
- Rich Seagraves:* Right. That's why I said from a practical standpoint for the Council, we get our advice from the SSC. But certainly it could be overruled at some level. And in fact, interestingly, when the – when the Agency is contemplating an action that sort of trumps whatever the Council's doing for whatever reason, we've been told that they don't have to follow the advice of our SSC.
- Richard Robins:* George?
- George Darcy:* Yeah. I was on the working group, as was Jim Weinberg, and I think from a legal standpoint, it is the Agency, because ultimately, the Agency has to make determinations under – for any action that's consistent with all the national standards. And Standard 2, of course, is best available information. So ultimately, the decision is to whether something's approvable or not, as compared to National Standard 2, is with the Secretary.
- Richard Robins:* But is the practical reality, given our process, that we're still considering best available science at this level as it comes from the SSC?
- George Darcy:* Well, from a practical standpoint, maybe, but from the practical standpoint – if the SSC were to provide you advice that the Center ultimately could not certify as best available, then there would be an issue.
- Richard Robins:* Thank you. Other questions on the NS 2 guidelines? Jeff Kaelin?
- Jeff Kaelin:* Yeah. Thank you, Mr. Chairman. We wrote comments on this proposed rule back in March of 2010, the Sustainable Fisheries Coalition, and there's one thing in there that I thought was very

positive, and that was I believe that best available scientific information includes now clearly local and traditional knowledge from those making their living on the sea. So the so-called anecdotal information from the fishing industry I think is being recognized as part of the best available scientific information with this final rule, which I thought was pretty positive.

Unfortunately, though, it didn't address risk and how risk is calculated by the SSC. That issue was sort of punted away, unfortunately. In other words, the buffers that are – they're a little smaller now than they were in the past. They've been – some are big, some are little. Some are bigger in some Councils than they are in others, and there was no guidance at all about how to handle risk evaluation, from my reading of the document. But the traditional information thing was pretty positive, I thought, and we appreciate the Agency recognizing the value of that information. Thanks.

Richard Robins: Well, Jeff, there may be – there may be some interest in that question right now in the Congress. That – in the written questions we got on the follow-up to the testimony in the Senate, there was some interest in our harvest control rule. So – anyway. Other questions right now? Okay. Rich, you want to go on to the next presentation?

Rich Seagraves: Yeah. Thank you, Mr. Chairman. And so the next – I'm going to give a brief overview of the proposed changes to the Atlantic Large Whale Take Reduction Plan. Next slide.

So the proposed revisions are necessary because serious injury and mortality of large whales, which includes the highly endangered Wright whale, remains too high. Proposed changes would strengthen the current measures designed to protect large whales under the Marine Mammal Protection Act, and it's – the main problem is that large whales continue to be entangled in vertical lines used to mark both pot trap and gill net gear. Next slide.

The DEIS contains six alternatives. Again, the primary purpose overall is to reduce the number of vertical lines in the ocean, and also to improve gear marking to allow for better analyses of which of the fisheries are involved in any particular entanglement. One of the big problems is whales – these large whales are highly migratory. They move around a lot. They drag gear around if they are entangled. And they may be very far removed when they're observed from where they actually entangled. So the primary

reason for the really rigorous gear marking is to try to figure out what fisheries are responsible for various entanglements.

And I will say at this point, I sit on the Large Whale Take Reduction Team, and Greg DiDomenico is on there as well, and those of you who are familiar with the process, basically, under MMPA, take reduction teams convened to try to reduce where there's a problem identified. Obviously, these whales are protected both under ESA and the MMPA. The take reduction process occurs under MMPA, and basically, they lock us in a room. You've got environmentalists basically at the table, the fishermen are well-represented, as well as management folks.

And in this particular case, there's a pretty big battle ongoing, and the environmental community has basically – have proposed removal of all vertical lines from the ocean as a potential solution to the problem. So they're coming at it from a pretty hard line, and certainly there have been some really animated, heated debates at these meetings. And so this remains to be a big problem, especially the fact that the Wright whale's estimated – estimate of the population is currently maybe 450 animals. So I want to just highlight that for the Council's information, that this vertical line issue is a major issue. Next slide.

So the measures are broken down into Northeast, Mid-Atlantic, and Southeast. As you'll see, the proposed changes for the Mid-Atlantic are fairly modest, and that's why we didn't convene our Protected Resources Committee, because we don't think there's much to comment about.

In the Northeast, it's proposed that there be an increase in number of pot traps per trawl, and this would hopefully – if you had the same amount of traps out there and you put more traps on a string, you reduce the number of – the idea is you reduce the number of vertical lines. There are also proposed seasonal closures for pot trap fisheries in areas surrounding Cape Cod Bay, Jordan Basin, and Jeffreys Ledge. And also, the proposal will increase the size and frequency of the gear-marking scheme for pots and traps. I'm losing my – I'll try to use this thing. Thank you. Ah, very good.

In the Mid-Atlantic, fairly modest changes. One, the goal is to continue monitoring and increase outreach to improve compliance with the Atlantic Large Whale Take Reduction Plan. One of the things that came about in the discussions at these meetings was that there's a real need to educate fishermen, especially in the mid-

Atlantic, about what the current requirements of the Plan are, and they're principally gear marking in our area.

The large whales use our region of the ocean principally as a transiting area, so we haven't had the sorts of entanglement problems, certainly with Wright whales, that they have had in New England, where they spend the summer up there feeding, and then they transit to the area off Florida for calving. And basically, the humpbacks and other large whales may end up in the Caribbean in the winter. So they come through our waters principally migrating, but they're still subject to some threat from vertical lines, so we're part of the Plan.

The second thing is to request that the state partners provide annual Gear Characterization Reports, and this is to get a handle on what's going on in the fisheries in terms of fixed gear with relative total fishing effort, the character of that gear, how much vertical line's in the water, etcetera. And also, the same measure, to increase the size and frequency of the gear marking, to try to figure out and analyze where any interactions are occurring. Next slide.

Southeast would set a maximum breaking strength of weak links at 600 pounds, and buoy lines of 2,200 pounds. They establish – it proposes to establish a new pot trap management area based on the current gill net conservation areas. They have a provision for one buoy line per trap with no multiple trap trawls, and gear in the Southeast Management Area must be returned to shore at the termination of the fishing trip. And this is in federal waters only. Next slide.

Again, the gear must be returned at the termination of the trip. There would be a proposed requirement for sinking buoy lines, except where the line attaches to the buoy. And the line itself must be free of any objects, which would include like floats or whatever along the line itself. And it would also propose to increase the size and frequency of the current gear marking requirements in the pot trap/gill net fisheries. Next slide.

The public comment period of the DIS George already mentioned, September 13th. For the proposed rule, it's September 16. Comments can be received verbally at public hearings, which they're still ongoing. They can be sent by fax at that number, or also by mail. Next slide.

Mary Colligan is the person that would get the mail comments, or also by email, and the email address is there as well as in the public hearing document. Next slide.

So there was a – oh, boy, you can really read that one. There were 16 scheduled public hearings, and those are the remaining ones. There's one in Chatham and Portsmouth I think today and tomorrow. And then most of the ones George already talked about. There are several in the mid-Atlantic, and then it extends as far south as Charleston, South Carolina. Next slide? Oh, I don't know how this got in here. I took my granddaughter to the aquarium. She said, "Pop Pop."

[Laughter]

Rich Seagraves: Anyway –

[Background voices]

Rich Seagraves: Yeah. You might have thought that yourself. So that concludes my report, Mr. Chairman.

Richard Robins: Thanks, Papa. All right. That was good. Thank you, Rich. Questions of Rich for the report? Okay. Well, I think it would be helpful to encourage fishermen in our respective areas to attend some of those public hearings, because it sounds like there's still a need for more awareness about the existing regulations, as well as some of the potential changes that could be on the horizon. So thank you, Rich.

The next item is Committee reports, and I believe Ecosystem already reported out to the full Council as we took action on corals, so that's done. And Steve Heins, do you have a report from the RSA Committee?

Steve Heins: I do. Thank you, Mr. Chairman. And thanks, Rich, for putting some notes together for me. Research Set-Aside Committee met here Tuesday, this past Tuesday, to discuss our research priorities for 2015 and Council policy with respect to future RFP development for the program. Because there's a delay in the 2014 spec setting process for summer flounder, scup, black sea bass, and bluefish until October, the Committee agreed to wait until the SSC considered the research needs for those species at its meeting in September before finalizing the research priorities, delay that until the October meeting, and hope there's room on the agenda for that.

We had significant discussion regarding the Council's policy with respect to figure RFP development. The Committee was very concerned about the fact that we've got a difficult budget climate, and available funds generated by the RSA program are really only adequate to fund the NEAMAP, so the New England/Mid-Atlantic Inshore Trawl Survey. And that leaves really little available funding for other projects.

That's been a continuing discussion point, and people are very frustrated about that. The Council's identified that Inshore Trawl Survey as the number one priority repeatedly, so the Committee continued to maintain that recommendation, and the Committee recommended that future RSA RFPs clearly notify the public that NEAMAP's our number one priority, so don't get people's hopes up, apparently, until such time as we can find a permanent source of funding for NEAMAP.

So the Committee did pass a motion, and I'd like to put that before the Council, if you don't mind, Mr. Chairman.

Richard Robins: Thank you, Steve.

Steve Heins: And I don't know. Is it my prerogative to wordsmith the motion on the fly here, or –

Richard Robins: Why don't you go ahead and make it? It doesn't require a second. And then we'll discuss it. And if you want to modify it, we'll modify it.

Steve Heins: All right. The motion – the motion that was made yesterday is up on the board, so I'll just go ahead and make that motion. It's move that in 2015, the RFP for RSA will indicate intent to maintain NEAMAP as a top priority project, and other projects may be funded depending on available resources.

Richard Robins: Thank you. It doesn't require a second by the Committee. Did you want to propose a modification to it?

Steve Heins: I think I'll just leave it like it is. I don't think it needs modification –

Richard Robins: Okay. Comments on the motion? Chris Zeman?

Chris Zeman: Yeah. I actually submitted a minority opinion on this motion that I submitted to Jan to distributed to the Council. I don't know if we want to just take a break now in terms of the Council reconvening,

because this might take a while, because I submitted comments and have sort of – I put together about a three, four minute presentation regarding my position.

Richard Robins: Well, you want to go ahead and offer your comments to the Council?

Chris Zeman: Yes, unless you want to take a break right now, just for the Council?

Richard Robins: Chris, I'd just as soon – I mean, this is one of our last items, so I'd just as soon go ahead and do it, if you want to offer your comments.

Chris Zeman: Okay. Yeah. I think everyone was here on Tuesday when we were going over this RSA project, and it was clearly a majority opinion here that we would – the Council would express its intent to go forward funding solely NEAMAP, and also notifying the public you no longer sort of need to apply to the RSA, and we would either stop RFPs or basically notify the public – which is fair. They should be honestly told what the status is.

My minority opinion during that Committee meeting was that we should have some sort of dedicated amount of RSA funds that goes back to species-specific research projects. I was – I thought – I consider my position is a reasonable one, where I was even looking for even a 25 percent dedicated amount to single – you know, species-specific research. That opinion did not really – did not win the day, unfortunately.

So it really raised the question for me, because I was not around here when the original RSA position – RSA program was developed. So I really went back to Framework 1 [*audio glitch, few seconds*] of the summer flounder plan that established the RSA, and I just pulled up the executive summary of Framework 1 on the board, and I was surprised to find – well, I pleasantly expected that there were a lot of smart people around this Council when the RSA Framework 1 Amendment was passed. And the concerns that I expressed were actually addressed, and measures were implemented to make sure that this RSA program is intended to fund specifically species specific research so that fishermen who contribute to an RSA, be it summer flounder, those funds will go to summer flounder-specific research. It's a fundamental concept.

However, there was a concern back then that, well, hey, what if summer flounder fishermen actually contribute their RSA and none

of that goes to summer flounder research? That would be bad, because then you don't really see the benefit of that.

In light of that, and specifically – if you could zoom in to the last point on that framework requirement, so the Council actually wisely put in a provision here saying that it is intended that the set-aside for given species, and I stress species, not fishery, be utilized primarily for research involving that species. However, the harvest of up to 25 percent of the set-aside quota from species not directly involved in a particular research project will be considered in order to promote research in those cases where it would otherwise be infeasible.

And that was an alternative that was selected instead of another alternative that was rejected that would basically say all RSA funds should go only to that species that is funding that RSA. So it was basically an alternative that the Council committed to saying 100 percent of a species' RSA should only go to that species' research.

That all or nothing option was rejected, and the discussion on that is also very interesting for today. It said, "Note that the preferred alternative attempts to strike a balance between the competing goals of enabling research on small populations and limiting the use of unrelated species set-aside." It specifies that no more than 25% of a species set-aside may be utilized by projects that do not directly involve that species.

So in reviewing that, I think that the intent of the RSA program is pretty clear in Framework 1, and it was – it's important enough for me to actually have submitted a minority opinion about that Committee, because I really think that the Council needs to go back to this framework and look at the original intent of the RSA. It was never intended to just fund one large multi-year survey project that at best can be characterized as indirectly benefiting or indirectly related to summer flounder.

This matters. You know, this matters. This is not some esoteric discussion. And Jan, if you could just put photo 1 up, this is why it – this is why this point matters. Behind my eight-year-old daughter is Carl Benson, one of the – another amazing fishermen that I had the pleasure of getting to know during my term on this Council. Carl Benson had a proposal or a concept. He's a summer flounder rod and reel fisherman in the State of New Jersey. He came up with a fundamental concept that, you know, if we – I wonder if – what happens if we catch summer flounder with a larger hook? Would we reduce discard mortality?

If I go to tackle shops today, the largest flounder rig – jig probably has this hook right here, this 2.0. You can even find a 1.0. Now Carl Benson is a commercial fisherman. He fishes – he catches predominantly fish that are just over 15 inches. That's the quota. He uses generally a 5.0 and may go up to a 7.0 for a 15 inch summer flounder. And I've been – I've seen it myself. There's minimal to zero gut hook mortality on his trip.

He wants to – he put together a proposal. He submitted it three years in a row. It's been rejected every time. You know, I've raised these comments and concerns about the RSA three years now, and I've just done it verbally. I was hoping to get some sort of understanding by this Council that we really need to get to the original intent of the RSA. It hasn't worked, unfortunately, leading me to submit these minority comments.

But Carl is not going to be here forever, and I'm now being told by the Council that I'm basically telling the public, yeah, we have an RSA program, but don't – no need to apply. It's not really here for you. And I'm being disenfranchised. I've already been here on this Council four years. My term – my years are running out. I have not been able to use or see any RSA funds go to initiatives that I've been collaborating with to sort of – to move the ball forward on the level of scientific data that we have for these fisheries.

Can you just go to photo 2? The public's going to give up. I know they are. They're going to stop submitting these proposals, and that's really the last thing I want the public to do, because in my time on the Council, I've been telling the public to weigh in. We are – we will respond to you. We are responsive. We will work with you. We did it on black sea bass. I mean, there have been great results on this Council in this past four years in terms of being responsive. I mean, we are an example of what we can be done under the existing Magnuson.

The last thing I want to tell the Council is to say, first of all, there is an RSA program, and your money is going to it, and B, don't even think of applying.

Now this is – and my comments in the past have really been sort of I think mischaracterized as somehow opposing NEAMAP. There's no opposition here to NEAMAP. The benefits of NEAMAP are self-evident, just like any other survey. And this is no surprise. People that think that the RSA was – you know, was never intended to fund NEAMAP, just go to Chris Bosniak's

Congressional testimony back in May. He says it right there. I just forwarded that as an email to Chris Moore. Just look at page 4. He highlights the point that this is actually this large project that's preventing the use of the RSA for what it was originally intended for, small projects that have equal value.

So in short, I really want to see – I don't really – I don't think it's fair for – we have this all or nothing approach, and I really think we have to sort of come back to the RSA intent and the requirements that we have a good portion of that RSA dedicated to species-specific projects. That's not happening today. I really want to see that – we go back to that place, because that really is the amazing part of the RSA. It's really creating these new relationships. We should not just be creating one relationship with 2.5 million pounds of RSA fish. Thank you.

Richard Robins: Thank you, Chris. I want to follow up. I just want to make sure I understand how you're interpreting the use of the funds for NEAMAP. Are you suggesting that the NEAMAP survey is not directly related to those species that it's sampling? Or because it's sampling more than one species at a time? Can you clarify that?

Chris Zeman: Yeah. The NEAMAP project is not a research project directly designed for summer flounder. It's not a summer flounder survey. It's not like the monkfish survey that was funded by monkfish RSA, or the scallop survey that was funded by the scallop RSA. This is a survey that only catches about 4,000 pounds of summer flounder. I mean, out of the top 30 species, summer flounder comes in I think like around 18. It's a spring/fall survey, which is probably not the best time to actually be surveying for summer flounder in the inshore areas, because they're actually maybe weeks from approaching the inshore in April.

So again, NEAMAP survey is a cross-cutting survey, regional survey, that benefits a lot of species, and there are many partners that need to sort of come together and fund this project. That's really the best way this NEAMAP has to go. NEAMAP has – it does benefit summer flounder. Of course it does. But it's a very small percentage of what it really does.

The benefits are great. There's no doubt about it. But this should be a joint project funded with matching grants from the Commission, the New England Council, states that benefit from this, and the Mid-Atlantic Council. So some portion of the RSA absolutely should go to NEAMAP, absolutely. Not all of it. Not 100 percent. And I really want to see that change immediately,

and to the extent that that's some incentive to generate funding, I – this should be – I'm find to talk to anyone, anyone that is considering funding NEAMAP, I will say – I will express this intent as many times as I have to to get this done.

But the last thing I'm going to do is just basically wait here and wait patiently year after year to watch projects that I'm collaborating with get rejected and have no chance, despite being – having significant merit and value to the fishery.

Richard Robins: Thanks, Chris. Tony, do you have a comment?

Tony DiLernia: I understand much of what Councilman Zeman is saying, and I support a lot of it. I'm just wondering for – what type of – question for the Councilman, what type of action do you expect of us right now at this point, versus perhaps a future consideration?

Richard Robins: Chris?

Chris Zeman: Again, I think it was very helpful for Dr. Bosnack to actually submit that testimony. I think he – that – the message he was actually presenting was that the RSA is not really the appropriate vessel for funding this program, which I absolutely agree with. And Congress should really consider that, and absolutely fund that through a dedicated fund. That was clearly – that would be my message to Congress, that that was – there was – I think there was an intent for Dr. Bosniak to raise that point in his testimony.

For me specifically, there are proposals that are pending for approval, for consideration right now by Eleanor, by Carl, directly related to summer flounder research. I want to see some portion of that summer flounder fund, RSA fund, go to those projects that will directly benefit summer flounder.

The last thing I want to see is that 90 percent of this money goes to NEAMAP, and then even the remaining 10 percent of those funds don't go to species-specific funding, which is – I think which is happening – which is happening this day. So even after NEAMAP funding, the remaining funds from summer flounder do not go to summer flounder research. They're going to go to some other fish. But that's why I stressed that the intent was that RSA funds from a species, not a fishery, that species funds species-specific research. So I think we have to do a better job at documenting how those funds are applied according to the intent of that framework.

Richard Robins: Well, Chris, I think the – you know, the Council and the Commission both have said they would prefer to see dedicated funding for RSA – I mean, for – sorry, for NEAMAP outside of the RSA program. And we've committed to pursuing that in our Strategic Plan. If – but I would suggest that if we simply cut it off, that doesn't guarantee in any way funding of NEAMAP. I think that's the – that's the tradeoff. And if you cut it down to 50 percent of NEAMAP, I don't know that the rest of it could be funded in the short term. So I think that's the – that's – that'll ultimately be the question. Does the Council want to jeopardize the current year and next year funding of NEAMAP by making a decision like that? I wouldn't be comfortable running that risk, but that's a decision for the group to make. Laurie?

Laurie Nolan: Thank you, Mr. Chairman. As a Research Committee member, Research Set-Aside Committee member, I certainly agree with everything you just said. The process of reviewing these projects is huge, and while I can appreciate Mr. Zeman going out and supporting industry to come up with projects, that's a great thing, but it does not mean that when we go through the review process of the projects, that because you're a Council member, because you've reached out to industry, because industry came up with a project, it does not necessarily guarantee that that project would be chosen after going through the review process. Is it needed? Is the protocol correct? Blah blah blah.

I mean, there's a lot of review that goes into these projects, and while I can appreciate your efforts and industry efforts in putting forward a proposal for the last three years, many PIs put proposals forward, and they try to tweak them to make them more desirable. But it doesn't always happen.

So even if at this point we chose not to dedicate the percentage of RSA to NEAMAP, that would not guarantee or necessarily mean that your specific projects are going to get chosen this year, because maybe they're not a priority. Maybe there's another project in front of them that satisfies the list of priorities. So I'm with the Chairman on NEAMAP deserving at this point the majority of the RSA for what it produces and what it puts on the table, and to remember that in past years, the projects that have been chosen have not necessarily produced, and NEAMAP has proven to be a productive RSA investment that the Council chooses to make at this time.

Richard Robins: Chris?

Chris Zeman: I'm just – first, to respond to your comments and concerns, they are all valid concerns. Should NEAMAP lose funding immediately or shut down? Absolutely not. That's an absolutely valid concern.

But it's equally irrelevant to this discussion, because we have a framework that sets out that 75 percent of funding goes to that specific species research. That is the point I'm making here. And if you wanted to fundamentally alter that RSA program, then you need to do that in a transparent and public process through the framework process, because that is a real big change. You're turning an annual competitive grant process that's meant to fund small projects, species-specific projects, into a long term dedicated funding source for a multi-species, multi-regional, multi-Council project.

As an alternative – and that's really something that was previously funded by NOAA, and due to the change in vessels in 2009, we're now funding it. That's – on a side note, that just raises a question as to whether that sort of precedent is something that actually is something – a precedent the Council wants to make.

Richard Robins: Well, Chris, I think to the extent that NEAMAP samples the species it samples, there is a direct connection in the research that NEAMAP conducts and the species that are being used to fund it, so I think that point is one that at the very least is debatable. Other comments on this? Rob?

Rob O'Reilly: There's a small parallel to this, and I think the idea of the research aspect is something that Virginia and Maryland faced for years, so NOAA Chesapeake Bay office, through NOAA, the Crab – Blue Crab-Winter Dredge Survey was started as a pilot project back in '89, 1989, and the funding was never really intended to be long term, but it became very long term because of the same type of budget constraints that we have now.

And eventually, the cord was cut, and I don't know whether that was about 1998 or 1999. So it lasted a while. And the idea was that the research had been done. Well, with NEAMAP, the research is still going on in a way. You might call it monitoring to some aspects.

I'm the chair of NEAMAP for the ASMFC for a little while longer, and then Steve Heins is going to be the chair. But I think to be practical about this, what hasn't been done, and I can remember back to 2004, I think, as far as efforts by ASMFC to get Congressional support. What I hear today makes me think that the

problem has been it's been an all or nothing. The delegations are asked to provide money for NEAMAP, told what a great event awaits them if they can get funding for that, but there's never the list of projects that can't be funded.

So maybe it would help, and the Council talked about renewing that type – getting that type of support – to let the Congressional delegation know what projects are not funded. Now that doesn't paint NEAMAP in a bad light. It just says, "We need money somewhere." And I think that's something that is missing. It's a very small step, probably, but I think it's something that might help out, both at the ASMFC level and the Council level.

So we know there are projects out there that probably would have made the cut if there had been the money there, and those are the type of things that everyone needs to see, to get a better understanding that yes, NEAMAP is a – of central importance, but at the same time, here's some of the things that you're missing out on.

Richard Robins: Rob, that's a good point. Chris? And then we'll get to the motion.

Chris Zeman: Right. That's an excellent point, and also more good news is that there is actually a matching source for any Congressional dollars, and that would be RSA. That would be – that would be a great – that would be a great result, to really see we contribute, the federal – the government contributes, some states contribute that can, and the Commission contributes even some nominal amount. That would be a great result.

I do also have to respond to Laurie's comments about – you know, I constantly feel that I'm being misinterpreted, and I'm not sure if intentionally but not intentionally, but in absolutely no way would I ever want to have some preferential treatment regarding some RSA work that I have collaborated with, or I worked with someone and prompted them to sort of submit a proposal. That's absolutely not the point here.

Richard Robins: Thank you. Is there further discussion on the motion that the Committee brought? Steve, did you have any modifications, or are you comfortable with it as it is? Okay. Is the Council ready for the question? All those in favor, please indicate by raising your hand. Fourteen. Opposed, like sign. Two. Abstentions, like sign. One. Motion carries. Thank you. Is there anything else to come from the RSA Committee?

Steve Heins: Just a little bit. We also discussed recent enforcement actions, a federal enforcement action in New York and I see Scott Doyle sitting over here, so maybe he can fill us in a little bit afterwards. But it was just related to the RSA quota, the RSA program, so we discussed that and any additional measures that maybe could ensure more effective monitoring of RSA landings.

So the Council staff's going to continue to work with the Regional Office to track implementations of measures that was recommended by the Council last year, and to improve monitoring enforcement of RSA quota, and explore any possible additional measures that we could use to improve monitoring. And that concludes the report, Mr. Chairman.

Richard Robins: Steve, thank you, and we'll look forward to that. Are there any other questions or comments about the RSA Committee report? Okay. Seeing none, Scott, if you want to go ahead and report out.

Scott Doyle: Sure. Thank you, Mr. Chairman. I apologize for my late arrival today. I left Mr. Saunders on the hook, a five-inch hook, actually. The – I had some family issues and some traffic issues.

I'm joined here by Britta Henderson. She's our general counsel. I'll give the report, and then at the end of it, I can talk a little bit about the RSA issue.

And surprisingly, just sitting here, a lot of our enforcement actions actually speak to a lot of the issues the Council's involved in right now. The first would be striped bass, that we spoke about. This report is from April 1st through June 30th. We had two fishermen plead guilty in federal court to violations of fishing illegally for striped bass in violation of the Lacey Act. The first gentleman was Jeffrey Adams of Adams Fishing, Incorporated. He was sentenced to a felony conviction of guiding and outfitting for striped bass charters in the EEZ. He was sentenced to 180 days home confinement, and must abide by all permitting and VMS requirements under the Magnuson Act, which means that now we have on this charter boat, he has a VMS unit so we can track him, where he fishes and where he doesn't fish. That's kind of unique.

Another individual, David Scott, was convicted of a misdemeanor, which is a lesser charge. He received three years' probation, during which he's prohibited from participating in any commercial fishery, recreational fishery for financial gain. He's also required to pay a \$6,000.00 fine and \$1,900.00 in restitution, and both are being paid to NOAA.

Speaking of restitution, we had the largest restitution award ever awarded in the history of the Lacey Act, and for those of you on the Council who've been here a while, this goes back to the Benges case, which we started in 2002, I believe. This restitution is going back to the Republic of South Africa. It's for \$22 million. That will be paid and credited to the fishermen of South Africa.

We had numerous agents from the Northeast and Southeast working on this case for the past 12 years. During this time, we seized inventory and forfeited approximately 100 pounds of rock lobster and Patagonian toothfish, which is Chilean sea bass. They conducted a long term investigation. We surreptitiously – tough word – collected trash, performed hundreds of hours of surveillance, served over 40 subpoenas, analyzed 10,000 documents related to those subpoenas, testified in grand jury, issued 5 arrest warrants. These guys served federal time, up to 84 months in jail.

And that was done in conjunction with the New York DEC and the Republic of South Africa and Canada, as well as Great Britain. And what the bottom line was, this gentleman was fined roughly around \$49 million in fines. He hid his money in the Jersey Islands, and being the federal government, we tracked him down. It took us 12 years, but we found the money, and now the money's being sent back to South Africa.

Marine Mammal Protection Act, we had US – our agents have been working closely with the CPB officers. We've got a lot of imported whale jerky coming into the United States, coming into Boston and coming into several airports in DC. This has become an issue. This is a typical daily requirement. We'll get these calls on an almost daily basis, that people have this kind of stuff.

We talked about whales earlier. Thirteen foreign vessels were identified of having violated the Wright Whale Ship Reduction Rule Season Management Areas from Virginia to Cape Code. Case packages have been submitted to our general counsel charging 11 of the vessels with 68 counts of violating the Wright Whale Ship Reduction Strike Rule.

Agents participated in several outreach events. We had, as far as our compliance side, we had 108 documented incidents of outreach to the community. These do not include our VMS and daily outreaches with the community. We had 34 missing vessel trip reports and dealer report issues, where we either educated or

worked with the dealers in getting their dealer reports back up to speed. And that's all compliance stuff. That's where our agents or officers reach out and speak with the dealer, speak with the fishermen, and try to get them back on track. That's after our science side has probably reached out to them three or four, five times, and still can't get compliance.

The Northeast Observer Program, we had numerous issues with them. And you don't often see this stuff, but I'll just go over a few of these items. Refusals. We had four observer refusals. Three were closed under compliance assistance, which we talked to an individual and gave them a little guidance. Two are still open.

Harassment/intimidation. We had four harassment/intimidation complaints. Two were closed under compliance. Two are ongoing. Interference. We had five interference complaints. Three were closed under compliance. One is open as info only, and one is being investigated. We had nine safety complaints. One was unfounded, four were closed with assistance, one is closed for information only, and three are ongoing. And that concludes that stuff.

As we speak, Mr. Charles Wertz – this is our RSA case. Mr. Charles Wertz is in federal court, and I believe he's pleading guilty. Mr. Wertz is the owner of a the fishing vessel called The Norseman. This is the case you probably read about in the paper. He also, him and his late father, owned a company called C&C Ocean Fishing Corporation. They sold their illegal fish to the corporation. At that point, the corporation sold it to dealers around the area.

They had approximately 86,000 pounds of illegal fluke in the time period – three-year time period we covered. He was allowed to land 80,000, so he landed 52 percent more than he should have landed. So he had 80,000 legal. He landed an additional 86 illegal.

What's really interesting about this case is that we saw a 60 percent market increase after we served the subpoenas on – we served approximately 70 subpoenas during this investigation. We saw a 60 percent market increase, which means the price of fluke went from \$2.41 to \$3.68. So that's – I think that's a significant jump for the honest fisherman, to get a better price for their fish.

We're working hand in hand with our science folks in the Science Center, and we'll be looking at the impact, both economic, on jobs,

and on valuation, and we're looking for their help to – and they've been helpful so far. They're very helpful in trying to get the real picture and try to paint it for the public or paint it for the Committees and paint it for folks running the RSA, a picture of what potential damage was done to the fishery, and what potential damage was done to the public and the fishing community.

One item that is particularly interesting, and this may go back to our other conversation, is restitution. There'll be points – we have additional investigations ongoing. We have additional dealerships and additional vessels that will be charged at some point, or are in the process of pleading or making deals. But there is this item of restitution, which these guys will have to pay back to the government, and that affords us a wonderful opportunity to put that money back into research or back into some program connected with the fishing industry.

When we get a little further down the line on the restitution issue, I'll speak to both the Atlantic States and the Council here and see how we could have you folks talk to, along with our science folks, talk to that issue and speak about how that money could best be used. So I think it's a great opportunity for enforcement to put some money back into the industry and put us in a positive light that we haven't been in for a long time. And that concludes my report at this moment.

Richard Robins: Scott, thank you, and we will look forward to following up on how restitution funds might be used to support research needs in the region. Other questions for Scott? Comments? Yes, Warren?

Warren Elliott: That was the question I was going to ask about the earlier case. When you recover the sums of money, \$44 million, and it's returned, I mean, are we able to take out any of those funds, our costs of prosecution and investigation and –

Scott Doyle: Yeah, that's an excellent question, and we did. They – we took it right off the top. We – and it's similar with this case. We figure we spent about \$480,000.00 in the past 3 years investigating this case. We had 50 agents or 50 folks flown in from around the country to do the search warrants, along with our state partners. You know, hotel fees. We had agents working full time, you know, one or two agents almost working full time on this RSA issue. So all those monies will kind of hopefully be recovered and kind of offset our program.

But after this additional payment, hopefully recovering our money, hopefully, there'll be money left over, or I know there will be, in our next go-round of folks. And if you want to hire a law enforcement liaison, I'll be retiring in probably 18 months.

Richard Robins: Thanks, Scott. Other questions or comments? All right. Seeing none, our next item is the – under continuing and new business, we have SSC nominations, and Rich I believe has already circulated at least one of the CVs, and I believe we have two that have come around. Is that correct, Rich?

Rich Seagraves: Yes, Mr. Chairman, and I believe Lee would – was going to talk about Olaf. I sent out Olaf Jensen's resume. He's an associate – or assistant professor at Rutgers, and his name was put forth in January by the SSC, by Dr. Ed Houde. So Lee?

Lee Anderson: Well, I would – as I understand with Olaf, he's been vetted by the SSC, and the SSC came up with a very favorable recommendation. I've looked over his vita, and on the basis of that, I would like to nominate Olaf B. Jensen to be a member of the SSC.

Richard Robins: Is there a second? Second by Chris Zeman. Discussion on the motion to nominate Olaf Jensen to the SSC? Chris?

Chris Zeman: No, just again, yeah, I agree. I actually worked with him indirectly as one of my collaborations, trying to get another RSA project funded, and I thought he was very impressive. And I think he'd be a great asset to the SSC.

Richard Robins: Thank you, Chris. Is there any objection to the nomination? Seeing none, it's approved by consent. Thank you. Is there a second nomination?

Rich Seagraves: Yeah. I believe Mr. Bullard has the nomination.

Richard Robins: It's behind Tab 13, I believe.

John Bullard: It's under Tab 13. I want to nominate Tom Noji. He's the director of Northeast Fishery Science Center, their lab is in Sandy Hook. And so you will see the CV in Tab 13.

Richard Robins: Thank you. Is there a second to that nomination? Second by Steve Linhard. I think a lot of us have known Tom in his role as Center Director there at Sandy Hook. Is there any discussion on the nomination? Seeing none, is there any objection to the nomination? Without objection it's approved by consent. Thank

you for both of the nominations, and we look forward to adding them to the SSC and working with them going forward. Thank you.

Is there anything else to come before the Council under new business? Seeing none, we're adjourned. Thank you all very much. We'll see you in Philadelphia in October. Thanks.

[End of Audio]