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MID-ATLANTIC FISHERY MANAGEMENT COUNCIL  
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Dover, Delaware 19901-3910

COUNCIL MEETING

17-18 OCTOBER 2012

at

Ocean Place Resort  
One Ocean Blvd.  
Long Branch, NJ 07740

(Morning Session)

WEDNESDAY OCTOBER 17, 2012

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1 [9:00 a.m.]

2  
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS: Good  
5 morning and welcome to the Mid-Atlantic Fishery  
6 Management Council's October Meeting. I'd like to  
7 thank the New Jersey delegation for their  
8 hospitality this week.

9 Before we begin, I'd like to acknowledge  
10 and recognize and frankly congratulate one of our  
11 members. Mr. Dewey Hemilright from North Carolina  
12 has received one of the most prestigious awards in  
13 the commercial fishing industry; namely, he's been  
14 identified and awarded as one of the 2012  
15 highliners by *National Fishermen Magazine*.

16 I think you probably all saw the e-mail  
17 on this. But Dewey's been acknowledged for all of  
18 his work in the fishing industry and on the Council  
19 by *National Fishermen* as a 2012 highliner. So,  
20 congratulations to Dewey.

21 (Applause.)

22 Our first presentation today is going to  
23 be an MSC presentation and management strategy  
24 evaluation of summer flounder management. And for

1 that I'll turn to John Wiedenmann. John, welcome.

2  
3 MANAGEMENT STRATEGY EVALUATION (MSE)

4 SUMMER FLOUNDER STUDY

5 JOHN WIEDENMANN: Thank you, Rick. Can  
6 everyone hear me? I would like to thank the  
7 Council for giving us the opportunity to talk about  
8 our work on summer flounder. There are many people  
9 that are involved in this project, some who are  
10 here. But my name is John Wiedenmann.

11 I need to stress before we get into the  
12 details of the model that everything is  
13 preliminary. This model has not been peer  
14 reviewed. We met with the Technical Committee  
15 back in May to help formulate the model, focus our  
16 model runs; and we're meeting again in November to  
17 continue our evaluation.

18 But we really wanted to just let the  
19 Council have an idea of what we're doing, what the  
20 model is capable of doing, and so potentially get  
21 some feedback.

22 So with that, I will begin. We have  
23 really two motivating factors behind this model for  
24 summer flounder. The first can be seen in the

1 slide where what we're showing is the harvest, the  
2 recreational landings relative to the target  
3 across most of the states on the Atlantic Coast.

4 And the line at zero would mean you're  
5 at the target. So that would be good. But what  
6 we see is that most states in many years have large  
7 overages, or in many years they're well under the  
8 target. And this isn't good for anyone really  
9 because if you're too low below the target, the  
10 recreational anglers are not happy; but if you're  
11 too high above the target, you also run the risk  
12 of severely depleting the population.

13 And now with accountability measures in  
14 place, if you have too many overages and they're  
15 too large, you run the risk of having penalties  
16 imposed on the subsequent years for the catch limit  
17 for a state in subsequent years.

18 So we really want to try to get these  
19 lines down closer to the zero line where we're not  
20 too far above or not too far below in most years.  
21 So that is the first motivating factor.

22 The second factor: It seems that the  
23 recreational regulations are targeting females  
24 more, and females are important because they lay

1 the eggs and contribute most of the spawning  
2 biomass.

3 And summer flounder are what we call  
4 sexually dimorphic, so females are larger on  
5 average than the males. So, as you increase the  
6 minimum size to try to restrict your regulations  
7 in individual states, what ends up happening is  
8 that you end up targeting more and more females.  
9 So you get to a point if the minimum size is high  
10 enough where you're really only taking females from  
11 the population, and that could have strong negative  
12 impacts on the spawning biomass.

13 The second is that regardless of the size  
14 limits, it appears from some work by some of our  
15 collaborators down at the Rutgers shellfish lab and  
16 others that in the recreational fishery, females  
17 are disproportionately harvested relative to the  
18 commercial fishery at a given length.

19 So that's what this figure is showing.  
20 The yellow is the recreational fishery. The red  
21 is the commercial fishery. And it's showing  
22 percent female at a given length. So we see in the  
23 recreational fishery at a given length the  
24 recreational fishery is harvesting a

1           disproportionate number of females.

2                       So what we wanted to do is develop a model  
3           to test different management options for the summer  
4           flounder recreational fishery. And we have a few  
5           different objectives for this model.

6                       The first is related to that issue with  
7           the female spawning biomass and the regulations,  
8           and we wanted to test current and potentially  
9           alternative regulations and how they affect the  
10          population dynamics and also the fishery. And  
11          when I say regulations, I'm talking about do we have  
12          a fixed minimum size coastwide and manage with a  
13          bag limit; only do we use a minimum size and a bag  
14          limit, or do we institute a slot size limit.

15                      By that I mean we have a minimum size and  
16          a maximum size where everything in between those  
17          bounds is kept and everything else outside is  
18          discarded.

19                      The idea behind the slot size limit would  
20          be to potentially protect some of the larger  
21          females while possibly allowing for some of the  
22          smaller fish to be kept. So we can explore those  
23          within this modeling framework. So that's our  
24          first objective.

1           The second objective is to look at the  
2           effective buffer sizes for the individual states  
3           when setting catch targets relative to the catch  
4           limit.

5           The idea here being that perhaps we can  
6           if when setting a catch target use a buffer size  
7           potentially we can reduce the overages and the  
8           magnitude of the overages that we don't have  
9           penalties enacted. And the third is we wanted to  
10          look at how the current approach that the states  
11          use when setting their regulations how effective  
12          it is relative to an alternative approach that we  
13          developed. And the idea here is that when states  
14          are determining what their bag and size limits are  
15          going to be for a given year, for the current year,  
16          the approach that's currently used doesn't take  
17          into account the fact that when you change the  
18          minimum size, you're also changing the weight of  
19          the fish that are landed, and you're also changing  
20          what the success of the individual anglers is going  
21          to be because if you have a larger minimum size,  
22          you're going to be landing heavier fish, larger  
23          fish, but you're also going to be reducing the  
24          anglers' success because they're going to be able



1 to harvest fewer fish.

2 So we wanted to look if there's an  
3 alternative approach that we can develop that may  
4 perform better. So to do this we developed a  
5 simulation modeling approach called management  
6 strategy evaluation.

7 And I'm just going to give you a basic  
8 run-through of what an MSC model is and what it  
9 does. Basically, we specified the population  
10 dynamics of summer flounder, and we use all the  
11 information, the biological information,  
12 available and where possible, we tried to closely  
13 match the stock assessment in terms of the inputs  
14 into our model that are also in the stock assessment  
15 model. So we can project the population dynamics  
16 for summer flounder, and within the model we can  
17 generate a time series of data.

18 That data can be harvested in an index  
19 of abundance, and those data are then fed into a  
20 stock assessment model where we estimate the  
21 abundance and the harvest rates and also the  
22 reference points used for management.

23 The output of the stock assessment is  
24 then fed into the management part of the model where

1           whatever we're looking at then determines what the  
2           regulations will be for summer flounder.

3                       So, if the assessment says that the  
4           population is doing well and we want to change bag  
5           and minimum size limits, we can determine what  
6           those will be for an area both and whatever those  
7           regulations are in terms of the catch limit.

8                       And the regulations for the recreational  
9           fishery will then have an impact on the population  
10          dynamics because that catch will then be removed  
11          from the population each year. And this is a  
12          little bit repeats over and over again over a  
13          certain number of years that we want to look at.  
14          And at the end of a model run, we want to see how  
15          a particular management option performed so we can  
16          look at a range of management options and we can  
17          measure the performance -- and I'll clarify what  
18          I mean by performance in a little bit -- and we can  
19          compare the different management options that  
20          we're exploring.

21                      So just a little bit about the model  
22          structure. We modeled the population dynamics for  
23          summer flounder, and we keep track -- we call them  
24          age, sex, and weight structured model with spacial

1 dynamics.

2 And what that means is we keep track --  
3 we have different abundances of males and females  
4 in population at a given age class and size class,  
5 and we split the coastwide population into two  
6 regions. We split the coast into two regions.

7 Ideally, we would have liked to have a  
8 finer spacial scale, but the data were not  
9 available to allow that analysis. So we have what  
10 we're calling a north region and what we're calling  
11 a south region, and the demarcation between the  
12 regions is this red line on the figure here.  
13 Hudson Canyon of New York on the north. New Jersey  
14 and south are in what we're calling south or the  
15 southern region. And within the model we have --  
16 we run the model for a number of years, and within  
17 each year we have seasonal dynamics to account for  
18 different migrations in summer flounder. And we  
19 have both commercial and recreational fisheries  
20 acting in the model.

21 And a little bit about the spacial  
22 dynamics. So for half of the year in our model we  
23 have -- it replicates sort of the late fall/early  
24 spring period where population is offshore, and

1           that's what we're showing here. They're off the  
2           shelf a little bit. And we're considering during  
3           this time of the year in the model only the  
4           commercial fishery is harvesting individuals.  
5           And then in the second half of the year, which  
6           represents sort of the late spring to early fall  
7           summer flounder are moving either to the south  
8           region or the north region, and the recreational  
9           fishery then harvests individuals from the  
10          population, but the commercial fishery is also  
11          active at the time of the model. And the important  
12          thing to keep in mind here is that the migration  
13          to the different regions in our model depends on  
14          the age and the sex of the fish migrating. Because  
15          as we see, the available evidence seems to suggest  
16          that there are smaller younger fish in the south  
17          and larger older fish in the north. So they wanted  
18          to account for that dynamic in the model.

19                 So in the model I mentioned we have an  
20                 assessment and a management process. The spawning  
21                 biomass and the reference points are estimated, and  
22                 based on these we calculate the ABC using the  
23                 Mid-Atlantic P star control rule. And whatever  
24                 the ABC is determined for a given year in the model,

1           60 percent of that is allocated to the commercial  
2           fishery. The commercial fishery in the model is  
3           static. I mean we have a fixed minimum size, and  
4           whatever the ABC is that's allocated to the  
5           commercial fishery that gets removed each year.

6                     What we're really interested in is  
7           what's going on in the recreational fishery. And  
8           so 40 percent of the ABC has been allocated to the  
9           recreational fishery. And then that is allocated  
10          amongst the north/south regions based on the  
11          current allocations.

12                    We just looked at what's allocated to the  
13          different states and summed them up for the north  
14          and the south region. And then for a given region,  
15          whatever the ACL is we then can set the ACT by  
16          assuming some buffer size, and given the target  
17          catch compared to last year's catch, we adjust the  
18          regulations in the model to try to achieve that  
19          target. And so if last year there was an overage,  
20          then the regulations will be more restrictive this  
21          year. Try to mimic what's currently going on in  
22          the management process and what the states are  
23          doing.

24                    So how do the regulations affect our

1 model? Well, we've got population of a particular  
2 region, and we have some measure of fishing  
3 mortality which is a function of the number of  
4 people going out and their success at catching  
5 summer flounder.

6 So we base all of our dynamics in the  
7 recreational fishery on an analysis of the MRIP  
8 data. So whatever the fishing mortality is acting  
9 in the population we end up with some total catch.

10 And we have some fraction of that is  
11 retained in harvest, and some fraction of that is  
12 discarded, and this is based on the size limits.

13 Some of the discards in our model are --  
14 actually, a large portion of the discards survive  
15 and then return to the population, but some  
16 fraction die, and they're discarded. And then the  
17 dead discards plus our retained harvest equals the  
18 total removables in the population. So in our  
19 model the bag limit doesn't really affect his  
20 component.

21 The angler success, how many fish an  
22 angler can take home, and the size limits affect  
23 what fraction can actually be retained. Because  
24 if you have a larger size limit, then you're

1           throwing more and more fish away.

2                       So, in a core sense, that's how the  
3 regulations, the bag and size limits, affect the  
4 harvest and the population in the model. So we run  
5 the model for 25 years, and we start the model off  
6 on the 2010 base, and we started at what was  
7 estimated in the assessment, and each year the  
8 recreational regulations are determined for each  
9 region, the north and south regions.

10                      And we looked at a few different options  
11 for setting regulations. The first is what we're  
12 calling the bag limit only option where we have a  
13 coastwide minimum size, and we set that at 17  
14 inches, and only the bag limit is adjusted each year  
15 to try to achieve the target.

16                      We also looked at where we change both  
17 the bag and the size limits. And we looked two  
18 different approaches here. One is what we're  
19 calling the status quo approach, and that is the  
20 status quo approach is used to mimic what the states  
21 are currently doing. The new approach is  
22 something that we developed that takes into account  
23 the effects of changing minimum size on the mean  
24 weight of landed fish and also on the harvest per

1 angler.

2 The other regulations that we explored  
3 were where we changed the bag limit, but we also  
4 instead of a minimum size we have a slot size limit  
5 where we have a minimum and a maximum size, and in  
6 between there everything can be kept and everything  
7 else is discarded.

8 And based on our discussions with the  
9 Technical Committee, we constrained some of the  
10 regulations in the model so that the bag limit would  
11 never go below 2, the minimum size would never go  
12 above 21 inches; and if we did have a slot size  
13 limit, that there would have to be at least 3 inches  
14 between the bounds.

15 The Technical Committee felt that  
16 anything outside of those would be unpalatable to  
17 the individual states. And I mentioned that we're  
18 looking at a range of buffer sizes in terms of  
19 setting the ACT. So we looked at no buffer size  
20 or 100 percent of the ACL, 90 percent of the ACL,  
21 and 80 percent of the ACL. And these are some of  
22 the model runs that we're doing. And, again, just  
23 to reiterate: The status quo approach that I'm  
24 referring to is mimicking the way the states



1           currently set their regulations, and the new  
2           approach is something we developed to try to get  
3           around some of the things that aren't accounted for  
4           under the status quo approach, meaning that the  
5           mean weight of the fish changes and the harvest per  
6           angler changes as you change the minimum size.

7                       And within the model there are lots of  
8           components that have variability or random limits.  
9           So we have variability in recruitment. So you can  
10          have good years; you can have bad years.

11                      We have variable rates of migration to  
12          the north/south regions. We also have  
13          uncertainty. We have uncertainty in our estimates  
14          of harvest, particularly in the recreational  
15          fishery, and we base that amount of uncertainty on  
16          what's estimated in the MRIP data.

17                      We also have uncertainty in the  
18          assessment, so there could be instances in the  
19          model where the assessment just performs poorly,  
20          and it over or under estimates the population  
21          biomass. We also have a variability in the amount  
22          of people going out fishing every year because  
23          there is some randomness to that as well. And we  
24          have variability in angler success. So we have all

1           these components in the model that have variability  
2           introduced, so we have to run the model.

3                       So for each 25-year period, we run that  
4           1,000 times to try to get an idea of the broad range  
5           of possibilities; and at the end of each run we can  
6           summarize the performance of a particular  
7           management option.

8                       So, when I say a particular management  
9           option, I'm referring to, for example, we're  
10          looking at one type of regulation and one buffer  
11          size sort of thing. So that would be one model  
12          scenario.

13                      And there are lots of different  
14          objectives in the model that we're trying to look  
15          at, so we need to calculate a range of performance  
16          measures, and these performance measures are meant  
17          to catch various things that there might be  
18          trade-offs for. For example, if you have high  
19          landings, then you might have a negative impact on  
20          the biomass. So you want to look at the trade-off  
21          between these things, so we need to calculate a  
22          range of measure that will look at different  
23          aspects. So we have things that will look at the  
24          health of the population, like the total biomass

1 or the mean biomass. We can look at the proportion  
2 of the female in the biomass. We try to look at  
3 the health in the population. We can also look at  
4 how the fishery is doing: what are the mean  
5 landings, what are the discards in the model. We  
6 can look at how well the landings track the target  
7 or the ATL. So these are measures of the fishery's  
8 success, but also the management success. We can  
9 look at the proportion of years where the harvest  
10 went over the target, and we can look at the size  
11 of the overage, and we can look at the proportion  
12 years in the model where a penalty was imposed and  
13 what the size of that penalty is because those are  
14 things that we want to try to avoid.

15 So these are what I'm going to be showing  
16 you today. We actually calculate a much larger  
17 range of performance measures, but just for today  
18 we wanted to give you a vignette of some of our  
19 calculations.

20 And just to give you an idea what we're  
21 doing. So I mentioned that we have 1,000 runs for  
22 each scenario we're looking at. So that ends up  
23 with a lot of different possibilities. So what I'm  
24 showing on the left is just a bunch of five

1 different runs showing the spawning biomass for a  
2 particular scenario. You can see there's a lot of  
3 variability that happens in the model.

4 Some of this is recruitment driven.  
5 Some of it's based on an assessment that  
6 overestimates population so the harvest drives it  
7 down. So there's a lot of variability from each  
8 run, and that's what the different colors and the  
9 dotted lines represent.

10 So at the end of one 25-year run, we then  
11 can calculate the means. So if you look at this  
12 black line. We calculate what the mean spawning  
13 biomass is for that entire run. So then we have  
14 a thousand means that we comply in what we call a  
15 box spot, which is this figure over here, and we  
16 have a distribution of what those means are over  
17 a thousand runs.

18 If you're not familiar with a box spot,  
19 the things to keep in mind are: This black line  
20 here represents the median or the midpoint of all  
21 the values in our runs, and these bars sort of  
22 represent the normal range, so how much variability  
23 there is in our outlet. So I'm going to be showing  
24 box spots. There are going to be multiple boxes

1 on a single spot. So what I want you to look at  
2 is where this middle line is relative to the others  
3 and how much spread there is about the mean. So  
4 the first thing you can look at is -- and, again,  
5 just to reiterate: The model is preliminary; we  
6 still have some things to do.

7 But what I'm showing is five different  
8 regulations. And I'll walk you through. Here  
9 when it says bag, this just refers to bag limit is  
10 only changed to the sixth coastwide minimum size.  
11 Bag and min for the status quo, so both bag and  
12 minimum size limits have changed. Bag and minimum  
13 size limits have changed using the new approach  
14 that we developed. Bag and slot limits are changed  
15 under what would be set. We do a similar approach,  
16 and we're calling it a status quo. And bag and slot  
17 limits under the new approach. So the order of these  
18 different regulations that we're looking at is not  
19 going to change on any of the plots. So it's going  
20 to be the bag. These two represent bag and minimum  
21 size, and these represent bag and slot size. So  
22 we look at the proportion of years where the  
23 harvests in the model exceeds the ACL, which I'm  
24 calling the target year. And what we see is that

1 if you want to think about a one in four chance of  
2 having an overage or .25, all of these options  
3 exceed that target. I need to stress here that  
4 this is for the model run where we have no buffer  
5 size, when we're not buffering away from the ACT  
6 equals the ACL. So it's 100 percent of the ACL.  
7 What we see is that particularly the bag limit and  
8 the slot limit result is the highest proportion of  
9 overages each year.

10 We can also look at the harvest relative  
11 to the ACL. And, again, what we see for the bag  
12 limit and the fixed coastwide minimum size, you see  
13 on average the harvest greatly exceeded the ACL  
14 relative to the other options; and again, the slot  
15 size with the bag limit also exceeded.

16 But the other options seemed to perform  
17 pretty well. And what I want to point out here is  
18 that the new approach that we introduced has much  
19 less variability, so it much more closely matches  
20 -- tracks the ACL on average.

21 Whereas, something where we just look at  
22 the bag and minimum size using the status quo  
23 approach, we have a much wider range, which sort  
24 of mimics that first figure I showed you where we

1 had really high overages and really high underages.  
2 So this new approach potentially does a much better  
3 job from year to year. So looking at the harvest  
4 relative to the ACL and now looking at the  
5 recreational landings, this is looking at just the  
6 landings, and this also stresses why it's really  
7 important to look at many different performance  
8 measures because if you just looked at this, you  
9 would say, oh, the bag limit with a coastwide  
10 minimum size is great; we're harvesting more.

11 But if we go back, we see that's because  
12 we're having more overages, so that's not good. So  
13 just looking at the landings alone can give you a  
14 false sense of what's going on.

15 But, again, you see a similar median for  
16 most of the runs, except for the bag limit and the  
17 coastwide minimum size and also the bag limit and  
18 the slot limit. So lots of variability here as  
19 well, but, again, the medians are similar.

20 And then we can look at the spawning  
21 biomass relative to the target. And the red line  
22 is the spawning biomass at MSY currently used in  
23 management. And most of the options are very close  
24 on average over time; although, we do see some

1 fluctuation in the individual years, as you saw in  
2 that one plot that I showed you. Because there are  
3 lower overages here and higher harvest, it actually  
4 pushes -- for the bag limit and the coastwide  
5 minimum size, it pushes the spawning biomass down.

6 Discards. Discards by weight.

7 Something that we found interesting that we weren't  
8 necessarily expecting, is that when we have a slot  
9 limit in the model, we actually end up with higher  
10 discards by weight even though we're discarding  
11 fewer individuals, these individuals are larger  
12 because we have that upper minimum size. We're  
13 throwing away some of the biggest fish; and  
14 therefore, that disproportionately affects the  
15 weight of the discards. So that's something we  
16 weren't necessarily expecting that we found  
17 interesting. One of the things that we mentioned  
18 was one of objectives was to see what the overall  
19 effect is on the females in the population if the  
20 regulations are disproportionately or have a  
21 strong negative impact on females. And this is  
22 showing the proportion of the females in the  
23 recreational landings; and although we see that  
24 when we just change the bag and the minimum size,



1 we have a higher proportion of females in the  
2 harvest. The overall range is between about 60 to  
3 70 percent at least for the median, so it's not a  
4 huge difference. And then we can look at what that  
5 translates for, the proportion for females, the  
6 proportion of the spawning biomass that's female.  
7 And what we see is there's really not that much  
8 difference so that having the minimum size where  
9 we are harvesting more females overall doesn't have  
10 a huge negative impact. At least the model  
11 predicts it doesn't have a huge negative impact on  
12 the number of females that are in the spawning  
13 biomass.

14 So all the things that I've been showing  
15 you so far are coast wide. We just ran the model,  
16 and we summarized things on a coastwide basis to  
17 get a bigger picture. But we can break things  
18 down, and we can look at them regionally, and we  
19 can look at them across the different buffer sizes  
20 that we explored.

21 So what this figure is showing it's four  
22 different performance measures. The gray  
23 represents the southern region; the white boxes  
24 represent the northern region in every plot, and

1 the 190 and 80 percent represents the buffer size.

2 So, the top left panel we're looking at  
3 the proportion of years with overages for the  
4 northern region across different buffers and for  
5 the southern region buffer sizes increasing. So  
6 as we go from left to right, the buffer size is  
7 increasing from no buffer to 80 percent of the ACL.  
8 And what we see is that the buffer does cause a  
9 decline for the overages as we get to the 80 percent  
10 buffer. So what we also see is that in the southern  
11 region the model predicts fewer overages on  
12 average.

13 And so we have fewer overages on average.  
14 And if you look at this is the mean size of the  
15 overage, so how far over did you go over every time  
16 there was an overage. And, again, the southern  
17 region having the buffer size it does caused a  
18 decline in the size of the overage, and for the  
19 southern region we see a smaller overage on  
20 average.

21 And what this means if we then look at  
22 this panel, it shows how many years do you have  
23 penalties. We see a much greater number of years  
24 with penalties in the north relative to the

1 southern region, so from New Jersey on south, and  
2 the size of the penalty is much greater as well in  
3 the model.

4 So these are the sorts of things that we  
5 can look at in the model to try to help in the  
6 management process. And I just wanted to  
7 summarize that overall we didn't see a large  
8 difference in the spawning biomass across the  
9 different runs that we explored, and the proportion  
10 of female in the population was relatively stable  
11 across the different regulations that we looked at.  
12 Slot size limits in our model did harvest fewer  
13 females, but they also had a higher discard by  
14 weight than the other regulations that we looked  
15 at. So although there was a plus in terms of  
16 harvesting fewer females, the fact that there  
17 wasn't a huge difference in the proportion of  
18 female in the population and that slot size limits  
19 also had a higher discard rate, may be a drawback  
20 of that approach. And the new approach that we  
21 developed seemed to more closely achieve the ACL  
22 in the given years, in most years anyway. And in  
23 general larger buffers in the model resulted in  
24 fewer and smaller overages and fewer and smaller

1 penalties. And if we want to break it down by coast  
2 wide, the southern region, again from New Jersey  
3 on south, we had fewer and smaller overages, which  
4 translated into fewer and smaller penalties within  
5 the model. So with that, I'd like to finish and  
6 -- well, I'd like to finish.

7 COUNCIL CHAIRMAN RICHARD ROBINS: John,  
8 thank you for that presentation. You indicated  
9 these were preliminary model results. Will these  
10 results be final by the time that the Council and  
11 Commission meet in December to consider  
12 recreational regulations, or what would be the  
13 status of the work at that point?

14 JOHN WIEDENMANN: Mike. In terms of  
15 the timeline, Mike Wilberg.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Good  
17 morning, Mike.

18 MICHAEL WILBERG: I think that what  
19 we're planning on is we're planning on having  
20 pretty close to final results for the Technical  
21 Committee, Monitoring Committee meeting that's  
22 coming up in November such that the results of this  
23 work would have undergone a review prior to the  
24 December Council and Commission meeting. So our

1 goal is to have results that are final by that time.  
2 At the same thing, we're planning on continuing  
3 some of these analyses and exploring more things  
4 into next year, and so the project is ongoing, but  
5 we're hoping to inform the management process for  
6 the upcoming year.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
8 you, Mike. And John, some slot sizes are pure slot  
9 sizes where you have a minimum and a maximum length,  
10 like red drum, for example. But some like striped  
11 bass in some states are more of a hybrid where you  
12 have a minimum and a maximum, but you're allowed  
13 to retain some number above the maximum. Is it  
14 possible to model that type of hybrid or mixed set  
15 of measures in this model?

16 JOHN WIEDENMANN: When we met with the  
17 Technical Committee, we talked about some  
18 additional potential runs, and we were calling that  
19 sort of scenario a trophy fish run where you've got  
20 the slot size but maybe you can keep one over. The  
21 analysis of the available data in MRFSS didn't  
22 really allow for that. The other approach that  
23 we're thinking about doing looking at what we're  
24 calling a guppy fish, where you have a minimum size

1 and maybe you can keep one fish under the minimum  
2 size, and that would count toward your bag limit.  
3 Again, the data just aren't available to really  
4 parameterize the model to do that unfortunately.  
5 And how we would account for that in the management  
6 component of the model is problematic. But I can  
7 say at least for the guppy fish scenario -- in the  
8 model I didn't show the figure, but when you start  
9 to get down to the smaller minimum sizes is when  
10 you really start to see some of the large overages  
11 because you sometimes have these year classes  
12 coming in, and if that happens to be a year when  
13 you've lowered the minimum size, then it causes  
14 much higher overage. So, even though we didn't run  
15 that, I can say from the model, it would probably  
16 suggest consistent and high overages if we look at  
17 that approach. I don't know about the trophy fish  
18 scenario.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Thanks, John. And just one final question: You  
21 showed us discard results in pounds or tons; and  
22 at some point when minimum sizes were at their  
23 highest in the region, discards in the recreational  
24 fishery were in excess of 90 percent, and so that's

1 a big issue with respect to the overall  
2 satisfaction with the fishery; so have you looked  
3 at percentage of fish retained as an alternative  
4 metric in the model?

5 JOHN WIEDENMANN: Yes, we have. As I  
6 said we have so many performance measures that were  
7 calculated. I mean I could show a hundred box  
8 slots and bore you guys all to death.

9 And one of the things we look at, we  
10 consistently look at things both in number and in  
11 weight because states deal in numbers that we have  
12 the MRIP estimates in numbers in terms of the  
13 discards, and we do look at the number of discarded  
14 relative to the number of catch. And, yes, in  
15 recent years it's in the 80 to 95 percent mark, but  
16 because in the model we're sort of leveling off the  
17 reference points, as you saw, and also in some of  
18 the regions the regulations often are eased a  
19 little bit, that ratio is down a little bit, but  
20 it's still pretty high especially in the northern  
21 region where we seem to have some of the larger fish  
22 going. So, yes, we do look at that, and that will  
23 be one of the many performance measures that we  
24 include in our analysis.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thanks, John. Peter Himchak.

3 PETER HIMCHAK: Thank you, Mr.  
4 Chairman. I had a couple quick questions. The  
5 first one is: Is the model reliant on uniform  
6 management measures in the northern area and the  
7 southern area for you to assess the output?

8 JOHN WIEDENMANN: Can you clarify what  
9 you mean by reliant on uniform measures?

10 PETER HIMCHAK: Yes. In other words,  
11 in order to use the model in Year X, would the  
12 northern area have to have the same size, season,  
13 and possession limit; and the southern area would  
14 have to have its uniform size, season, and  
15 possession limit throughout the region?

16 JOHN WIEDENMANN: So the size -- we  
17 don't look at the season limits in the model. I  
18 didn't clarify that. Based on our discussion with  
19 the Technical Committee, they wanted us to just  
20 focus on the minimum, the bag, and the size limits.

21 But within the regions, the north and the  
22 south have separate regulations, and they are  
23 determined distinctly using the same approach.  
24 So, for a given year, the north region will set its



1 regulations; the south region will set its  
2 regulations.

3 They are often very different, and they  
4 sort of match up with what we see where the southern  
5 region has higher bag limits, smaller minimum  
6 sizes; and the northern region has higher minimum  
7 size, smaller bag limits; but within a given year,  
8 they are fixed within a particular region. Does  
9 that answer your question?

10 PETER HIMCHAK: Yes. So the northern  
11 region would have a uniform minimum size limit and  
12 bag limit?

13 JOHN WIEDENMANN: Yes. And, again,  
14 unfortunately, because of data limitations we  
15 couldn't break it out any further. So I mean our  
16 northern region is New York on north, and New Jersey  
17 on south for the southern.

18 COUNCIL CHAIRMAN RICHARD ROBINS:  
19 Peter.

20 PETER HIMCHAK: Well, it could be  
21 problematic for northern New Jersey that fishes in  
22 New York waters. We could get strapped with  
23 different management strategies within the same  
24 state.

1           The guppy fish scenario -- a new term  
2           I've learned today -- it seems that a lot of  
3           recreational fishermen are clamoring for this, and  
4           they're not looking for the slot size which meets  
5           the higher discards by weight, but they want one  
6           smaller fish to take home and eat.

7           And I'll give you an example. So, in New  
8           Jersey we have a 17 1/2 inch minimum size limit,  
9           five fish. If you have one fish at 16 to 17 1/2  
10          you can keep and then 4 over

11         17 1/2, you're satisfying the needs of the fishermen  
12          without increasing the discard rate because you're  
13          taking away one of your possession limits from a  
14          bigger fish.

15          So it seems to me -- and boy, this is  
16          tough every year within each state the amount of  
17          effort that goes into pleasing the constituency.  
18          And New Jersey I'm just wondering if we're not near  
19          the tipping point where there could be a relaxation  
20          overall in management measures of summer flounder.  
21          And I'll draw back on -- and a lot of us here have  
22          history in striped bass management, and for 15  
23          years, from '80 to '95 it was declared restored,  
24          we jacked up that minimum size limit to 38 inches,

1 and we had the same problem, the regulatory  
2 discards were astronomical, and the females they  
3 were suffering.

4 And it was declared restored. We jumped  
5 down to 28 inches -- 34, 28. Then we were able to  
6 go the other way. And I'm wondering if in summer  
7 flounder how close we are to that tipping point  
8 because in New Jersey in our performance in our 39.6  
9 percent of the allocation our performance has been  
10 pretty much under, and we're going in a smaller size  
11 limit now. It's the first time we've gone from 18  
12 to 17 1/2 inches.

13 So I mean all these are good signs to me  
14 from where I'm sitting -- a lot of other states  
15 aren't in such a sweet place; I know that for sure.  
16 So I view a new model of doing business with a little  
17 reluctance because it's kind of like, boy, maybe  
18 we're on a good path there, and we could be going  
19 in a positive direction. I just offered that up  
20 as a thought for the council members. I hate to  
21 see a model at the December meeting and then start  
22 deciding uniform measures for the  
23 northern/southern region. I think we're far from  
24 that point. So that's the commentary on my part.

1                   COUNCIL CHAIRMAN RICHARD ROBINS: Fair  
2                   enough, Pete. And it will be a decision for the  
3                   Council and the Commission to discuss. This  
4                   overall question, though, has been one of I think  
5                   great interest that the Council and Commission  
6                   level and with the public about whether there are  
7                   alternative methods that we could use to really  
8                   improve access to the fishery, particularly as you  
9                   point out, the stock is rebuilt. But, again, it  
10                  will be for discussion by the Council and  
11                  Commission. Jim, Weinberg.

12                 JAMES WEINBERG: Thanks. I just had a  
13                 question about recruitment. The population model  
14                 has some recruitment assumptions built into it that  
15                 must be related to the spawning biomass and stock  
16                 structure, and I wonder if you could elaborate a  
17                 little about that. I'm especially interested in  
18                 whether you looked at recruitment as a performance  
19                 measure and whether for different management  
20                 scenarios there were times when recruitment was  
21                 about average or below average.

22                 JOHN WIEDENMANN: Those are good  
23                 questions. Regarding recruitment -- I'll start  
24                 with the last part of the question regarding

1 recruitment as a performance measure. We do look  
2 at the mean recruitment over time. We didn't see  
3 much effect on the mean over the time period. We  
4 didn't see much effect in terms of the number of  
5 female spawners. In the model recruitment is  
6 dependant upon the number of females in the  
7 population. One of the reasons we calculate the  
8 recruitment is to look at it not just as a  
9 performance measure, but also as a potential cause  
10 of overages or underages. So, if you have a  
11 successive number of poor year classes in a  
12 particular model run does that cause an increase  
13 in overages and underages. But regarding the  
14 underlying dynamics of recruitment, one of the  
15 reasons there isn't a huge change in the mean  
16 recruitment is that although it's another variable  
17 component in the model, we do assume a pretty high  
18 what we call steepments in the stock recruit  
19 relationship based on some of the recent analysis  
20 of Mark Moner (phonetic).

21 So the population has to be reduced  
22 pretty heavily in the model to result in a  
23 noticeable effect in recruitment. And we're  
24 assuming if everything holds in recruitment

1           dynamics based on some of the assessment work --  
2           although we have to make some assumptions to parse  
3           out the total spawning biomass into the female  
4           spawning biomass to generate that relationship  
5           between female spawners and recruits.  But it's  
6           based on what's estimated in the assessments -- the  
7           variability.

8                   COUNCIL CHAIRMAN RICHARD ROBINS:  Rob  
9           O'Reilly.

10                   ROBERT O'REILLY:  Thank you John and  
11           everyone else.  I really appreciate your efforts.  
12           And I think this is going in the right direction  
13           to push everyone else involved in these management  
14           and technical approaches toward some type of better  
15           scenarios than we've had in the past.  And a lot  
16           of us here certainly year by year have ground our  
17           teeth down going through this process.  So I really  
18           appreciate it.

19                   I did have a few questions and maybe a  
20           comment if that's all right,

21   Mr. Chairman.

22                   COUNCIL CHAIRMAN RICHARD ROBINS:

23           Indeed.

24                   ROBERT O'REILLY:  Okay.  One would be



1 other question would be looking at the performance  
2 of the model or the performance measures, first of  
3 all I think it should be of great interest to all  
4 of us that no matter the measure the spawning stock  
5 biomass performed well. I think first and  
6 foremost that's a key item. After that some of the  
7 information that I saw relatively quickly  
8 indicated on the performance of the harvest, for  
9 example, relative to targets, that that suffered  
10 more with some of the more traditional or some of  
11 the methods used. And you started out by saying  
12 this is 2010 on. But are some of the information  
13 from the past built in there? What I was trying  
14 to figure out is we're on our fourth year of an  
15 underage in the recreational coastwide limit.  
16 Some of the underages within the four years have  
17 been pretty extensive, as much as 50 percent. So  
18 to get a portrayal that that would be above one in  
19 that ratio, does that bring in past performance as  
20 well? I couldn't really tell.

21 JOHN WIEDENMANN: No. When we're  
22 looking at the performance summarizing over the  
23 years -- 'cause we started in 2010, but we also know  
24 what happened in 2011, so we picked up what was



1           actually the harvest in those regions at the  
2           observed values. And we fixed the regulations in  
3           the model, made the average what would be the coast  
4           wide bag limit and what would be the coast wide  
5           minimum size. I mean not the coast wide, the  
6           region wide. And so those two years account for  
7           the underages, but we don't include those in  
8           looking at the harvest relative to the ACL. When  
9           we're summarizing that, we exclude those because  
10          we know what happened. We're looking at the future  
11          years model runs. And so.

12                   ROBERT O'REILLY: I think that's  
13           important as well. And know others have comments,  
14           but I just want to get out maybe two more things  
15           and perhaps I can come back later. One would be  
16           the buffer, the idea of a buffer. What has  
17           happened in management is management has been  
18           putting that buffer in, and I would think the type  
19           of buffer that you're proposing is going to be much  
20           better than what we do because we're trying to  
21           figure out how do we stay within target or below  
22           target, and there's still a little bit of guesswork  
23           when that's done as you can imagine. So I think  
24           the buffer approach depending on how it's done with

1 going from the ACL to the ACT and having a standard  
2 for that would be very good. And the other thing  
3 I wondered about along that line you still talked  
4 about annual approaches as the committee, your ad  
5 hoc committee, talked about multi year as far as  
6 improving perhaps the performance overall.

7 JOHN WIEDENMANN: Regarding the first  
8 point, yes. We've got multi buffer levels. We've  
9 got a buffer when we're setting the ABC mimicking  
10 sort of the P star control rule, but the buffers  
11 that we're talking about are more thinking about  
12 it on sort of a state-by-state level where they're  
13 given a target landings, and they have to try to  
14 match that.

15 And they're looking at their minimum  
16 size, bag table, and they find something that gets  
17 to 99 percent of that, the buffer will then say  
18 well, let's only try to get to 90 percent of our  
19 target then and see what happens. So we're adding  
20 an additional buffer there. But regarding the --  
21 sorry. What was the second part of the question?

22 (Inaudible.)

23 JOHN WIEDENMANN: Oh, okay. Yes. Yes.  
24 Yes. I got it.

1                   ROBERT O'REILLY: Annual frame. And  
2                   you mentioned that again as in conversation with  
3                   the ad hoc committee about multi year to increase  
4                   the probability that the performance will be  
5                   enhanced.

6                   JOHN WIEDENMANN: We had talks with the  
7                   Technical Committee level to potentially look at  
8                   what happens if we fixed regulations for a certain  
9                   number of years. That was just a discussion that  
10                  we had. It wasn't really decided at the technical  
11                  committee level. One of the performance measures  
12                  that we do -- we don't fix it, as you mentioned,  
13                  but one of our performance measures is how variable  
14                  are the regulations from year to year. Because we  
15                  realize that in addition to all these other  
16                  objectives, the states don't want to have a bag  
17                  limit going from 2 to 8 down to 2 again. So we also  
18                  can look at how variable they are from year to year.  
19                  So we currently do not fix them at, say, a  
20                  three-year window and then come back.

21                  ROBERT O'REILLY: Thank you, Mr.  
22                  Chairman.

23                  COUNCIL CHAIRMAN RICHARD ROBINS:  
24                  Indeed. Rich Seagraves.

1                   RICHARD SEAGRAVES: Yes. Thanks, Mr.  
2                   Chairman. John, the plot you were showing us  
3                   before this morning the stock biomass for the  
4                   various approaches, has there been an insight into  
5                   the composition that would make up that FMSY  
6                   estimate? In other words, they may all have the  
7                   same biomass but different age composition. Is  
8                   that something you could look at?

9                   JOHN WIEDENMANN: Yes. Thank you.  
10                  Absolutely, we can. I don't have that summarized,  
11                  but we can absolutely look at what the mean age of  
12                  the spawners is or something like that to try to  
13                  account for potentially disproportionate -- in  
14                  fact, we don't have any sort of maternal effect or  
15                  anything going on where larger females produce --  
16                  one unit of biomass produces the same amount of  
17                  recruits in the model. That's kind of -- I think  
18                  that is actually a good performance measure that  
19                  you can include.

20                  COUNCIL CHAIRMAN RICHARD ROBINS: Lee  
21                  Anderson.

22                  LEE ANDERSON: Thank you, Mr. Chairman.  
23                  I have a brief question and then a little longer  
24                  one on some of the technicalities. Who sponsored

1           this, and where is it coming from? I should know  
2           that, but I don't right now.

3                     JOHN WIEDENMANN: PMAF, the Partnership  
4           for Mid-Atlantic Fisheries.

5                     LEE ANDERSON: Okay. Then the second  
6           question goes to the technical aspect, one of the  
7           things that you do is you said how often do you go  
8           over the higher. And to me it's as important to  
9           understand how you made your fishing effort and how  
10          can we be confident that the model really mimics  
11          what goes on when you set those different things.  
12          Now, in a brief thing you talked about effort was  
13          the fishing mortality was the fishing of effort and  
14          success. Now, is that effort number of fishermen  
15          and that varies? Could you just give a little  
16          briefing.

17                    JOHN WIEDENMANN: I didn't want to get  
18          too into the technical details. But, yes, we have  
19          information on the number of trips from MRIP, and  
20          we have that by the broad scale regions.

21                    And that is one of the random components  
22          that we include in the model because if you look  
23          at it one year, you can have a million anglers in  
24          the state; the next year you can have 2 1/2 million.

1           That can be a big source of the overages in a  
2           particular year.

3                   And accounting for that is difficult, so  
4           right now it's sort of a random or variable input  
5           into the model. And regarding the angler success,  
6           our analysis indicates that we came up with a  
7           relationship between what the minimum size is and  
8           what the harvest per angler is.

9                   So, if we have a random variable of how  
10          many people are actually going out, and based on  
11          the current minimum size, we can get an idea which  
12          also included some variabilities what the harvest  
13          for angler is, we can then get the total harvest.  
14          So then we do have some variability that goes beyond  
15          just the regulations. I haven't looked at all the  
16          runs to try to see how well we can get the overages  
17          just to play around, but I'm guessing there's going  
18          to be some sort of baseline level.

19                   It's just you're going to have some  
20          overages based on the variable number of anglers  
21          that are going to be going out there. And  
22          accounting for large scale effects in behavior of  
23          anglers is really not possible in the model in terms  
24          of what might be driving what's going on in one year

1           versus the next.

2                   LEE ANDERSON: But that's an important  
3           aspect.

4                   JOHN WIEDENMANN: Absolutely.

5                   LEE ANDERSON: Thank you very much.

6                   JOHN WIEDENMANN: Absolutely.

7                   COUNCIL CHAIRMAN RICHARD ROBINS: Jeff  
8           Deem.

9                   JEFFREY DEEM: Yeah. Two questions, if  
10          I may. And thank you and the sponsors for this.  
11          This is an important topic to a lot of us. If I  
12          have heard correctly, the harvesting more females  
13          did not affect the total number of females in the  
14          biomass? That to me seems like a one-to-one  
15          ration. Does it, (1) indicate a problem with the  
16          model; or (2) does it mean that the proportionate  
17          females that are considered to be caught is smaller  
18          than we all expected it to be? I mean if you take  
19          more out, why isn't there a smaller biomass?

20                   JOHN WIEDENMANN: Right. That's a good  
21          question. There is a slight difference. It's  
22          just not a very noticeable difference. Again, the  
23          range in the fraction that was harvested wasn't  
24          that -- it was between about 60 to 70 percent. We

1           were looking at the spawning biomass. When you are  
2           harvesting more females, you do end up having fewer  
3           females in the spawning biomass. So it's a slight  
4           reduction. But what seems to be going on is that  
5           we do have differential rates of natural mortality  
6           in the model based on what's currently assumed.  
7           Males die more frequently. There's a higher  
8           mortality rate for males than females. We just  
9           don't see as many older males as we do females. So  
10          that sort of mortality differential as you get into  
11          the older age classes you still see more females  
12          and more female spawners. So the differences in  
13          the harvest did have an effect on the spawning  
14          biomass, but not a huge effect. And, again,  
15          because we are looking at -- but as an example, the  
16          slot limits had fewer females in the harvest, but  
17          there was also an additional harvest discard that  
18          wasn't accounted for. So you also have an  
19          additional mortality of females based on the  
20          discards there. So there was a difference. It  
21          just wasn't as noticeable in the figures that I was  
22          showing, so. And it wasn't dramatic like some  
23          people might have expected.

24                   JEFF DEEM: Good answer. And then you



1 mentioned the slot size provided higher discards  
2 by weight, which I think is what we all would expect  
3 that; but I seem to get a negative tone in your voice  
4 that it might not be received very well. Is that?

5 JOHN WIEDENMANN: No, it's not that it's  
6 not expected. It's just that in terms of thinking  
7 about how many more fish might actually be kept in  
8 the smaller size bins, that might not pull down the  
9 total discard weight as well, thinking about how  
10 many.

11 But because the population -- we're  
12 getting more and more older fish in the population  
13 as we're reducing the mortality rate, now the model  
14 predicts higher discards by weight.

15 But one of the things in terms of  
16 speaking about slot limits and also, as I  
17 mentioned, the guppy fish potential regulation  
18 that we tried to explore, it's difficult when you  
19 get to that because then you start to get into  
20 potential behavioral issues of high grading or  
21 things like that, and we don't account for those  
22 in the model. So there are additional potential  
23 sources of error when we're looking at regulations  
24 that aren't in effect and we don't have data to

1 explore.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff,  
3 the males have it rough. So, Warren Elliott.

4 WARREN ELLIOTT: Yeah. Thank you, Mr.  
5 Chairman. I want to comment on this. I have to  
6 move away from the science a little bit because I'm  
7 just a guy who likes to fish.

8 As a recreational fisherman, do I  
9 understand that essentially you're saying if you  
10 catch ten fish, you get to keep one under current  
11 regulations, about 90 percent are discards?

12 JOHN WIEDENMANN: It's a little bit less  
13 in the model now that we're rebuilt, but there's  
14 still a high.

15 WARREN ELLIOTT: And the discard  
16 mortality that we use you didn't mention a figure,  
17 but do I understand about 10 percent?

18 JOHN WIEDENMANN: Yes.

19 WARREN ELLIOTT: okay. Then I guess my  
20 comment is I wanted to touch on something that Peter  
21 said. From a fishing experience -- and I think we  
22 need to come up with a better term other than guppy  
23 fish. That doesn't sound very politically  
24 correct. But -- toy know, one out of those ten fish

1           that you catch you're going to keep, and one out  
2           of those ten fish is going to die.

3                       As somebody who fishes, a lot of times  
4           a flounder's a hard fish to handle. I see people  
5           stepping on them and pliers. A lot of times you  
6           know which of those fish is not going to make it  
7           when you put it back in the water, and I think a  
8           lot of guys and a lot of kids that would go out would  
9           just really like to keep and catch a fish, and I  
10          think a 14-inch flounder is a pretty good eating  
11          fish, and if you're going to throw it back and it's  
12          going to die anyway; I would encourage us to look  
13          at that and to think about what Peter said, the  
14          fishermen to enhance their experience and to keep  
15          people fishing. And that's the first I heard of  
16          that idea, but I think it might be a pretty good  
17          one.

18                      JOHN WIEDENMANN: Yes. And I don't  
19          want the term guppy fish to make it into the jargon.  
20          It's just something we needed to clarify what we  
21          meant when we're looking at some of these  
22          regulations. But it's not something that I think  
23          we can get done by the December timeline. It's a  
24          lot more complicated. But I agree it is a very

1 interesting possibility.

2 WARREN ELLIOTT: I appreciate the fact  
3 that you're thinking outside of the box. It's just  
4 going to be hard to find the data to make that change  
5 outside of the box because if you've never done it,  
6 how are you going to measure it?

7 JOHN WIEDENMANN: Right.

8 WARREN ELLIOTT: So, at some point,  
9 we're going to have to do the best we can and take  
10 a leap of faith and try something new if it's going  
11 to be better.

12 JOHN WIEDENMANN: But it's one of those  
13 things that, again, we don't know what the behavior  
14 of the angler's going to be because --

15 WARREN ELLIOTT: I think you may end up  
16 with less discards 'cause they're going to catch  
17 one that they can keep, and they're going to go home  
18 because they're going to have something to put on  
19 the table and to eat, and I think ultimately it may  
20 save more fish. That's my thoughts. Thank you,  
21 Mr. Chairman.

22 COUNCIL CHAIRMAN RICHARD ROBINS:  
23 Indeed. Think of it as a starter fish. Right?

24 JOHN WIEDENMANN: Yeah. Okay.

1 COUNCIL CHAIRMAN RICHARD ROBINS: John  
2 McMurray.

3 JOHN MCMURRAY: Thank you, Mr.  
4 Chairman. Again coming at this from a non-science  
5 angle. It just seems intuitive to me that if you  
6 do the guppy fish thing and have a 14-inch fish,  
7 that will skyrocket because those fish are very  
8 easy to catch, very easy to kill. Did I hear you  
9 say that that was the case, or not?

10 JOHN WIEDENMANN: Well, we've struggled  
11 with trying to incorporate that into the model, but  
12 what I was saying is that for the other regulations  
13 when you do have just in general lower minimum  
14 sizes, we do tend to see a peak in the size of the  
15 overage because occasionally you do get these  
16 really strong year classes where just keeping one  
17 or two of those small ones then you do potentially  
18 have a much higher harvest. But we haven't  
19 explicitly modeled that yet. We're still trying  
20 to figure out how to do that.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Peter  
22 Himchak.

23 PETER HIMCHAK: Yes. But, you know,  
24 like I'm looking for something much more simpler

1 than a complex model with uniform measures. And  
2 can't you model or estimate a discard taking  
3 regulatory discards and apportioning some of that  
4 to harvest and regulatory discards so that in the  
5 long run the fishing mortality on smaller fish if  
6 you control it, it won't impact the SSB. That's  
7 what I'm looking for, and I think that's what the  
8 fishermen want. They want something to take home  
9 and eat. So, if you give them -- and guppy fish  
10 is here to stay I guess; I don't know -- if you give  
11 them a fish, say, in a 14 to 16-inch size limit,  
12 but you know that the total number of those fish  
13 cannot exceed a certain number or it's going to  
14 exceed the discard mortality on those same fish,  
15 then we have a win situation for the angler, and  
16 it doesn't interfere with anything in increased  
17 spawning stock biomass.

18 So I mean that's where I'm coming at it  
19 as a manager and from listening to the fishermen  
20 every year. Boy, and the amount of effort that  
21 goes into crafting management measures on summer  
22 flounder every year is intense, very intense.

23 Thank you.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Tony

1 DiLernia.

2 ANTHONY DILERNIA: Thank you, Mr.  
3 Chairman. My colleagues make some very good  
4 points, but I think we're focusing on -- I heard  
5 you refer to recruitment events that could be  
6 significant. What happens if you average it out;  
7 can you smooth out the data; can you eliminate the  
8 spikes?

9 If instead of doing it on an annual  
10 basis, if you did it every three years, does the  
11 data smooth out at that point? If one year we may  
12 have a significant recruitment event, and, yes,  
13 then there will be a number of smaller fish caught  
14 and retained; but the following year when we see  
15 that there are variabilities in the recruitment,  
16 that may be smoothed out by the following year where  
17 recruitment might be low.

18 So rather than looking at it from a  
19 year-to-year basis, is it possible to apply say a  
20 three-year or a four-year time frame to the model  
21 and smooth the data out that way?

22 JOHN WIEDENMANN: Yes, that is  
23 possible. But in terms of how we go about within  
24 the model adjusting the regulations. So currently

1           what we do is to try to mimic what the states do  
2           where they take last year's harvest. So how we  
3           would go about dealing with a longer time frame is  
4           something we'd have to think about.

5                   COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
6           you. Tony DiLernia.

7                   ANTHONY DILERNIA: Another question.  
8           Thank you. I understand your difficulty there,  
9           but I make the point because I believe that  
10          fishermen are frustrated each year by the  
11          variability of what occurs if minimum size limit,  
12          seasons, possession limits. They become  
13          frustrated.

14                   Charter boat captains don't know what to  
15          do as far as booking trips until sometime in March  
16          perhaps when their state's regulations are  
17          approved.

18                   I'm wondering that if at this point the  
19          fishery is rebuilt to the point that we could set  
20          regulations for a three-year period and adjust them  
21          every three years rather than annually.

22                   I suspect that the overall effect on the  
23          stock would not be that significant; you might be  
24          able to smooth out the data a bit, and we could add



1           some more stability to the recreational fishery.

2                   COUNCIL CHAIRMAN RICHARD ROBINS: Chris  
3           Batsavage.

4                   CHRISTOPHER BATSAVAGE: Thank you, Mr.  
5           Chairman. At the beginning of the presentation,  
6           you talked about the difference in the sex ratios  
7           of the commercial and recreational catches and the  
8           results of the different model runs. You said that  
9           the proportion of the females in the recreational  
10          fishery didn't change a whole lot for the different  
11          scenarios. Is that more a function of  
12          availability for where the recreational fishermen  
13          are fishing?

14                   JOHN WIEDENMANN: Well, so the figure  
15          that I showed you sort of looked at -- and this is  
16          part of the motivating factor for our region-wide  
17          thing -- that when you get up into the more Rhode  
18          Island and Eastern New York, you see more males  
19          being landed. So, based on the harvest allocation  
20          there.

21                   And in the southern region, we've got  
22          more males being harvested up there, but throughout  
23          New Jersey and in much of the other region we see  
24          such more females. So that's why we sort of ended

1 up seeing the average what it was and not too  
2 variable.

3 But we account for it in the model by  
4 assuming it's a measure of availability that males  
5 and females by region have a potentially different  
6 availability to the recreational fishery.

7 COUNCIL CHAIRMAN RICHARD ROBINS:  
8 Chris.

9 CHRISTOPHER BATSAVAGE: Thank you.  
10 Just a follow-up question. So your results also  
11 showed that there wasn't a real big difference in  
12 spawning stock biomass with this high proportion  
13 of females. I mean is a leap to say that this has  
14 probably been going on anyways with the  
15 recreational fishery over the years and that the  
16 stock has showed some sort of resilience as far as  
17 -- you know, a higher proportion of female  
18 renewables, or is that just speculative?

19 JOHN WIEDENMANN: I can't speak to the  
20 prior dynamics. But I mean we have seen pretty  
21 consistent recruitment events based on the  
22 assessments in terms of resilience. That's where  
23 it comes into the model, as I mentioned before about  
24 the high (inaudible) and the stock recruitment

1 relationship. That is speculation.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Tony.

3 ANTHONY DILERNIA: To this point, I  
4 think what you may want to look at is the  
5 performance of the winter offshore commercial  
6 fishery as it affects in relationship to the  
7 inshore recreational fishery. If you look at the  
8 southern states, I believe you'll see that their  
9 winter trip limits are significantly higher than  
10 the states coming from say New York and the southern  
11 New England region. As a result, the commercial  
12 effort in the Southern New England region is less  
13 I believe than it is in the Mid-Atlantic region;  
14 thereby the effect -- the overall effect is  
15 different on the offshore fisheries.

16 I believe if you look at how the fish come  
17 back to the beach each year from offshore, you'll  
18 see that from Eastern Long Island and the north  
19 shore of Long Island and going up into Southern New  
20 England sees more of those fish coming from the  
21 Georges Banks offshore region than the fish that  
22 come from the south shore of Long Island and the  
23 Mid-Atlantic that come more from the Hudson Canyon  
24 region. And so the effect of the commercial

1 fishery during the winter I believe will result in  
2 a difference in performance of the recreational  
3 fishery than the summer months.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thanks, Tony. Any other questions? Rob  
6 O'Reilly.

7 ROBERT O'REILLY: Well, two important  
8 themes that I'm hearing, one is recruitment, and  
9 that's also something to really pay attention to.  
10 And we know there's been below average recruitment  
11 the last two years according to the latest stock  
12 assessment, and we know that that banner year class  
13 of 2009 has dropped by about 42 percent since 2010,  
14 since it was first thought to be a banner year  
15 class.

16 So recruitment is very important in all  
17 of this, and I do support multi-year  
18 specifications, but it may be that they have to be  
19 done in mind of what the recruitment strengths are  
20 because this is a year-class approach that we're  
21 all looking at.

22 And that would be something to really  
23 look at critically before we go to two or even three  
24 years on how that would affect our management

1           measures because we can't just say that there won't  
2           be some changes with year classes moving in either  
3           strong or weak in the three-, four-, five-year-old  
4           fish especially.

5                     The other quick thing is just to talk  
6           about the theme of the angler, the fishermen  
7           needing the small fish. I think the Technical  
8           Committee, the ASMFC about four years ago when they  
9           worked on slot limits, determined that the only way  
10          this could be done was as an experiment, as I heard  
11          today, when the stock was rebuilt because there's  
12          a lot of conflicting information; there's a lot of  
13          social behavior that goes on in terms of which fish  
14          are going to grade out, high grade or whatever, and  
15          you really would have to look at this as put it in  
16          practice and in the safety in the context of a  
17          rebuilt stock. It's probably also a very good idea  
18          to have that one small fish. It just has to be  
19          known that there's going to be a little trial and  
20          error.

21                     COUNCIL CHAIRMAN RICHARD ROBINS:  
22          Thanks, Rob. Other questions? And we have set  
23          the specifications themselves for two years for  
24          summer flounder at this point, but we haven't ever

1 set the recreational measures for more than a year.  
2 So just to draw that distinction.

3 I think this is very important work  
4 because it does advance the discussion about how  
5 we could improve access to the fishery, which is  
6 obviously an important outstanding question.  
7 But, John, thank you very much for the  
8 presentation, and we'll look forward to ongoing  
9 updates as we go into the process in November with  
10 the Technical Committee and Monitoring Committee  
11 and so forth. But thank you very much.

12 JOHN WIEDENMANN: Well, thank you for  
13 having me, Rick and the Council. And I appreciate  
14 your questions and your suggestions, some of which  
15 we'll definitely try to explore in greater detail.  
16 Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
18 you, John. John McMurray.

19 JOHN MCMURRAY: Sorry for the late  
20 question. This is just regarding multi-year  
21 regulations. And I would just point out that in  
22 the Visioning Project it seemed like there were an  
23 awful lot of people that wanted that stability in  
24 the fishery.



1           today. Having worked closely with the people at  
2           Rutgers, a number of the principals involved and  
3           as a member organization of PMAT, this is important  
4           work for everybody. One of the common themes  
5           though that I hear today, and I think there may be  
6           something and as an advisor to the Mid-Atlantic  
7           Council, I'm here to ask for consideration today  
8           is there's this idea of needing to smooth out the  
9           data. And I think the issue is is that we have the  
10          recreational MRFS MRIP data. It's like trying to  
11          cook and measure teaspoons and tablespoons with a  
12          5-gallon bucket. And I don't think any of us would  
13          be happy with our mom's chocolate chip cookies if  
14          that's how she went about baking every year. But  
15          that's what we're faced with, and that's what we  
16          have to deal with when we continue to try to manage  
17          to the target. And we've got this concept that the  
18          target is some easily attainable and calculated  
19          number, and that's just a simple fallacy. And the  
20          fact is that it's a fallacy, and every year that  
21          we try to continue to work with that as a number  
22          that we can quantify and know that it's to the  
23          number, we're going to fail in this process. This  
24          process is going to let everyone down as managers



1 and let the public down.

2 One of the things I would request, that  
3 the Council in the upcoming regulatory cycle  
4 discuss with the Monitoring Committee is a way to  
5 smooth out the landings over recent years, average  
6 the landings over a three-year period. I  
7 understand that that's difficult given that there  
8 are different regulations each year, but each year  
9 there's an expectation that the regulations are  
10 going to liberalize by 10 percent or allow a  
11 creative reduction of 20 percent. I think that if  
12 everybody puts their heads together, staff and  
13 working with the Monitoring Committee, can come  
14 forward with something for the Council and the  
15 Commission to consider come December of how we can  
16 average the landings over recent years and factor  
17 that into our discussion. Our great fallacy  
18 remains the data, and this is one way to move  
19 forward with it, and I would greatly appreciate if  
20 the Council would consider that request from an  
21 advisor. Thank you very much.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
23 you, Adam. And I do think we have plenty to think  
24 about prior to the Monitoring Committee meeting,

1 and I'll follow up on that point with staff before  
2 that meeting. Okay. Thank you. Jim Fletcher.

3 JAMES FLETCHER: Would it be possible to  
4 request that this model be run back from 1989 when  
5 management started and see if it teases out what  
6 was done in management? In other words, we've  
7 never had a review of what has happened because of  
8 management.

9 So I don't know. I would ask the  
10 gentleman if this model would do it. And then go  
11 back before 1989 when Council started managing and  
12 run the model just with existing state regulations.

13 Many of my members say that we were  
14 better off before the Council started managing both  
15 commercial and recreational, and perhaps somebody  
16 accidentally has built a model that would give a  
17 review. So my request to Council is ask the  
18 gentleman to run it from 1989 forward with the best  
19 data that he's got and see if we can see the effects  
20 of Council regulations and then run it pre-1989 and  
21 see if state regulation, single-state regulation  
22 was not better. Thank you.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
24 you, Jim. Other comments? All right. Seeing

1 none, our next item is going to be the SMZ request,  
2 and that's a special management zone that's been  
3 requested by the State of Delaware. This will be  
4 behind Tab 4 of the briefing book.

5 Rich Seagraves is going to present where  
6 we are on this issue. The Council won't be taking  
7 final action today in terms of selecting a specific  
8 option and making a specific recommendation, but  
9 we will be considering which options to put forward  
10 for public hearing, and Rich will be presenting  
11 that for us. So, after that we'll have comments  
12 and questions and then an opportunity for public  
13 comment.

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16 DELAWARE SPECIAL MANAGEMENT ZONE (SMZ) REQUEST

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RICHARD SEAGRAVES: Thank you, Mr.  
Chairman. I've got a powerpoint presented, and as  
Rick indicated, the job before the Council today  
is to endorse or agree to a set of options that we  
would take to public hearing. So there would be  
no decision making today other than what goes out  
to public hearing. So, to give you a little -- I  
need to get my clicker. To give you a little

1 background, I'm going to go through -- I did present  
2 the SMZ Monitoring Committee report at the last  
3 meeting.

4 I'm going to go back over that a little  
5 bit, hit the highlights, and then present the  
6 options that staff developed. You recall that in  
7 June of last year, the Delaware Division of Fish  
8 and Wildlife requested SMZ status for five of it's  
9 artificial reefs in the EEZ under provisions of  
10 Amendment 9, the Summer Flounder, Scup, Black Sea  
11 Bass Plan.

12 Their justification was based on a need  
13 to ameliorate or reduce gear conflicts on those  
14 reef sites between recreational fishermen using  
15 hook-and-line gear and fixed pot-trap gear.

16 And part of the rationale or concern was  
17 that they were faced with loss of funding under the  
18 Wallops-Breaux Sport Fish Restoration Program to  
19 continue their reef program.

20 Their response was to enact legislation  
21 for state waters that would prohibit the use of  
22 commercial gear on their permitted reef sites in  
23 state waters. And then they are seeking SMZ status  
24 for their five permitted reef sites in the EEZ under

1 Section 648.48 of the black sea bass regulations,  
2 and that would include they have specifically  
3 requested prohibition of fixed pot-trap gear on  
4 those sites, clear the sites.

5 I went through this last time. There's  
6 one that's fairly close to shore and one that's  
7 pretty far out there. It's inside the canyons. I  
8 don't think there's anything on 14 currently.

9 And so the drill here was to look at the  
10 black sea bass regulations as they relate to  
11 special management zones. And under that  
12 provision 648.148, the Army Corps of Engineer  
13 permit holder may request the Council designate  
14 artificial reefs and any surrounding areas as  
15 special management zones or SMZs.

16 Now, under this provision, the Council  
17 may prohibit or restrain use of specific gear types  
18 if they're deemed not compatible with the intent  
19 of the artificial reef permit holder through a  
20 regulatory amendment process.

21 And their request has maintained that  
22 the use of the fixed pot-trap gear on their EEZ reef  
23 sites is not compatible with their reef program  
24 objectives due to these gear conflicts between

1 hook-and-line gear and the pot-trap gear. So the  
2 SMZ procedure is to form a monitoring team, which  
3 we did back in -- there's some complaint, a little  
4 bit of carousing about the time it took.

5 But we were requested in June of 2011,  
6 but it didn't get on the radar and the Council work  
7 plan until January of 2012. We formed this  
8 monitoring team, which was Joel MacDonald, myself,  
9 Scott Steinback, an economist, and Paul Perra in  
10 the northeast regional office. And so the team was  
11 formed. We evaluated the request based on what's  
12 in the black sea bass plan.

13 Now, from there we presented that report  
14 to you in August. And I'll go through the  
15 recommendations again. But from there on the  
16 Chair may schedule public hearings -- meetings of  
17 the AP and/or the SSC to advise the Council, and  
18 they also schedule public hearings.

19 At that point the Council according to  
20 the regs can make a recommendation to the regional  
21 administrator that an SMZ be approved, of course,  
22 or not. If a positive recommendation were made  
23 based on -- you know, the public hearings and the  
24 RA concurs, then there would be a proposed rule.

1 If the RA rejects it outright, there has to be some  
2 explanation why. Now, if it goes to a proposed  
3 rule, there would be public comment, and then a  
4 final rule will be published establishing an SMZ  
5 if it's supported by the weight of the evidence in  
6 the record and the action is consistent with the  
7 Magnuson-Stevens Act and other applicable law.

8 So, in the Monitoring Committee team  
9 report that I presented at the last meeting, we went  
10 through and evaluated these six factors: fairness  
11 and equity, promotion of conservation, and  
12 avoidance of excessive shares.

13 The first three are basically National  
14 Standard IV. I'm not going to go into those in  
15 detail because the findings of the group were that  
16 there really weren't any major issues.

17 Obviously, some public members will be  
18 concerned about the fairness question, but in terms  
19 of fairness and equity as it applied relative to  
20 the idea of excessive shares and so forth under  
21 National Standard IV, that analysis is in the  
22 document.

23 I already presented it at the last  
24 meeting, but I will re-emphasize that the SMZ team

1 evaluation of the request was based solely on the  
2 need to resolve gear conflicts between  
3 hook-and-line fishermen and fixed pot-trap gear.  
4 So it's pretty important because we weren't really  
5 evaluating a lot of other things and arguments that  
6 come into play when you start talking about SMZs.  
7 This is strictly evaluation of the gear conflict  
8 issue.

9 And I did want to go back over a little  
10 bit the consistency with MSA and other applicable  
11 law. In the assessment of consistency of the SMZ  
12 provision with MSA that was conducted when  
13 Amendment 9 was submitted, it was found to be  
14 consistent.

15 So we recruited Joel MacDonald, who is  
16 now retired. So it's great because if there's any  
17 problems, we can blame him for any issues here.  
18 But Joel's synopsis and judgement was that -- he  
19 pointed out -- that when this provision was placed  
20 in Amendment 9, there was a consistency analysis  
21 done, and it was found to be consistent with the  
22 Magnuson Act.

23 Now, there's also a Section 303(b)(2)A  
24 within Magnuson that deals with discretionary



1 provisions of FMPs which do contemplate measures,  
2 such as an SMZ. And that reads any plan may:  
3 Designate zones where, and periods when, fishing  
4 shall be limited, or shall not be permitted, or  
5 shall be permitted by only specified gear types or  
6 fishing vessels with specified types of fishing  
7 gear. So the

8 take-home message that Joel gave us was that certainly  
9 Magnuson contemplates provisions or measures  
10 within an FMP to deal with gear conflicts.

11 And there's a host of examples around the  
12 country where this has been dealt with. Now, as  
13 I had previously indicated, any SMZ designation  
14 would require analysis under a variety of other  
15 applicable laws: Administrative Procedures Act,  
16 National Environmental Policy Act, Regulatory  
17 Flexibility Act, Marine Mammal Protection Act,  
18 ESA, Paperwork Reduction Act, Information Quality  
19 Act, two Executive Orders; and one that I left out  
20 at the last meeting I'm going to highlight is the  
21 National Fishing Enhancement Act.

22 Now, I did refer you to the National Reef  
23 Plan, Artificial Reef Plan, and it was discussed  
24 in the report, but I didn't really get into what

1 NEFA is and how it relates to this decision or to  
2 this consideration.

3 We did point out in the report that the  
4 analysis so far that was presented in the document  
5 was preliminary and that a more complete analysis  
6 consistency with each of these laws or executive  
7 orders would be necessary if the Council recommends  
8 taking action. So that would be done as far as a  
9 regulatory amendment process. However, the South  
10 Atlantic Council has designated 51 reef sites in  
11 the EEZ in their region as SMZs, and so it sets a  
12 considerable precedent that this action would be  
13 consistent with MSA and other applicable law.

14 I wanted to talk a little bit about the  
15 National Fishing Enhancement Act of 1984. The  
16 purpose of that act was to promote and facilitate  
17 responsible and effective efforts to establish  
18 artificial reefs in the U.S.

19 It really grew out of concern that was  
20 growing around the nation that there were lots of  
21 activities of reef building. It wasn't  
22 particularly well coordinated. I'm not going to  
23 get into this too deeply, but most of what's in this  
24 National Fishing Enhancement Act which required,

1 as you see at the bottom, the development of an  
2 artificial reef plan.

3 Which the first one was in '85, and then it  
4 was most recently updated in 2007. By and large,  
5 most of what's in that plan has to do with: setting  
6 standards for reef materials, how they're  
7 deployed, how reefs should be designed so that  
8 there's consistency in standards around the nation  
9 in building artificial reefs. And this is a joint  
10 effort between the federal entities involved, the  
11 state commissions, and the states themselves.  
12 Now, the NEFA law itself established five national  
13 standards relative to location, construction,  
14 monitoring and management of artificial reefs.  
15 And there are the five standards. The first one  
16 is to enhance fishery resources to the maximum  
17 extent practical. The second two I think relate  
18 pretty specifically to this consideration. One is  
19 to facilitate access and use by U.S. recreational  
20 and commercial fishermen, and the third, minimize  
21 conflicts among competing uses of waters covered  
22 under this title and of resources in such waters.  
23 The fourth one does touch a little bit  
24 on it, minimize environmental risks and risk to

1 personal health and property, which would speak to  
2 the idea of loss of fishing gear in the recreational  
3 sector and a gear conflict.

4 And then be consistent with generally  
5 accepted principals of international law and not  
6 create any unreasonable obstructions of  
7 navigation. Also included in the National  
8 Artificial Reef Plan of 2007 -- it was updated in  
9 2007 -- is the provision in there that says: Federal  
10 agencies may provide some regulatory functions  
11 regarding fishing practices on specially  
12 designated artificial reefs; and then, e.g. -- this  
13 is verbatim out of the thing -- in special  
14 management zones.

15 And then they go on to say the South  
16 Atlantic Snapper-Grouper and the Gulf of Mexico  
17 Reef Fish Plans would have these provisions as well  
18 as our Black Sea Bass Plan.

19 So the Artificial Reef Plan does  
20 contemplate the idea of special management zones.  
21 There is some language in there that we're supposed  
22 to be promoting access to both sectors of the  
23 fishery, commercial and recreational; but there is  
24 fairly detailed language which recognizes there

1           may be cases where special management zones may  
2           indeed be necessary and are basically endorsed in  
3           this plan.

4                       Now to get back a little bit to the  
5           question in hand is the SMZ designation for the five  
6           Delaware reefs. We were to look at impacts on  
7           historical uses relative to recreational fishing.

8                       And I presented this at the last meeting:  
9           Recreational activity is highest on Reef Site 11,  
10          followed by 10, and then the other ones there's no  
11          data on Site 15. And this expenditure data was  
12          based on analysis done by Scott Steinback using the  
13          expenditure data on recreational fishing  
14          activities and applied to the Delaware Fish and  
15          Wildlife estimate of activity on those reef sites  
16          from their aerial surveys.

17                      And overall the charter and head boat  
18          sector accounted for the greatest amount of fishing  
19          activity at all reef sites, but there tended to be  
20          greater activities the further offshore you went.

21                      In terms of the commercial activity,  
22          what we were able to recover from the VTR data were  
23          landings by vessel by gear type, and it turns out  
24          normally when you do this drill and you try to tease

1 out landings by area by VTR data, it's pretty course  
2 because of the requirements of the vessels.

3 They only are required if they change the  
4 statistical area they have to put that down. As  
5 long as they're within a statistical area, they  
6 don't have to change exactly where they are. So  
7 it becomes a problem for mobile gear fishery. It  
8 turns out that for pot-trap gear, Scott Steinback  
9 was able to recover with pretty good resolution  
10 where this pot-trap activity was being reported,  
11 and so to my surprise we were able to do a fairly  
12 good analysis of what's reported from the VTR --  
13 the commercial activity on these reef sites. So  
14 what we found was that there was pot-trap fishing  
15 activity occurring at Reef Sites 11 and 13 with  
16 little or no pot-trap activity at other sites.

17 There was none at Site 14, but there was  
18 some trawl and dredge activity. The activity at  
19 Sites 11 and 13 produced average revenues of 7 and  
20 \$27,000 per year for the period 2008 through 2010  
21 or about 0.6 percent of the value of the total  
22 vessel landings by pot-trap gear. And this is for  
23 sea bass in New Jersey, Delaware, and Maryland. On  
24 average the vessel revenue derived from 11

1           comprised about 4 percent of the total revenue for  
2           the vessels that fished Site 11, again, for sea  
3           bass. And vessels fishing 13 derived 11 percent  
4           of their total revenue. Now, the problem here is  
5           we can't report the number of vessels. Because  
6           there are three or less because of the  
7           confidentiality rules of federal data, we cannot  
8           say how many there are, but we can tell you that,  
9           as you know, there are three or less. And it  
10          appeared to provide a fairly small fraction,  
11          certainly a small fraction of the total fishery.  
12          And 11 percent at Site 13, I'll leave that to your  
13          judgement how significant that is. But there are  
14          the numbers we had to work with.

15                 So the summary was that there were little  
16                 or no pot-trap activity on 9, 10, and 14; 9 and 10  
17                 are the two closest, and 14's the one on the  
18                 outside; but there is currently use by other gear  
19                 types on 14, that offshore one.

20                 There was moderately low pot-trap  
21                 activity on 11 and 13, and given the relatively high  
22                 recreational activity at those sites, a pretty good  
23                 bet that gear interactions have been occurring.

24                 So other than we had requested -- I had

1 put in a request to enforcement to see if there had  
2 been any enforcement records or any complaints of  
3 gear conflicts on these sites. There were none  
4 that we had, report.

5 So previous to the request, we were going  
6 basically on what people were telling us in terms  
7 of complaints that they were getting. The State  
8 of Delaware indicated in their letter that they had  
9 been getting complaints about gear conflict for  
10 years and so on and so forth. But we were actually  
11 able to demonstrate the potential for gear  
12 conflicts on 11 and 13. And then the other  
13 take-home was that significant precedence exists  
14 in other regions, principally the South Atlantic.

15 They conclude that the designation of  
16 these reefs as SMZs would be consistent with the  
17 Magnuson-Stevens Act and other applicable laws.

18 The Council recommendation obviously  
19 for these five sites has implications for other  
20 reef sites. There are a total of 35 permitted reef  
21 sites currently exist in the EEZ. We've only  
22 considered five of them.

23 And that the conclusion of the  
24 designation of these five sites if the Council



1 chose to recommend all five, would not seem to have  
2 a significant impact on entities might have been  
3 different if they were considering all the sites.

4 There has been some discussion about  
5 this since the last meeting, and the read that we  
6 get right now is that probably the 13 sites in New  
7 Jersey that might seek SMZ status. The other ones  
8 are owned by municipalities or other states that  
9 aren't interested or may not be interested. So  
10 there's a potential for a total of 35 to seek it,  
11 somewhere, maybe it's 18 to 35. So the team  
12 recommendations were -- the point I want to drive  
13 home is that this decision is largely a policy  
14 consideration. There's not a lot of scientific  
15 concern here. It's about access to these areas.  
16 It's an allocation decision of sorts that the  
17 Council needs to make.

18 So it is a policy consideration, and the  
19 Council we would urge, the SMZ urged the Council  
20 to think about a longer term solution which  
21 considers all relevant factors because we only  
22 considered the gear conflict issue, and there are  
23 much broader issues at stake here.

24 In end, so the first recommendation was,

1           yes, the Council should consider designating all  
2           five reef sites as SMZs. And the idea we came up  
3           with is to deal directly with the gear conflict and  
4           an SMZ would be in effect when a recreational season  
5           for black sea bass is open.

6                       And then we put in SMZ to include  
7           prohibition of fixed pot-trap gear to ameliorate  
8           any real or potential gear conflicts. In  
9           addition, Kevin Saunders had recommended as well  
10          as the NMFS enforcement folks that we include a  
11          buffer, and they recommended a thousand yards.  
12          The buffer in the South Atlantic is currently 500  
13          meters.

14                      So, what that means right now if this  
15          regulation were in effect -- SMZs would be in effect  
16          January and February, March through May, May  
17          through October. So there's splits in the season  
18          the way it's currently set up. And so the idea is  
19          to separate the gear. If the season for sea bass  
20          is open, then the SMZ would be in effect. That was  
21          our proposal recommendation.

22                      Now, one of the issues here is that the  
23          sea bass recreational season is certainly subject  
24          to change in the future, and it's likely to be

1 longer once the stock is deemed to be rebuilt.

2 The other recommendations the Council  
3 should in future considerations might cause the  
4 Council to change or revise its designations and  
5 accompanying restrictions and that the Council  
6 should review the 2007 Artificial Reef Plan and  
7 modify and implement any changes to its current  
8 Artificial Reef Policy that we have that the  
9 Council adopted in 1995. So that was the  
10 presentation.

11 The summary, again, of what I presented,  
12 a little more detail about the National Artificial  
13 Reef Plan and the Fishery Enhancement Act. So the  
14 Council passed a motion in August following that  
15 presentation to develop options for SMZ  
16 designations of Delaware reefs in the EEZ for  
17 Council consideration and that we consider  
18 convening public hearings in November to receive  
19 comments on the proposed options and then consider  
20 any sort of recommendation at the December council  
21 meeting.

22 So, in the briefing book, there is a list  
23 of options that staff came up with, and our job at  
24 hand is to hopefully get you

1 to -- you can either add to these, adopt these, whatever  
2 the pleasure of the Council is.

3 And then the idea is we would schedule  
4 public hearings in November and get public comment  
5 and come back to you. So the way I laid this out  
6 is your first option is no action, to say no, we're  
7 not going to designate these SMZs, business as  
8 usual, maintain the status quo.

9 The second option is to designate all or  
10 some of the Delaware reef sites as SMZs. So, then  
11 if the Council decides that, well, we want to  
12 consider some sort of SMZ option, then we laid out  
13 three options.

14 The first would be to designate all five.  
15 That's Option 2A. 2B would be to designate Reef  
16 Sites 11, 13, 14 as SMZs. These were the only ones  
17 where we could document the potential for gear  
18 conflicts. And 2C would be designate 9, 10, 13 and  
19 14 as SMZs but not Site 11. Now, the reason for  
20 that is -- and there's some discussion in behind  
21 the tab about that; I talked about this at the last  
22 meeting -- is that under the original Corps of  
23 Engineers permit for Reef Sites 9, 10, 11, I believe  
24 -- it would have been 9, 10, and 11 in the first

1           permitting application -- the Council opposed Reef  
2           Site 11.

3                       There was some indication that this was  
4           a fairly productive fishing area, that there was  
5           already commercial fishing activity in this area.  
6           There was a letter from Danny Cohen to the Corps  
7           of Engineers opposing it and a letter from Dave  
8           Keefer representing the Council's position  
9           opposing the siting of an artificial reef on 11.

10                      So I put that one in there so that would  
11           keep the Council consistent with its previous  
12           position on Reef Site 11. Now, you don't  
13           necessarily have to -- that Council position and  
14           so policy does not have to tie the hands of this  
15           Council. So you can consider that or not.

16                      So, now if we proceed through 2, and  
17           we've said, okay, there's going to be some sort of  
18           SMZ designation, the issue is what are the gear  
19           restrictions. And there are two that we proposed.  
20           One would be just prohibit the use of fixed pot-trap  
21           gear on any sites designated as SMZs. And this  
22           reflects the direct request from Delaware.

23                      3B would be more restrictive in that it  
24           would restrict activities in the designated SMZs

1 to hook-and-line and spear fishing gear only.

2 And in the discussion under the option,  
3 it would still allow commercial  
4 hook-and-line activity on the reef sites. So it would  
5 be basically be restricting any other gear other  
6 than hook-and-line and spear fishing.

7 And then the issue of Topic 4 is seasonal  
8 restriction. So 4A is what the monitoring team  
9 came up with, which was to designate SMZs during  
10 periods when the sea bass fishery is open.

11 4B is just designate them year round.  
12 And 4C was another idea that we kicked around at  
13 the monitoring team level was to designate the SMZs  
14 during periods of peak recreational fishing  
15 activity, and as an example, say Memorial Day to  
16 Labor Day.

17 That could be changed or modified. But  
18 the idea is to try to separate the two gear types  
19 based on the level of fishing activity in the  
20 recreational fishery. And then the final option  
21 is relative to the buffer. So we did get some  
22 pretty positive feedback that if you were to  
23 designate an SMZ, that a buffer would be required  
24 to make it enforceable.

1                   And so Option 5A would be no buffer. 5B  
2                   would be the thousand yard buffer that was  
3                   recommended by the Coast Guard, and that is  
4                   equivalent to about a half a nautical mile. And  
5                   5C would be 500 meters, which is the South Atlantic  
6                   rule, which is equivalent to a quarter nautical  
7                   mile.

8                   So today we need action from the Council  
9                   if they want to move forward with public hearings  
10                  to adopt or modify the options that I've put on the  
11                  table here and then decide how many public  
12                  hearings, if you want to move forward how many and  
13                  where.

14                  We're recommending if you move forward  
15                  with two, one in Cape May and one in Ocean City.  
16                  And then the plan would be to take public comment  
17                  at that hearing and then come back, report to the  
18                  Council in December for some decision. Any  
19                  questions?

20                  COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
21                  you, Rich. What is the prohibition, or what's  
22                  either allowed or prohibited within the South  
23                  Atlantic's 51 SMZ sites?

24                  RICHARD SEAGRAVES: Well, they vary.

1           They've been putting these things into effect over  
2           about 15 years, something like that. And it does  
3           depend on the location. Most of them are  
4           prohibition of all commercial gear, hook-and-line  
5           and spear fishing only.

6                       Now, some of them have other  
7           restrictions, restricted to the bag limit. So  
8           there is no commercial fishing per se. So all the  
9           bag limits regardless if you're fishing with a  
10          spear gun or a bang stick or whatever,  
11          hook-and-line, you're restricted, too.

12                      I think most all of them have that as  
13          well. But there are several differences across  
14          the 51. But basically it's for recreational  
15          fishing only.

16                      COUNCIL CHAIRMAN RICHARD ROBINS:

17          Thanks, Rich. George.

18                      GEORGE DARCY: Yeah. A couple of  
19          questions or comments. It seems odd that you're  
20          not having a public hearing in Delaware. Maybe  
21          there's a good reason, but it seems odd.

22                      RICHARD SEAGRAVES: I'm still mad at  
23          them. But I think normally when we have a hearing  
24          in that area, it's just access. There's a lot of



1 people in Maryland as well, and you might get some  
2 Eastern Shore people coming up. But we can have  
3 one in Delaware for efficiency purposes.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 George, go ahead.

6 GEORGE DARCY: A couple. Have you  
7 involved the industry advisors in this process yet,  
8 or you don't intend to?

9 RICHARD SEAGRAVES: That's up to the  
10 Council. Again, the process contemplates  
11 bringing in the advisors. We have not yet, but  
12 that's certainly an option that the Council could  
13 exercise. It's contemplated in the --

14 GEORGE DARCY: It seems like it might be  
15 a good idea to ask. And the final thing is -- I  
16 raised this at the last council meeting; I'll raise  
17 it again -- is the lobster pot issue, whether the  
18 Council has the authority.

19 And I don't know if it's your intent to  
20 try to exclude that gear from the SMZs, but that's  
21 something that really needs to be carefully  
22 coordinated with the ASMFC. There are continuing  
23 questions as to the authority to take that kind of  
24 an action. So I can at least raise it again.

1                   RICHARD SEAGRAVES: Yeah. I  
2                   appreciate that. And I think Joel pre retirement  
3                   indicated that the basis here was that we could  
4                   regulate any gear since we're operating under the  
5                   black sea bass FMP, that we could regulate any  
6                   fishing gear capable of taking a sea bass in terms  
7                   of a pot or trap. So he was pretty adamant about  
8                   it.

9                   And I know there's some disagreement and  
10                  some concern from other quarters that the lobster  
11                  fishery's managed elsewhere, and there's some  
12                  conflicts there, but certainly that's something  
13                  that we would take into consideration, deal with  
14                  you guys on it.

15                  COUNCIL CHAIRMAN RICHARD ROBINS: Tony  
16                  DiLernia.

17                  ANTHONY DILERNIA: Thank you, Mr.  
18                  Chairman. Rich, regarding these sites, do we know  
19                  how the decision to create these sites originally  
20                  was made?

21                  I mean were these sites built on live  
22                  bottom that was fished ahead of time and they  
23                  decided to enhance the productivity of the site,  
24                  or is it did they just bring a barge up there and

1 kick some subway cars over the side?

2 RICHARD SEAGRAVES: Well, certainly,  
3 I'll kick this one over to Jeff Tinsman. Jeff's  
4 the coordinator for the Delaware Artificial Reef  
5 Program. But I will note that the Artificial Reef  
6 Plan -- it should be available; if it's not I'll  
7 have it up on the website -- has a list of standards  
8 and procedures to follow which deals directly with  
9 your questions as to how to do this right, how to  
10 pick certain bottoms, areas to avoid; and it all  
11 relates back to what the objectives of what the  
12 building of the reef are.

13 So there are some pretty rigid and well  
14 detailed standards and procedures in the  
15 Artificial Reef Plan that I believe Delaware  
16 probably followed, but I'll leave it to Jeff.  
17 Jeff.

18 JEFFREY TINSMAN: Thank you, Rich. We  
19 went through about a year-and-a-half process  
20 finding candidate sites by talking to charter boat  
21 captains about general areas where if there was  
22 limited structure there they could catch sea bass  
23 where they had been successful and where they  
24 wanted to see sites placed.

1                   Then we used two basic filters. We used  
2                   the Mariner's Advisory Committee of the Delaware  
3                   Bay, which is the Pilots Association, and Coast  
4                   Guard, and other major marine shipping users of the  
5                   system to eliminate sites that were in conflict  
6                   with navigation. And we made a couple  
7                   presentations to the Mid-Atlantic Council in the  
8                   '90s about candidate sites that were left. I think  
9                   we started out with 38 candidate sites in Delaware  
10                  Bay and the Atlantic Ocean and ended up with 11 that  
11                  we had no major objections to.

12                  As I said, I made two presentations to  
13                  the Council. I guess the letter from Cape May  
14                  Fisheries eventually came out of that during our  
15                  period, but there was no major discussion at those  
16                  two meetings from anybody that used that site.

17                  We did side-scan sonar, historical and  
18                  cultural surveys of all of our sites, which cost  
19                  30-something thousand dollars, to make sure there  
20                  were no valuable historic wrecks on those sites.

21                  And that also served the purpose of  
22                  making sure that we were taking up as we intended  
23                  to, bare sand bottom; no live bottom, no natural  
24                  rock, and no wrecks were in the perimeter of the

1 vast majority of those sites.

2 There was one exception in lower  
3 Delaware Bay. But with the exception of that.  
4 For example, the site where we sank the Radford last  
5 year, the destroyer, the Moonstone World War II  
6 patrol boat is near that site but outside the  
7 perimeter. And that was the way we approached it.  
8 We wanted to take up bare sand bottom that was  
9 really indistinguishable from all the other bare  
10 sand bottom out there to minimize conflicts with  
11 bottom that might already be holding fish and  
12 supporting commercial fishing.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Thanks, Jeff. Other questions for Rich? Warren.

15 WARREN ELLIOTT: Thank you,  
16 Mr. Chairman. Either for Rich or for Jeff. I'm just  
17 wondering how do these options impact the WBSRP  
18 funding, and is there any difference between them?

19 RICHARD SEAGRAVES: You know I can't  
20 answer that. Jeff may be able to. I think that  
21 the Fish and Wildlife Service was pretty clear in  
22 their letters and their communications to the state  
23 reef coordinators that allowing commercial fishing  
24 on reef sites was not compatible with the use of

1 Sport Fish Restoration monies. Whether or not  
2 this would address their concerns we'd have to hear  
3 from them. I'm not sure.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff.

5 JEFFERY TINSMAN: Yeah. Of the three  
6 options, 2A, B, and C that are in the document  
7 today, I wouldn't have any problem with all of them  
8 going to public hearing; but 2C which excludes Site  
9 11 will not satisfy Delaware's needs with respect  
10 to Sport Fish Restoration funding. That's  
11 probably the site that drew their attention most  
12 and first.

13 Certainly Site 13 would have added on  
14 there. Our aerial flight survey shows that use  
15 of that site is increasing very quickly, but it is  
16 quite a bit farther offshore. And Site 11 is by  
17 far a most heavily used site. And we need to have  
18 SMZ designation for 11 and 13 at a minimum.

19 When I came in here a year and a half ago,  
20 I requested kind of blanket SMZ coverage for all  
21 of our five sites in the Atlantic Ocean with  
22 basically the thinking that I would do it in a  
23 comprehensive fashion and wouldn't have to come  
24 back and keep

1 piece-mealing the process either because we had a site  
2 where there weren't conflicts currently and  
3 conflicts developed or from potters excluded from  
4 sites where there were conflicts moving to sites  
5 that previously had no conflicts, like 9 and 10.  
6 So that was my original approach. I guess we're  
7 sticking with that request. But the bottom line  
8 is we need SMZ status for 11 and 13 at a minimum  
9 out of this process.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Thanks, Jeff. Warren.

12 WARREN ELLIOTT: Just as a quick  
13 follow-up, even if it's only during black sea bass  
14 season that's acceptable?

15 JEFFREY TINSMAN: I'm not sure that that  
16 is going to satisfy the Sport Fish Restoration  
17 folks, and I'm going to try to get them, John Oregon  
18 at the Fish and Wildlife Service to write a letter  
19 which I guess would be delivered at or about the  
20 time of the hearings, as I envision things,  
21 spelling out what is acceptable to them.

22 I suppose it would be -- it's not going  
23 to be a clear removal of the conflict because of  
24 the ghost pot issue. We've heard numbers as high

1 as 30 percent of pots being lost on some of the  
2 fairly rugged structure that we've put down there.

3 Subway cars with those railroad car  
4 grates at the end which extend out to grates on the  
5 other side to make passage from one car to the other  
6 possible are almost designed to pot warp on a line  
7 of fishing pots. So there is a very high loss of  
8 pots, and that would continue under this seasonal  
9 proposal.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Peter  
11 Himchak.

12 PETER HIMCHAK: Yes. Thank you, Mr.  
13 Chairman. I have a number of questions because  
14 this has major implications or repercussions to New  
15 Jersey's 13 sites.

16 First and foremost is what actually is  
17 contained in the public hearing document for the  
18 first go-round; is it going to be like a scoping  
19 document? I would hope. And who writes it?

20 Because I would request that in order to  
21 have an open and transparent discussion with the  
22 public that we need to know the entire  
23 administrative record of all five sites, what was  
24 deployed and who funded it.



1           Now, if you go on the DNREC website, you  
2           can get most of that information by site. They  
3           have it up through 2005, every single deployment.  
4           But, again -- you know, who funded the site?

5           And the undercurrent that's driving this  
6           system is the threat to Sport Fish Restoration  
7           funds, and I get that. I mean we're out \$250,000  
8           a year because of conflicts on reef sites in state  
9           waters. However, if you look at the  
10          administrative record of each site -- and I'll go  
11          back to Site 13 -- they sank the Radford there.  
12          Okay.

13          The Navy, New Jersey, Maryland, Delaware  
14          I think we all ponied up \$200,000, and the Navy  
15          donated a ship. So I think that's relevant  
16          information for the public to digest in context  
17          with what's at risk.

18          What else is being used to construct  
19          reefs? The 25 percent match comes from what -- all  
20          the subway cars. Is there any public service,  
21          electric and gas money supporting the reef program?

22          So you see what I mean? I think this has  
23          to be spelled out in the first public hearing  
24          document in order for us to start talking about a

1 fairness.

2 This is pretty valuable real estate, and  
3 I'm looking for a title search is essentially what  
4 I want. And when you start splitting this up, I  
5 think you need this information.

6 Site 14 has nothing deployed on it, if  
7 I understand Rich's comments earlier, yet it's  
8 listed for documented gear conflicts. Maybe those  
9 terms need -- to begin with, so. But if there's  
10 no construction going on and however they've  
11 documented potential gear conflicts I don't  
12 understand that. So that's what I think is  
13 necessary.

14 And, again, Site 11 is very problematic  
15 because of the activity that was there, the  
16 commercial fishing that was there before the site  
17 was created. And now we have a turf war going on  
18 there that's threatening Sport Fish funds. That's  
19 a real problem.

20 So the only other thing I would add in  
21 addition to my request is that I had a question for  
22 Rich on your options. There's no option for a  
23 sharing of the area year round, in other words, part  
24 of the reef site being SMZ and part not.

1           Is that just too impractical to do? I  
2           mean big is all relative. It's a big area for  
3           partitioning, but big in context of how big it is  
4           in the ocean is probably pretty small. So can you  
5           address that point? And then I'd like some -- you  
6           know, some information on what's going to be in the  
7           public hearing document. Thank you.

8           COUNCIL CHAIRMAN RICHARD ROBINS: Fair  
9           enough. And I'll go to Rich first. I know Jeff  
10          has some points he'd like to respond to as well.  
11          Rich.

12          RICHARD SEAGRAVES: Thanks, Mr.  
13          Chairman. First on the point about 14, what we  
14          said was that there was no reef site stuff deployed  
15          there yet, and I think that's correct.

16          There is no documentation of  
17          recreational activity because their survey doesn't  
18          go out that far, and there's no documented pot trap  
19          activity on 14; however, there is some other  
20          fishing activity, dredges and scalloping and so  
21          forth.

22          There is some commercial fishing  
23          activity that has been existent in that area. So  
24          we didn't say that there was a documented

1 interaction. I was just trying to present what  
2 information we do have. There's limited, no  
3 recreational.

4 In terms of the issue of subdividing the  
5 reef up and splitting it half and half, that sort  
6 of thing, I would just defer to enforcement because  
7 we were told that to make even the reef site itself  
8 as an SMZ to be enforceable that we needed to  
9 include a thousand yard buffer, which is a half a  
10 nautical mile, pretty significant. So I would  
11 just raise that question is: If you got into  
12 subdividing it, enforcement would probably be more  
13 of a problem?

14 COUNCIL CHAIRMAN RICHARD ROBINS: Kevin  
15 Saunders, did you want to respond to that point?

16 KEVIN SAUNDERS: I do, Mr. Chairman. I  
17 will elaborate on that thousand yard buffer. So  
18 contrary to some belief, we are pretty sympathetic  
19 to the mistaken violations that do occur, and  
20 that's why the thousand yard buffer has been pretty  
21 effective for the Northeast as kind of a wiggle room  
22 for the fishermen to say, okay, I might have made  
23 a mistake; I might have drifted over here while I  
24 was doing something else and not paying attention

1 to my GPS device, not an intentional violation of  
2 the regulation. So that's why the thousand yard  
3 buffer is in effect.

4 Now, if we reduce that thousand yard  
5 buffer, then when it comes to enforcement,  
6 effectively what you're allowing somebody to  
7 do -- let's say we have a 500 yard buffer.

8 Somebody can basically make in a 500 yard  
9 incursion into the area that you're specifically  
10 trying to affect before a violation will likely go  
11 into effect on that particular fisherman that's  
12 violating that.

13 Now, if you take an existing SMZ area and  
14 split it down the middle allowing one use on one  
15 side and one use on the other side, you basically  
16 add especially without a buffer line, you're  
17 creating an area where gear conflict interactions  
18 are likely to occur, which makes things difficult  
19 on the fishermen; it makes things difficult on  
20 enforcement. So I'll take any questions on that.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Thanks, Kevin. Jeff.

23 JEFFREY TINSMAN: Thanks, Mr. Chairman.  
24 In addition to the enforcement issues, we have the

1 issue of the funding agency, Sport Fish Restoration  
2 funds. Cutting the baby in half wasn't really a  
3 good solution when Solomon proposed it back in the  
4 Bible, and it doesn't work with Sport Fish  
5 Restoration folks either.

6 We've spent literally millions of  
7 dollars placing material on these sites, number  
8 one, and we've gotten the benefit of eight million  
9 dollars in bank match.

10 Matching federal funds one dollar for  
11 every three dollars of federal dollars is one of  
12 the biggest challenges that states face. We got  
13 a pretty good deal when New York City Transit  
14 prepared and transported 1329 subway cars to  
15 Delaware reef sites. We got to bank the value of  
16 some of that effort. The first eight million  
17 dollars is sitting there providing match for any  
18 future Sports Fish Restoration funds that we use.  
19 I'm sure if that site were cut in half, we would  
20 lose, especially if you're  
21 flip-flopping recreational and commercial annually as  
22 has been proposed, we're going to lose that match.  
23 That's no longer going to be considered  
24 recreationally beneficial.

1           In addition to having to pay back all of  
2           that millions of dollars that we spent on  
3           developing that particular site, Sport Fish  
4           Restoration folks have indicated that that is one  
5           of the three things that they could do, cut off  
6           funding. And the worst, of course, is repayment  
7           of all the funds.

8           Now, currently our state legislature has  
9           not appropriated a single dollar for artificial  
10          reef development in Delaware. We use Sport Fish  
11          Restoration funds and the value of contributed  
12          materials, PSE&G money in some cases as a match for  
13          that, and we've had a pretty high volume successful  
14          reef program going without the use of state money.

15          You can imagine having to go into the  
16          state legislature and drop a number in excess of  
17          two million dollars on them and tell them, hey, we  
18          got to pay this back to Fish and Wildlife Service.  
19          That is not going to be a solution to the problem  
20          for us for sure.

21                   COUNCIL CHAIRMAN RICHARD ROBINS: Well,  
22                   it may have solved Solomon's problem but may not  
23                   solve yours. Howard.

24                   HOWARD KING: Thank you. First a

1 question for Rich. When the Council formerly  
2 opposed Site 11 I think as an artificial reef site  
3 because of then current commercial activity, that  
4 wasn't necessarily pot gear back then, was it, do  
5 you know?

6 RICHARD SEAGRAVES: I don't think the  
7 letter was specific to it. I think it just said  
8 significant. I'll have to go back and look at the  
9 letter. I think I can dredge that up pretty  
10 quickly. But I don't think it was specific. It  
11 may have been. I'll have to look at it.

12 HOWARD KING: Okay. But even in the  
13 absence of a special zoning designation, other  
14 types of commercial activity other than pot or  
15 hook-and-line wouldn't be feasible anyway. So  
16 that was one point I wanted to make.

17 And then for Jeff: Even purchase by  
18 commercial fishermen of tackle, rod, reel, hooks,  
19 line is taxable under Wallop-Breaux I would think  
20 would have allowed or made commercial  
21 hook-and-line eligible.

22 JEFFERY TINSMAN: Commercial  
23 hook-and-line is eligible. We have no problem  
24 with commercial hook-and-line. It creates no



1 conflict whatsoever.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Dewey  
3 Hemilright.

4 DEWEY HEMILRIGHT: Thank you,  
5 Mr. Chairman. I might have already missed it, or I don't  
6 know if the question's been asked. Is there any  
7 other species caught around these sites?

8 For simple reason I know a lot of times  
9 are big bluefish around some wrecks and stuff, and  
10 I would think that maybe in the past that some of  
11 these sites could be bluefish or spiny dogfish or  
12 some other things.

13 Do the VTR reports say that any other  
14 species that have been looked at that's caught  
15 around these sites? And also, I like Peter's  
16 comments about getting a whole scope of things.

17 When you're starting to carve up parts  
18 of the ocean for designations and giving access to  
19 basically one group or something, it's kind of good  
20 to get a history of how the site was made and  
21 everything and stuff like that. And the second  
22 thing, once you put a half mile ring around the site  
23 -- I know just for instance, fishing around wrecks  
24 and stuff when we gillnet fish for bluefish or

1 something, a half mile is going to put you out of  
2 it. A quarter mile you could be in the ball game  
3 a little bit.

4 So I just wondered about any other  
5 species of fish that were recorded through the  
6 vessel trip reports that would show any other type  
7 of commercial activity besides just pot fishing,  
8 which it seems to be the gear conflict talked about  
9 potential here. And just wondered if anybody has  
10 that answer.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Rich.

12 RICHARD SEAGRAVES: Yeah. The  
13 economic analysis that Scott Steinback did include  
14 species other than black sea bass. It's not in the  
15 report, so I'd have to go back. If you request  
16 that, we can have that information and put it in  
17 the public hearing draft if we go forward.

18 In some of the activities, specifically  
19 14, I remember I think it was sea scallops and maybe  
20 surfclam activity. In the letter relative to  
21 opposition to 11, there were some surfclam activity  
22 the concern for that in that original letter that  
23 Keefer wrote. And, again, I can't put my hands  
24 on the letter right now. I'll get back to you.

1           And then there are other species. Tautog I believe  
2           are caught in some areas, probably bluefish. I  
3           don't know. You've probably got the species  
4           listed in your head that you already know what it  
5           is.

6                         But I can present that. But by and large  
7           most of the economic activity that we're talking  
8           about here is for sea bass in these existing reefs.

9                         COUNCIL CHAIRMAN RICHARD ROBINS:

10          Laurie Nolan.

11                        LAURIE NOLAN: Thank you. Is there a  
12          plan to gather the AP prior to scoping or sometime  
13          in the mix?

14                        COUNCIL CHAIRMAN RICHARD ROBINS:

15          Laurie, that's something that we can consider.  
16          And we can plan to do that prior to the December  
17          council meeting. So we could, for example, put  
18          together the public hearing draft and convene the  
19          AP.

20                        We'd probably get the best participation  
21          via webinar, get the advisors to review and comment  
22          on that and have that available for the Council  
23          prior to taking final action. And based on the  
24          conversation we've had, I think that would probably

1           be in order to do that. Jeff Deem.

2                   JEFFREY DEEM: I apologize for coming  
3           into this late. Excuse me if this has already been  
4           proposed and rejected. But considering the amount  
5           of money that Delaware could lose, has there been  
6           a consideration or could there be an option for  
7           Delaware to build an artificial reef limited  
8           strictly to commercial fishermen, possibly one  
9           that they could expand on at their own expense in  
10          the future?

11                   COUNCIL CHAIRMAN RICHARD ROBINS: There  
12          hasn't been any discussion of that. Jeff, I don't  
13          know if you have any comment.

14                   JEFFREY TINSMAN: Well, any kind of  
15          artificial reef construction comes down to a  
16          funding source. We have federal money to develop  
17          hook-and-line sites through a narrowly targeted  
18          funding source.

19                   There's no federal pack of money that I'm  
20          familiar with that is available for construction  
21          of commercial reefs. If Congress truly intended  
22          for these things to be used recreationally and  
23          commercially, they have neglected to fund the  
24          commercial side of that issue.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff.

2 JEFFERY DEEM: Just considering the  
3 amount of Wallop-Breaux money that you're likely  
4 to lose, I would think that that might be funding  
5 source that maybe the state would settle for paying  
6 half of it for a site. And 11 in particular, since  
7 it was a commercial site before, it sounds to me  
8 like the fair thing to do. But just a thought.

9 COUNCIL CHAIRMAN RICHARD ROBINS:  
10 Thanks. Rich, on the question of the history of  
11 how these sites were developed, short of hiring a  
12 dirt lawyer to do a title search, would it be  
13 possible to bring together the available  
14 information on that and include that in the public  
15 hearing document?

16 RICHARD SEAGRAVES: We would be looking  
17 to -- Delaware would have -- house -- the keepers  
18 of that information. Some of it's in the reef  
19 guide that has some specific information about what  
20 was deployed, but there's no information about  
21 specifically who would have been responsible for  
22 the cost of deployment. What Pete was getting at  
23 was what materials were placed and where did the  
24 money come from to put it there. Is that basically

1           what you're looking for? So we would look to  
2           Delaware for that.

3                   COUNCIL CHAIRMAN RICHARD ROBINS: Jeff,  
4           is there at least some basic information about that  
5           history that we could include in the document?

6                   JEFFREY TINSMAN: It would probably be  
7           necessary for us to estimate the total expense  
8           based on what we know we paid for concrete  
9           deployments and ballpark figures for vessels and  
10          that sort of thing.

11                   This goes back 20 years. And the state  
12          record keeping who knows what Connex the file is  
13          stored in right now. So it's going to be hard to  
14          come up with real documentation, but we could  
15          certainly come up with a ballpark figure. And I  
16          believe somewhere during this process, I supplied  
17          Rich with that information already, so.

18                   COUNCIL CHAIRMAN RICHARD ROBINS: Okay.  
19          Thank you. Rob.

20                   ROBERT O'REILLY: Yeah. My question is  
21          on law enforcement that Rich mentioned, there were  
22          no situations I guess. Is that what was indicated?

23                   RICHARD SEAGRAVES: Yeah. I sent a  
24          letter to both Kevin as well as NMFS, Logan I

1 believe, and the response was that there were no  
2 documented instances of a gear conflict that had  
3 occurred that they had to respond to.

4 ROBERT O'REILLY: So, as a follow-up,  
5 Mr. Chairman --

6 COUNCIL CHAIRMAN RICHARD ROBINS: Sure.

7 ROBERT O'REILLY: -- it would be more  
8 important in the future if this ends up in a certain  
9 direction, that there were probably sustained  
10 enforcement. Law enforcement resources are  
11 stressed pretty thinly, and I don't know whether  
12 Delaware has an MOA with National Marine Fishery  
13 Service, for example. You do. Okay. So it would  
14 be really important to ensure that in the future  
15 that that was taken care of.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
17 you, Rob. And I had Mike Luisi.

18 MICHAEL LUISI: Thank you,  
19 Mr. Chairman. This is a question for Rich and maybe  
20 Kevin. Rich, you mentioned the precedent that's  
21 been set in this case in the South Atlantic, and  
22 I thought I remembered seeing in the presentation  
23 that the buffer area in the South Atlantic is a 500  
24 meter buffer, and that's kind of what the precedent

1           that's been set there. And this point goes along  
2           with what Dewey mentioned. Kevin, then you  
3           followed up by saying that in the Northeast it's  
4           more typical to have a thousand yards as a buffer,  
5           and I just wonder why the difference. With  
6           enforcement being black and white given some  
7           officer discretion, I just wonder why there's such  
8           a much more large buffer in the Northeast. Thanks.

9                           COUNCIL CHAIRMAN RICHARD ROBINS:

10          Kevin.

11                          KEVIN SAUNDERS: Thank you,

12          Mr. Chairman. So all things aren't equal between the  
13          Northeast and the Southeast. At one point there  
14          was a 500 yard buffer typically put in effect for  
15          closed areas and things around here, and once that  
16          500 yard buffer was violated, that's when the real  
17          monetary violation would take effect.

18                          The climate's changed a little bit up  
19          here as far as understanding the plight of the  
20          fishermen with respect to how much they had to lose  
21          for a mistaken violations.

22                          And I kind of relate this to a green  
23          light, yellow light, red light. So, if you take  
24          a yellow light at a traffic signal and make it one



1 second, you're probably going to get a lot of people  
2 running red lights. If you make it three seconds  
3 like it is I think typically on most streets, you  
4 won't catch as many people violating the red light.  
5 You won't write as many red light tickets. Our  
6 goal is not to write tickets and get fines. Our  
7 goal is to get compliance.

8 So what our logic is by having this  
9 thousand yards, we have a longer yellow light and  
10 less people running the red lights and making the  
11 violations. Thanks.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Peter.

14 PETER HIMCHAK: Thank you,  
15 Mr. Chairman. I have one quick question for Jeff. The  
16 five million dollar loss -- I'm trying to  
17 understand -- is that all of Breaux money that you  
18 would have to give back for past years' usage?

19 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff.

20 JEFFREY TINSMAN: I think I mentioned  
21 eight million dollars. That's the value of the  
22 cleanup and transportation of the subway cars to  
23 Delaware reef sites that counts as bank match for  
24 us. I think that's probably what you're referring

1 to. We also have millions of dollars -- you know  
2 we've spent \$960,000 just on the Radford. So we're  
3 well over two million dollars in the other 30 or  
4 so vessels, smaller tugs and so forth, that we've  
5 sunk as ocean reef sites, and that is the amount  
6 we'd have to pay back to the Fish and Wildlife  
7 Service under a worst case scenario.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Other  
9 questions or comments at this point? Steve.

10 STEVEN HEINS: I just want to get back  
11 to the buffer issue a little bit. I certainly  
12 sense the law enforcement concerns, but the  
13 proposal it relates strictly to set pot gear. And  
14 with modern navigation equipment, I really don't  
15 see how someone mistakenly misses a spot by a half  
16 a mile or a quarter mile even. I just think that  
17 a thousand yards is maybe unnecessary.

18 COUNCIL CHAIRMAN RICHARD ROBINS:  
19 Thanks. And right now the document does have  
20 multiple options for that. But I appreciate it.  
21 John. John Bullard.

22 JOHN BULLARD: Mr. Chair, I think I just  
23 want to underline what many people have already  
24 said, and that is the driver in this is the funding

1           for the reefs, and that's what brings Delaware to  
2           the table, but it's also what's going to bring other  
3           states to the table; and therefore, the question  
4           that I think Warren asked to begin with but Peter's  
5           also asked in making sure that the public hearing  
6           documents provide the information that gives the  
7           Council information on whether or not various  
8           alternatives are going to require the return of  
9           money or not is really important. That's what's  
10          high stakes.

11                   And so it's critical that these options  
12           that the Council knows in advance whether various  
13           options are going to solve the problem or not in  
14           advance. And so this is about the funding source  
15           of the money, and that's what it is about.

16                   And so knowing in advance whether these  
17           options do the job or not in advance is critical.  
18           And so that's what it's about. It's about that for  
19           Delaware right now, but it will be about it for  
20           other states in the future.

21                   COUNCIL CHAIRMAN RICHARD ROBINS: I  
22           appreciate that point. I think we have a couple  
23           of things that we have to do with respect to the  
24           document. One is to document some of that history

1 in the public hearing document, and it sounds like  
2 Jeff on behalf of the State of Delaware is going  
3 to be soliciting some communication from Fish and  
4 Wildlife Service also. So we look forward to both  
5 pieces of that information. John McMurray and  
6 then I'll go to the public for some comments.  
7 John.

8 JOHN MCMURRAY: Thank you,  
9 Mr. Chairman. This is kind of in response to John's  
10 comments. I've been sitting here trying to figure  
11 out since we started this discussion why this is  
12 an issue that's isolated to Delaware's artificial  
13 reefs.

14 And I know New Jersey's had some issues,  
15 and they've suffered greatly in loss of  
16 Wallop-Breaux funding that's correct. Why aren't  
17 we discussing SMZs for New York or every other  
18 state? And are we headed in that direction?

19 COUNCIL CHAIRMAN RICHARD ROBINS: John,  
20 it's certainly a fair question. We're sitting  
21 here considering this specific action today  
22 because we had a request that came from Delaware  
23 DNREC with respect to these specific sites wherein  
24 I believe they were the original permit holder and

1 obviously engaged in the deployment of the reefs,  
2 so they have standing to make a request for an SMZ  
3 designation. But keep in mind that the working  
4 group that Rich Seagraves served on did recommend  
5 that we consider developing a long-term solution  
6 to this issue from a policy perspective. So that  
7 would point to the need for some additional  
8 thinking from a policy standpoint on this to look  
9 at it in the longer term context; but in the  
10 interim, they suggested moving forward with these  
11 specific designations.

12 So that's kind of where we are today, but  
13 coming out of this I think we do need to have a  
14 longer term discussion about it from a policy  
15 standpoint. Jeff, you had a comment on this?

16 JEFFREY TINSMAN: On that subject, I  
17 think Amendment 9 to the Black Sea Bass Plan  
18 requires that a state seeking SMZ status for ocean  
19 sites have previously addressed conflict  
20 situations in state site reefs, which Delaware has  
21 done, and New Jersey has attempted to do but has  
22 not yet been successful in doing. So that step  
23 would be a necessary first step for them, as I  
24 understand it.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thanks, Jeff. With that I'd like to take some  
3 public comment on this issue. Yes, Walter Chew.  
4 Walter, if you would, just go ahead and have a seat  
5 and state your name for the record on the  
6 microphone. Thank you very much.

7 WALTER CHEW: Thank you. My name is  
8 Walter Chew. I am a retired commercial fisherman,  
9 and I feel like a fish out of water here in a pool  
10 because I'm not a public speaker. And I prepared  
11 my comments before I had seen

12 Mr. Seagraves' presentation today, and some of these  
13 comments may have been answered by his  
14 presentation, but let me start.

15 Mr. Chairman and members of the Council,  
16 thank you for giving me the opportunity to voice  
17 my concerns. There are problems that I see with  
18 this SMZ that was proposed, and I'll point out just  
19 three starting with a small one.

20 You proposed to prohibit the use of pots  
21 on the reefs during the open recreational sea bass  
22 season, but these reefs are not in any state, so  
23 whose season are you talking about?

24 These reefs are about equal distance

1 from three states whose open seasons are different,  
2 and since these reefs are in federal waters, you  
3 must mean the federal season because the  
4 recreational sea bass season in federal waters is  
5 always open, so this SMZ bans pots all year long.  
6 If you're going to backtrack and make it dependent  
7 on Delaware's season, it creates a larger problem.  
8 You'd essentially be giving these federal areas and  
9 the resources on them to the State of Delaware.  
10 That's earthshaking. You had better check with  
11 the State Department about that because I would  
12 think Congress and the other 49 states will have  
13 a lot to say about dividing up the EEZ and giving  
14 them to other states.

15 Even if you were to make a federal  
16 recreational season that covers all open seasons  
17 from the tri-state area, you'll end up saying that  
18 the season was from about May 1 through December  
19 31.

20 That creates a huge problem for  
21 Delaware. That is because it will then be in  
22 violation of conditions of its permit. Why is  
23 that? It's because by signing the dotted line to  
24 get its permit, Delaware agreed to build a series

1 of 14 reef sites that met federal standards.

2 One of those standards was, "To  
3 facilitate utilization by recreational and  
4 commercial fishermen." Let me stop there and just  
5 make a note. The word is "utilization." It  
6 wasn't "use" like Mr. Seagraves showed you.  
7 However, on its state reefs, Delaware has already  
8 banned the use of all gear except hook, line, and  
9 spear that resulted in commercial fishermen having  
10 use of but not utilization of the state reefs. I  
11 emphasize those two words use and utilization,  
12 because they have different meanings. To have use  
13 of a reef means to physically be there doing  
14 something; whereas, to have utilization of a reef  
15 means to use it in a profitable way; in other words,  
16 to catch a bag limit if you're recreational, or to  
17 make a reasonable profit if you're commercial.

18 Which word did Congress write into its  
19 standards? It wasn't use; it was utilization.  
20 The Corps is aware of what Delaware did, but because  
21 these five sites in the EEZ are still open to  
22 commercial utilization, they say that the federal  
23 standards governing Delaware's series of 14 reefs  
24 are not yet violated.



1           This SMZ is the iceberg in Delaware's  
2 path. If this closes the last five sites to  
3 utilization, there will be no commercial  
4 utilization of any of the 14 sites governed by  
5 Delaware's permit. Delaware's reef program will  
6 have hit the iceberg and made it's demise because  
7 that when Federal Law 33 CFR 322.5B(1) directs the  
8 Army Corps to revoke Delaware's permits. Why is  
9 Delaware not already on course to avoid the  
10 iceberg? By golly I don't know. Even though  
11 Delaware's potential permit problem is not your  
12 problem, it's something you should at least be  
13 aware of. But the biggest problem with this SMZ  
14 is that they're using the wrong intent as a  
15 guideline.

16           Using the wrong intent will leave you  
17 with an unjustified recommendation. The  
18 authorizing CFR said, and I quote, "Prohibit or  
19 restrain the use of specific gear types or specific  
20 types of fishing gear that are not compatible with  
21 the intent of the artificial reef."

22           And you used Delaware's intent as the  
23 guidelines, but these reefs are not Delaware's  
24 reefs. They're the federal government's reefs.

1 Delaware was only the builder.

2 This CFR isn't talking about Delaware's  
3 intent. It's talking about the owner's intent, the  
4 federal government. Delaware owns the sites in  
5 the state waters, and it goes along with you keep  
6 telling \$600,000 a year in free grant money from  
7 the Sport Fish Restoration Program.

8 It passed a law eliminating  
9 commercialization of those sites to keep the SFR  
10 happy. But the Army Corps did not give Delaware  
11 a permit to build these sites in the EEZs to make  
12 the SFR happy or to fulfill DNREC's goals. It gave  
13 them a permit to build these reefs to fulfill  
14 Congress' goals. All the hype about how badly  
15 Delaware needs SFR grant money is a smoke screen  
16 to get you to ignore the fact that it's not  
17 Delaware's intent or the intent of Delaware's  
18 funder that matters, but Congress' intent that you  
19 should be using as a guideline.

20 Now, where are Congress' goals for  
21 artificial reefs? It's odd, but your SMZ team's  
22 report didn't say a word about a whole set of  
23 federal laws that contain that information.

24 Since these laws are specifically about

1 artificial reefs, they trump, supersede, and take  
2 precedent over the Magnuson-Stevens Act that is  
3 more general in nature. The laws I'm talking about  
4 are found in Title 33, Chapter 35 in the section  
5 titled: Artificial Reef -- and I don't know how they  
6 missed that one -- referenced as 33USC2101A(5).

7 Congress said, and I quote, "Properly  
8 designed artificial reefs can enhance U.S.  
9 recreational and commercial fishing  
10 opportunities, increase the production of  
11 fisheries products in the United States, increase  
12 the energy efficiency of recreational and  
13 commercial fisheries." That's Congress' intent  
14 of properly designed reefs. You should not have  
15 been using Delaware's intent of creating only  
16 recreational fishing opportunities. You should  
17 have been using Congress' intent that uses the  
18 phrase recreational and commercial as your  
19 guideline.

20 A second law in that same chapter  
21 expresses how Congress wants its reefs to be  
22 managed. Section 33USC2102 says: Based on the  
23 best scientific information available, artificial  
24 reefs shall be managed in a manner which will

1 facilitate access and utilization -- not use,  
2 utilization -- by United States recreational and  
3 commercial fishermen and minimize conflicts among  
4 competing uses.

5 Neither law says recreational or. They  
6 both say recreational and. So, on federal reefs,  
7 it's clear that Congress envisioned a fair and  
8 equitable sharing of the resources.

9 In addition, reefs allocate the 51/49  
10 recreational commercial percents split of sea bass  
11 resource, yet the recreational sector is  
12 consistently overharvesting its target. The  
13 problem with this SMZ is that not only does it not  
14 give the commercial sector a fair shot at the  
15 resource, it exacerbates the problem of the  
16 recreational sector's over harvest. It's working  
17 against Congress' goals and against the harvest  
18 goals of NMFS' Sea Bass Plan. So I'm leaving you  
19 with several things to think about; (1) There's no  
20 closed season for sea bass in the EEZ, so the  
21 proposal that was in the team's report is  
22 equivalent to closing the reef areas to commercial  
23 utilization; once that happens, the Army Corps is  
24 ordered to step in and revoke Delaware's permit;

1 (2) the U.S. government owns the reef sites in the  
2 EEZ, and it's not Delaware's but Congress' intent  
3 that should be your guideline for determining  
4 prohibited gear type on these sites, and (3) this  
5 SMZ doesn't accomplish what Congress or NMFS' FMP  
6 wants.

7 Thank you for hearing me out. Please  
8 consider that space sharing proposal that I put  
9 before you as an alternative. I'd be happy if you  
10 have any questions. Thank you very much.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
12 you, Walter. And I do have one quick one. You  
13 made reference to the fact that utilization  
14 essentially implies some reasonable level of  
15 profitability. Are you able to offer any  
16 references in the standards that were described in  
17 the statutes or in the regulations that makes  
18 specific reference to that? It seems to me that  
19 the same word's being used to describe the  
20 recreational access to that site. So can you  
21 elaborate on that?

22 WALTER CHEW: Except that the word is  
23 utilization there, and Congress specifically wrote  
24 uses into the next section. And so to minimize

1 conflict among the uses of the sites, but to  
2 facilitate access and utilization.

3 Utilization by definition has a  
4 different root word than use. It is utilize or  
5 utility, and utility is usefulness of. So it  
6 depends on your goal, which in terms of a  
7 recreational fisherman is to enjoy himself and go  
8 home with a bag limit of fish. His goal is 25 fish.

9 But the goal of a commercial fisherman  
10 is to make a profit; so therefore, his goal is in  
11 terms of money, not in terms of have something to  
12 eat. Does that answer your question?

13 COUNCIL CHAIRMAN RICHARD ROBINS: Yes,  
14 Walter. I appreciate it. I think there a couple  
15 other questions. Tony DiLernia.

16 ANTHONY DILERNIA: Thank you,  
17 Mr. Chairman. Captain, for someone who's not a public  
18 speaker, you did quite well.

19 WALTER CHEW: Thank you.

20 ANTHONY DILERNIA: Thank you for a very  
21 clear argument. My question is regarding the gear  
22 type, the commercial gear type. It seems to me  
23 that the issue is not whether or not recreational  
24 or commercial fishing can occur on the reef, but



1 commercial boat to make that trip and come home with  
2 less than 300 pounds. And that's if you put five  
3 people on a boat, which is New Jersey's rule. If  
4 you're angling for sea bass commercially, there's  
5 only five people allowed on the boat. You end up  
6 with 300 pounds for five people working all day.  
7 It's not going to work. It can't be done.

8 Now, if you were doing groupers down  
9 south or something large like maybe tuna fish,  
10 yeah, you could pull that off. You'd have enough  
11 weight by the end of the day.

12 But angling commercially for sea bass  
13 just isn't going to work in the summertime.  
14 Now, in the wintertime out on the rocks, they're working  
15 on bigger fish, maybe five pound fish, it works for  
16 them.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff,  
18 you had a question as well I believe.

19 JEFFREY TINSMAN: A comment. I've  
20 probably got an hour's worth of comments, but I'll  
21 try to keep it as short as possible. Let me start  
22 out by saying that I don't know, and I don't think  
23 any of us knows what Congress' intent was or their  
24 understanding of artificial reefs was in 1984 when



1           they wrote the National Fishing Enhancement Act.

2                       This was a very naive time on the east  
3           coast of the United States for reefs or some few  
4           states that had a small scale reef programs going.  
5           Delaware was decades away from starting a reef site  
6           at that point. Most states didn't know much, and  
7           who knows where Congress got their information.

8                       I was part of the group from the Atlantic  
9           States Marine Fisheries Commission that wrote the  
10          redrafting of the original National Reef Plan, and  
11          we encountered that language in the National  
12          Fishing Enhancement Act and the original national  
13          plan, kind of passed it along not really  
14          understanding what Congress' intent was.

15                      Apparently, they may have naively  
16          believed that commercial and recreational fishing  
17          could occur on an artificial reef. Something that  
18          should also be pointed out, though, is that they  
19          put language in there about conflicts, what to do  
20          in a case of conflicts, and mentioned SMZs as a  
21          solution to those conflicts. This has been used  
22          in the South Atlantic 51 times without anybody's  
23          permits being pulled.

24                      And I'm just referring briefly to

1           Walter's letter here which was distributed to  
2           everyone. In his proposed space sharing  
3           alternative, he has (1) proposed gear, no user on  
4           any area of the reef may at any time (a) use a  
5           gillnet, trawl, dredge or seine.

6                   I maintain to you that those are  
7           commercial fishing gears which in his own proposal  
8           he's proposing to eliminate. And in fact, when we  
9           permit a site, an artificial reef site where  
10          manmade materials are going to be placed on the  
11          bottom, we are automatically knowingly eliminating  
12          hydraulic dredging and trawling from that site in  
13          a defacto kind of way because when notice to  
14          mariners goes out and people realize there's going  
15          to be rough and jagged material on that site, nobody  
16          is going to trawl or drag their hydraulic dredge  
17          through that site.

18                   So why Mr. Chew feels that pots are  
19          sacred, but gillnet, trawl, dredge, and seine can  
20          be eliminated I don't see any consistency there  
21          with the language he's talking about in federal  
22          regulations either. I have a lot of other comments  
23          I could make, but I'll save them.

24                   COUNCIL CHAIRMAN RICHARD ROBINS: Yeah.

1           Jeff, I was going to say if we have any questions  
2           for Walter, why don't we have those now, and we'll  
3           come back as a council and discuss the comments.  
4           Are there any other comments for Walter? Dewey.

5                   WALTER CHEW: May I respond to his  
6           question?

7                   COUNCIL CHAIRMAN RICHARD ROBINS:  
8           Walter, Dewey does have a question.

9                   WALTER CHEW: Okay.

10                   DEWEY HEMILRIGHT: I just got kind of an  
11           observation when we're talking about the use of  
12           gillnets and different things. The way a pot  
13           fishes -- I've never pot fished; I've lobster  
14           potted -- but it's less likely to get hooked up onto  
15           artificial reef sites.

16                   You're not going to go sit no gillnet on  
17           top of artificial reefs because you're not going  
18           to get it back. They're not compatible with going  
19           over the top of the artificial reef site. So the  
20           way you fish that gear and the way the tide is, if  
21           there's no tide has a lot of variables. I don't  
22           know his reason for just choosing the black sea bass  
23           pot, but probably because they're black sea bass  
24           potting. And also the way that you fish that gear

1 is probably going to be less acceptable or less  
2 chance to get hooked up on a reef or something. A  
3 gillnet you're not going to fish 'cause you won't  
4 get it back.

5 And also if you have the site which I  
6 alluded to before, having access close to a site  
7 where a lot of times fish hover and stay around  
8 there, so if you've got a site where you have to  
9 be a half mile away it's totally taking you out of  
10 the ball game from a commercial perspective. And  
11 I thank you for your comments.

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 Walter, did you want to clarify anything else in  
14 your proposal?

15 WALTER CHEW: Not in my proposal.  
16 Something I wanted to respond to what  
17 Mr. Tinsman said.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Go  
19 ahead.

20 WALTER CHEW: He was commenting on  
21 Congress' intent. And all I can do -- I don't  
22 presume to rewrite what Congress wrote. All I did  
23 was read to you exactly what Congress wrote, and  
24 that is their intent because they said these

1 properly designed reefs can do these things.

2 Now, I can imply from that that an  
3 improperly designed reef doesn't do these things.  
4 And if we're making it so that it only works for  
5 recreational, then the implication is that's an  
6 improperly designed site based on what Congress  
7 defined a properly designed site to be.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
9 you, Walter. Other public comments? Yes, sir.  
10 Adam. Thank you, Walter.

11 ADAM NOWALSKY: Thank you,  
12 Mr. Chairman. Adam Nowalsky. I would encourage the  
13 Council to go ahead and construct a draft document  
14 at this point. I think there's been a lot of issues  
15 and questions raised here today that we need  
16 information compiled for the Council to fully  
17 consider this issue as well as to get public input  
18 through the advisory process.

19 And the construction of that draft  
20 document would be the first step with a lot of the  
21 items that have been discussed here. So I highly  
22 encourage that. Within that document I encourage  
23 keeping of the option for all sites to be considered  
24 as SMZs. To go ahead and just do some of the sites

1 is clearly going to shift effort to some of the  
2 other sites, and it's going to bring Delaware right  
3 back here to go ahead and not have their issue  
4 resolved in the near future.

5 I would encourage the Council to keep the  
6 provision in for hook, line, and spear only as the  
7 gear provision. This would continue to allow  
8 commercial hook-and-line fishing.

9 I know in New Jersey we have a number of  
10 boats that go ahead and do land black sea bass, do  
11 meet their New Jersey trip limit via hook-and-line  
12 methods. Not that they're going to catch the  
13 entire state's quota that way, but it is a viable  
14 day's income for a number of boats.

15 I would also encourage the inclusion of  
16 the 500 meter buffer zone with the fixed gear as  
17 was noted. That's something that isn't moved  
18 around as much, isn't so likely to be an issue where  
19 you're going ahead and dumping a trawl on deck and  
20 taking time to sort the catch, et cetera. This is  
21 fixed gear on the bottom. So I would certainly  
22 encourage that to be there. Finally, with regards  
23 to the funds, this becomes -- it's a huge issue here  
24 in

1 New Jersey, and I certainly don't want to underestimate  
2 the impact of the funds, but the funds are still  
3 available to the state provided the state can go  
4 ahead and draft a grant that the National Fish and  
5 Wildlife Service goes ahead and approves for the  
6 use of that money.

7 So, as long as the state has a program  
8 that's eligible, they can re-use those funds for  
9 some other purpose and then hopefully find a way  
10 to allocate money from something else within the  
11 state.

12 So it's something else we're dealing  
13 with. It does require more work from the state,  
14 but it is an opportunity I think with regards to  
15 the funding issue. Thank you very much.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
17 you, Adam. Other comments on this issue? Yes.  
18 Come on up, please. If you would please state your  
19 name for the record. Thank you.

20 JOAN BERKO: Joan Berko, sea bass  
21 potter from New Jersey. Just a couple of comments.  
22 As the state's been kind of going at this already  
23 with the reefs for a little while, so it might be  
24 repetitive. But as far as the buffer zone goes,

1           they did build some of the artificial reefs in state  
2           waters right next to existing wrecks. So, if you  
3           make this buffer zone the 500 yards even, we're  
4           going to be fishing something that's not part of  
5           the artificial reef but still within that buffer  
6           zone.

7                     And another I think variable with having  
8           this buffer zone: Where are all these pots going  
9           to go; is everybody going to build up and put them  
10          all around the boundaries, and is there going to  
11          be a big cluster there of where these traps have  
12          to go?

13                    Another thing as far as the other  
14          species, right at this reef out here on the offshore  
15          the head boats said sport boats have been catching  
16          big bluefish since the end of the summer.

17                    There's guys that gillnet out there I  
18          guess depending on the season whether it's stake  
19          or anchor or drift net even maybe. So they're not  
20          fixed then I would guess. I don't know how close  
21          they would get when they do set them.

22                    I do know they skate fish. They  
23          monkfish. So there's other species out there,  
24          too, that they're targeting. Maybe it's got



1 something to do, too, with even how these other  
2 boats whether they're anchored or whether they,  
3 like the party boats, might be just drifting over  
4 the top of the wrecks for bluefish. Which is  
5 another -- I have a question about the perceived  
6 conflicts whether they've been like studies recent  
7 since the sink rope went into effect? Is there any  
8 difference from a couple years ago?

9 RICHARD SEAGRAVES: The information  
10 that we looked at was 2006 through 2010.

11 JOAN BERKO: Okay. So it is recent  
12 then.

13 RICHARD SEAGRAVES: Yes.

14 JOAN BERKO: Because I'm just wondering  
15 whether -- I mean we don't set our pots across the  
16 reef or else we're not going to get them back  
17 especially with the sink rope, and we really  
18 haven't gotten sinkers or hooks or anything.

19 I'm wondering even if they're getting  
20 caught in their pots or whether they're just losing  
21 entire spools of braided line in the wrecks.

22 And, as we've had the divers tell us,  
23 it's scary down there. And you know another ball  
24 and another ball, and then somebody else goes and

1 drifts, and their hook and their last ball spider  
2 wire. So we get blamed. And the same thing if  
3 there's a gillnet, as soon as somebody sees a high  
4 flyer, oh, it's pots; it's pots. So that's it.  
5 Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
7 you. Other comments? Greg DiDomenico.

8 GREGORY DIDOMENICO: Greg DiDomenico,  
9 Garden State Seafood Association. Mr. Chairman,  
10 I had a question for Rich and a question for Mr.  
11 Tinsman and a really brief comment.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Go  
13 ahead.

14 GREGORY DIDOMENICO: Rich, how many of  
15 the sites in the South Atlantic became SMZs and were  
16 placed as SMZs after SMZs designation took place?  
17 In other words, there were a few pre-existing sites  
18 that were already artificial reefs, then made those  
19 SMZs; but many of them were SMZs after that, which  
20 didn't discriminate against any particular  
21 commercial gear type.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Rich.

23 RICHARD SEAGRAVES: My understanding is  
24 that the original set of

1 reefs -- I think there were 10 in the South Atlantic that  
2 were permitted, that were not  
3 SMZs -- they were established; and this problem came to  
4 the forefront of commercial gear being set near  
5 them. So this is when they went forward and  
6 actually designated them as SMZs.

7 So they were originally permitted, then  
8 became SMZs. Some of the ones that -- I think most  
9 of them after that there was intent up front upon  
10 the permit holder that when they applied for the  
11 permit, that they were going to seek SMZ status for  
12 these things.

13 But they were never part and parcel  
14 together, even for the ones where there was intent.  
15 There was a subsequent thing that occurred. There  
16 was another amendment that went in. I don't  
17 remember the exact numbers.

18 But basically they started as artificial  
19 reefs, the first 10, and then got their SMZ  
20 designation under the snapper-grouper plan similar  
21 to the language we have.

22 GREGORY DIDOMENICO: And I only ask that  
23 and bring it up because it's a fairness issue.  
24 What has occurred after that, of course, did not

1           exclude anybody from places that they were fishing.  
2           It makes a big difference.

3                       RICHARD SEAGRAVES:  Yeah.  And I  
4           discussed this at the first meeting was -- and I  
5           didn't include it; I probably should have -- was  
6           the idea that the sea bass section that we're  
7           talking about that allows for this SMZ was put into  
8           place after the original Corps of Engineer permits  
9           were applied for and gotten by the State of  
10          Delaware.

11                      So their first set, 9, 10, and 11 and all  
12          the ones in state waters, were permitted prior to  
13          the black sea bass provision being put into place  
14          for SMZs.  So there was no opportunity for them at  
15          that point to seek the status.  It didn't exist.

16                      And then the second round which then  
17          included 13 and 14 -- I think I'm right -- was later,  
18          and they could have and did not.  So it's kind of  
19          a split issue in terms of when and where they could  
20          have sought SMZ status.  So 11, which is the big  
21          issue, seems to be the big issue, that SMZ provision  
22          didn't exist.

23                      COUNCIL CHAIRMAN RICHARD ROBINS:  And,  
24          Greg, you have a question for Jeff through me?

1 GREGORY DIDOMENICO: My question is:  
2 Would the State of Delaware consider bandit rigs,  
3 multi-hook rigs, as compatible commercial fishing  
4 gear to keep somebody profitable instead of having  
5 them with the wrong gear?

6 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff.

7 JEFFERY TINSMAN: I'm not familiar with  
8 the kind of gear you're talking about. Explain it  
9 to me a little better.

10 GREGORY DIDOMENICO: Bandit rig you'd  
11 you'd find in the South Atlantic and the Gulf for  
12 snapper-grouper species. It's a mechanical  
13 device, multi-rig monofilament  
14 hook-and-line essentially, multiple hooks, but not  
15 sitting there with a rod and reel with one or two  
16 hooks.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Well,  
18 it's still a hook-and-line gear, but it's on a  
19 jigging machine essentially. Is that a fair  
20 description?

21 JEFFERY TINSMAN: We're talking about  
22 that for commercial hook-and-line?

23 GREGORY DIDOMENICO: Yeah. Correct.

24 JEFFERY TINSMAN: We'd have to consider

1           that on an individual basis I guess. And if we have  
2           regulations now limiting people to three hooks, I  
3           think that that would have to be changed to  
4           accommodate that I guess. Commercial  
5           hook-and-line guys have an annual quota just like  
6           potters, so. If they want to take them all in a  
7           couple of days fishing, in the concept I don't see  
8           the downside to that.

9                   COUNCIL CHAIRMAN RICHARD ROBINS: Greg,  
10           a follow-up comment?

11                   GREGORY DIDOMENICO: Yeah. No, not to  
12           that entire issue. It's been told here many times  
13           it's a policy issue, and it is primarily 90 percent  
14           a policy issue. So with a policy issue, I think  
15           the best really the way to proceed is obviously  
16           reaching out to Advisory Panel and making those  
17           recommendations into a public information, public  
18           hearing document.

19                   And our desire here is within the  
20           confines of the law, which what we heard back and  
21           forth today, and there are numerous regulatory  
22           issues, an issue of fairness and practicality, and  
23           above all, which Mr. Bullard carefully pointed out,  
24           a solution has got to retain the funding.

1           But with that I think there should be  
2           some other fair means to get to that end, and I think  
3           an Advisory Panel would be very beneficial. So I'd  
4           request that. And lastly, I also want to say that  
5           while I said it's a policy issue, I'd like to bring  
6           science into this. I think this is a perfect  
7           opportunity to create one of those reefs as a  
8           research reef only. We're talking about black sea  
9           bass, which has numerous scientific uncertainty  
10          around it. I think this would be a great  
11          opportunity to study and provide this through the  
12          research set-aside program or something else to  
13          really answer a lot of the questions surrounding  
14          black sea bass.

15                 They're very similar to groupers, if not  
16          -- biologically they are. We have to start  
17          managing that way, and we have to answer the  
18          questions that nag the SSC continually. I think  
19          that may be a good option to go on, so I'd like to  
20          see that in the document. Thank you.

21                         COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
22          you. Are there any other public comments on this  
23          issue? Seeing none, the matter's before the  
24          Council for discussion and action. What's the

1 pleasure of the Council? Peter.

2 PETER HIMCHAK: Well, I still want some  
3 confirmation of the process. So we have several  
4 pages of options here. We want to bring in the  
5 Advisory Panel or Panels -- I'm not sure which  
6 specifically ones we're talking

7 about -- summer flounder, scup, black sea bass.

8 Anything else? And then the administrative  
9 history of the sites. There's a lot of work to go  
10 into a public hearing document, and will the  
11 Council even look at it before it goes out to public  
12 hearing? I mean are we locked into this time frame  
13 that you're -- what is it? What is the right to  
14 pass, in other words.

15 So the public hearing document has to  
16 have like a whole history so that the public can  
17 gauge an issue of fairness, threat to funding,  
18 acknowledge conflicts, et cetera, et cetera. So  
19 I'm looking for some direction here.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Pete,  
21 I think the direction that the staff has laid out  
22 so far is they've got this document. Based on the  
23 discussion we've had today, it seems that there is  
24 a desire to have more information in here.



1           As I said, short of the title search,  
2           that at least document some of the basics in terms  
3           of the funding history so that that additional  
4           information is available to the public.

5           We'd then convene a meeting of the  
6           Advisory Panel to get their comments on the  
7           options. And if we go forward like that, we'd come  
8           back to the Council in December. I mean that would  
9           be one option. Rich, I don't know if you have  
10          comments on the timeline beyond that.

11          RICHARD SEAGRAVES: What we had laid out  
12          didn't contemplate going seeking input from the AP,  
13          so we have a public notice requirement to convene  
14          the AP. And, again, I hadn't really thought --  
15          hadn't really anticipated a lot of additional  
16          analysis that was going to go into this.

17          Basically, we were going to take the SMZ  
18          report and the options that were approved here and  
19          massage them into a document that we would become  
20          a public hearing document.

21          We're not operating under the  
22          requirements of say an environmental assessment  
23          yet. That would come later if we seek action. So  
24          the more I hear the more it sounded like a normal

1 procedure which is much more involved, and that  
2 wasn't really contemplated in  
3 Amendment 9.

4 So my issue would be whether or not  
5 there's enough time to convene the AP, put the  
6 document together based on their input, and then  
7 schedule public hearings and then by December. I  
8 think we'll try. That could be the plan, but it  
9 may not work. We probably don't have enough time.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Well,  
11 I think we need to discuss the implications of that.  
12 I mean another option would be to take the options  
13 that you've put together here as modified by the  
14 Council today if there are any proposed  
15 modifications based on the public input that we  
16 received and then cycle those through a review  
17 process with the AP. We could certainly do that  
18 ahead of the December council meeting.

19 If the Council would stipulate to the  
20 fact that we'd be adding the funding history for  
21 the sites to the public hearing document and when  
22 we had the public hearings, that that information  
23 to the extent that it is available would be included  
24 in the document. Rich.

1                   RICHARD SEAGRAVES: Yeah. I think a  
2 reasonable approach would be certainly the Council  
3 would want to approve the public hearing document.  
4 We'd want to see that again before we take it on  
5 I would think.

6                   So I think in lieu of just going ahead  
7 and scheduling public hearings, we'll schedule an  
8 AP meeting, and then based on any other options  
9 anybody wants to put out on the table today and then  
10 what input we get from the AP, develop a public  
11 hearing document, and we'll have to bring that back  
12 in December, get approval of that and then move  
13 forward from there.

14                  COUNCIL CHAIRMAN RICHARD ROBINS: Jeff,  
15 you had a comment on this?

16                  JEFFERY TINSMAN: Yeah. I just wanted  
17 to officially request a hearing in Lewis, Delaware.  
18 Thank you very much.

19                  RICHARD SEAGRAVES: Not a problem.

20                  COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
21 you. Jeff Deem.

22                  JEFFREY DEEM: Yeah. Could we ask the  
23 Wallop-Breaux people for a ruling on the potential  
24 conflicts between all the different laws that

1                   apparently now regulate these artificial reefs?

2                   COUNCIL CHAIRMAN RICHARD ROBINS: Rich,  
3 do you have any comment on that? I don't know that  
4 we'd get it from Wallop-Breaux. Jeff.

5                   JEFFERY TINSMAN: Well, my intent was to  
6 wait until we have a hearing draft and send that  
7 to John Oregon, who is in charge of the Sport  
8 Fishing Restoration funding office, for comment,  
9 which provisions would and would not satisfy their  
10 concerns.

11                  COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
12 you, Jeff. Rich.

13                  RICHARD SEAGRAVES: I would think the  
14 way to go here would be go through the AP and draft  
15 a document, and we'll take that. We want to front  
16 load that so we get some reaction from the Fish and  
17 Wildlife Service folks coming into the next council  
18 meeting so we know some of this is going to hold  
19 water or not, and then we go another meeting cycle  
20 before we got approval.

21                  So maybe we would circulate that  
22 predraft to them and get a reading of the tea leaves  
23 at that point.

24                  COUNCIL CHAIRMAN RICHARD ROBINS:

1           Thanks, Rich. And we can certainly try to do that.  
2           So if we follow this course of action, we'd be  
3           taking the draft that's in your briefing book. We  
4           would cycle that through the AP, come back to the  
5           Council in December.

6                       We'd like to have additional information  
7           specific to the history of the funding of the sites.  
8           But with that I want to ask the Council if they want  
9           to add any options or delete any options from what  
10          you see in the document at this point in time before  
11          it goes to the AP, or if you simply want to go with  
12          what we have and solicit AP input. Peter.

13                      PETER HIMCHAK: Well, I know this is a  
14          major undertaking, but it still concerns me this  
15          Site 11. And I looked at the letter that came from  
16          the Cape May docks, and they did talk about  
17          historical potting on the site way back when the  
18          permit for the reef site was put in. And the  
19          subgroup has talked about the repercussions going  
20          up and down the Atlantic coast on other states off  
21          of their state's coast.

22                      And if there's displaced commercial  
23          fishermen off Site 11, which is critical for SMZ  
24          status, where is that going to go? It's probably

1 going to come on EEZ sites off New Jersey.

2 So there is the possibility of doing SMZs  
3 out of the comprehensive package or the  
4 Mid-Atlantic region as an option, considering the  
5 fact that once you start setting the domino in place  
6 in one area, you're going to have repercussions in  
7 another.

8 Of course that is a major undertaking  
9 that would probably require an environmental  
10 impact statement and add a number of years to the  
11 process, but it's an option.

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 Peter, as I understand it, the SMZs have to be  
14 requested. Is that correct, Rich?

15 RICHARD SEAGRAVES: That's correct.

16 COUNCIL CHAIRMAN RICHARD ROBINS: And  
17 they have not been requested. So I think what that  
18 leaves us with is the point we're at with respect  
19 to this draft document and pursuing the rest of the  
20 long-term considerations in a policy discussion.

21 And we can initiate that perhaps through  
22 the Demersal Committee together with the Ecosystem  
23 and Ocean Planning Committee. I think that's  
24 probably fair to consider initiating that type of

1 discussion also.

2 Because this issue isn't going to go  
3 away. As you point out, there will be consequences  
4 of displaced effort. And we should have a  
5 long-term game plan for this I mean recognizing  
6 that Delaware may be the first case that we're  
7 looking at, but we ought to have a view to the future  
8 on how we're going to deal with this. Dewey.

9 DEWEY HEMILRIGHT: I got one thing to  
10 ask about this is: This is going to go to the  
11 Advisory Panel, this document here that's in our  
12 book; are they going to be able to add something  
13 to that to come back to us to make a recommendation  
14 or something?

15 Because I would like to add a gillnet for  
16 usage. I mean you're not fishing directly on the  
17 site, but they're slope fishing for big bluefish  
18 on sites around there. It depends on if you're  
19 going to use a thousand yard buffer or a 500 meter  
20 buffer. If we're moving into something where it's  
21 for limited access, I don't see why every avenue  
22 shouldn't be given.

23 Because if I hear, you just want to  
24 prohibit the use of fixed pot gear, and I think

1 maybe when it goes out to the Advisory Panel listen  
2 to what they say. But I would be in favor of use  
3 of gillnets.

4 COUNCIL CHAIRMAN RICHARD ROBINS:  
5 Dewey, the Council can add an option at this point  
6 if we choose to do so. That's something we can do.  
7 And then if we get through the AP, we can get their  
8 input.

9 But we will have the opportunity also  
10 after hearing their input to modify the document,  
11 modify the range of opportunities or options in the  
12 document and go out with that as a public hearing  
13 document. If you want to add anything right now,  
14 we can do that or if you want to wait for the  
15 Advisory Panel discussion. Okay. That's fine.  
16 Rich.

17 RICHARD SEAGRAVES: Yeah. Just a quick  
18 follow-up to Howard's question. I found Keefer's  
19 letter, and it did indeed cite specifically in  
20 Proposition 11 was sea bass pot activity and  
21 surfclam activity.

22 COUNCIL CHAIRMAN RICHARD ROBINS:  
23 Thanks, Rich. What's the pleasure of the Council?  
24 Do you want to move forward, as we discussed, with



1           this document to the AP for review and bring it back  
2           to the Council in December? John.

3                   JOHN BULLARD: There was a request to do  
4           a hearing in Delaware. Is that --

5                   COUNCIL CHAIRMAN RICHARD ROBINS: We  
6           would schedule the public hearings after approving  
7           the public hearing document. So we wouldn't  
8           schedule those actual public hearings until we've  
9           finalized the document at the December meeting.

10                   So that would be taking place presumably  
11           between the December and February council  
12           meetings. But certainly, we have the request for  
13           a Delaware hearing. Tony.

14                   ANTHONY DILERNIA: Thank you,  
15           Mr. Chairman. This two-page document from the staff has  
16           created quite a bit of discussion unto itself. I  
17           would believe that if you're looking for a motion  
18           for the Council to go forward with this two-page  
19           document, I would move so.

20                   COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
21           you, Tony. Is there a second to the motion?  
22           Second by John McMurray. And that's with the  
23           understanding that it would be reviewed by the AP  
24           prior to coming back to the Council in December;

1 is that correct, to the maker and the second?

2 JOHN DILERNIA: Absolutely.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
4 you. Any further discussion on the motion?

5 (No response.)

6 (Motion as voted.)

7 {Move forward with 2-page staff document in briefing  
8 book under tab 4 regarding options for Special  
9 Management Zone Designation of Delaware Artificial  
10 Reefs in the EEZ.}

11 COUNCIL CHAIR RICK ROBINS:

12 COUNCIL CHAIRMAN RICHARD ROBINS: All  
13 those in favor please indicate by saying aye.

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Opposed like sign.

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Motion carries. Thank you. Thanks, Tony. And  
20 thank you, Rich. Is there anything else on this  
21 issue? Thank you.

22 With that let's go ahead and adjourn for  
23 lunch, and we'll come back and take up Spiny Dogfish  
24 Amendment 3 and then spiny dogfish specifications.

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Why don't we come back at twenty after one. Twenty  
after one. Thanks.

(Lunch Break 12:12 p.m.)

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 30th, day of December, 2012.

PAUL T. WALLACE. Notary Public  
My Commission Expires

October 8, 2015

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MID-ATLANTIC FISHERY MANAGEMENT COUNCIL  
800 North State Street, Suite 201  
Dover, Delaware 19901-3910

COUNCIL MEETING

17-18 OCTOBER 2012

at

Ocean Place Resort  
One Ocean Blvd.  
Long Branch, NJ 07740

(Afternoon Session)

WEDNESDAY OCTOBER 17, 2012

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1 [1:37 p.m.]

2 \_\_\_\_\_  
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Let's go ahead and take our seats if we can. This  
6 afternoon we're going to be taking final action on  
7 Spiny Dogfish Amendment 3 to that FMP, and Jim  
8 Armstrong is going to walk us through the  
9 amendment.

10 I'm sorry. Jim, before you get  
11 started, I'm going to ask Kevin Saunders to make  
12 a quick introduction. Kevin.

13 KEVIN SAUNDERS: Thank you,  
14 Mr. Chairman. I wanted to introduce Troy Luna in the  
15 back. He's the District 5 representative to the  
16 Commercial Fishing Vessel Safety Examination  
17 group. And yesterday was kind of a turning point  
18 for our Commercial Fishing Vessel Safety Program.

19 October 16th is when the 2010 Coast  
20 Guard Authorization Act went into effect and the  
21 voluntary safety examinations of commercial  
22 vessels became mandatory for vessels that operate  
23 beyond three nautical miles.

24 So a little bit of a game changer. This



1 shouldn't be new news to anybody I hope. And if  
2 you want to discuss any of the details behind the  
3 Coast Guard Authorization Act or what this means  
4 -- you know, the first day after it went into full  
5 effect, Troy Luna is in the back to talk everybody.  
6 He brought a couple of goodies with him if you just  
7 want to get some stuff for free to put in your  
8 stocking later.

9 And he's a wealth of knowledge. He's  
10 been around the Coast Guard for a long time and can  
11 answer a lot of questions. Thank you, Mr.  
12 Chairman.

13 COUNCIL CHAIRMAN RICHARD ROBINS:  
14 Kevin, thanks for the introduction. And, Troy,  
15 thanks for being with us today. Appreciate it.  
16 Jim.

17  
18 DOGFISH AMENDMENT 3

19 JAMES ARMSTRONG: Sure. Thank you,  
20 Mr. Chairman. This is the final public setting  
21 for discussing Amendment 3 for the Spiny Dogfish  
22 FMP.

23 There are four issues that are addressed  
24 in the amendment seen listed on the screen: RSA,

1 EFH, delayed rule making, and quota allocation.  
2 So I'm just going to go through fairly quickly.

3 We've had public hearings. We've had  
4 the New England Council already approve their  
5 alternatives. And so this is the final action for  
6 the Mid-Atlantic Council. Under RSA, we have  
7 three options. We have a no action. We have an  
8 option 1B, which is the second one there, to allow  
9 a 3 percent set-aside, and 1C to allow a 5 percent  
10 set-aside. The difference between those  
11 percentages, the 3 percent is the standard for all  
12 of our FMPs, and the 5 percent was intended to  
13 address the interest in bidding on spiny dogfish  
14 given their low value and that we may have to crank  
15 up the amount available in order to get any  
16 interest at all.

17 What I'm going to do during the  
18 presentation is I'll have a circle showing where  
19 the alternatives fell out in terms of support  
20 during public hearings and a green check mark  
21 indicating the New England Council's preferred  
22 alternatives.

23 So right now we've got the  
24 3 percent set-aside, 1B, getting support from both

1 processes there. Under EFH we have no action,  
2 which is not truly no action. It would be no  
3 response to the review. In other words, the  
4 definitions of EFH would stay the same after  
5 review.

6 If after the review we decide to change  
7 to update the EFH definitions based on the latest  
8 biological data, then that would be that  
9 alternative. Basically, we have EFH in the map  
10 here. This is the old EFH. We have it broken out  
11 by life stage. For spiny dogfish there are two  
12 life stages. Whether a given individual dogfish  
13 will fit into one of those life stages depends on  
14 whether it's a male or a female and how big it is  
15 and how old it is basically.

16 But two life stages. Here's the old in  
17 the blue squares which are 10-minute squares. You  
18 see that dogfish juvenile EFH is fairly  
19 widespread. If we update that with the latest  
20 data, overlay the new definitions over the old,  
21 then you have a somewhat smaller area but still  
22 basically the entire area where the fishery  
23 occurs.

24 And then for adults you see the same

1 thing. This is the old, and there's the new. So  
2 dogfish, dogfish everywhere. EFH definitions are  
3 life stage specific, like I said.

4 There's a little bit of different  
5 methodology in the updated treatment of the  
6 10-minute squares, the survey catches of dogfish  
7 in 10-minute squares.

8 And the temperature, salinity, and  
9 depth preferences have been updated using new  
10 data, more recent data, under 2B. During the  
11 public hearings, both no action and the action to  
12 update using the latest biological survey data  
13 received support. The New England Council at its  
14 September meeting voted to support action, which  
15 was to update EFH. All right. The delayed  
16 implementation or delayed rule making of  
17 management measures through the specification  
18 process, it's basically a little glitch in the  
19 system right now where the only thing that would  
20 be maintained if rule making was to be delayed and  
21 the fishing year were to start before the final  
22 rules comes out, is the trip limit.

23 So, under no action that would continue  
24 to be the case. Under 3B we would basically extend

1 the quota and any other management measures for  
2 that matter into the new year until they're  
3 replaced by the new measures via rule making. So  
4 it's just a little bit of administrative  
5 housekeeping.

6 And both the New England Council and the  
7 public comments supported that alternative.  
8 Under quota allocation -- and this is kind of the  
9 crown jewel or whatever, of this amendment, which  
10 is not a very controversial amendment in any  
11 stretch of the imagination -- but this is really  
12 the crux of it and why it got started in the first  
13 place. As you are all probably aware, the federal  
14 and the interstate FMPs for dogfish are considered  
15 to be complementary; it's not a joint plan, so  
16 we're managing the same resource in the different  
17 jurisdictions.

18 And the federal plan was the first to go  
19 on the books, and when it was established, it put  
20 in place a seasonal allocation scheme during the  
21 rebuilding period when the directed fishery was  
22 shut down.

23 And the idea there was to allow some  
24 access to the resource throughout the fishing

1 year. And so that seasonal allocation scheme was  
2 really a proxy for geographic allocation.

3 Since the fishery has been rebuilt, the  
4 Commission has gone ahead and taken their plan,  
5 which turns on a smaller dime, I guess, than the  
6 federal plan, and they have gone ahead and looked  
7 at the proxy situation, so now they do have indeed  
8 a geographic allocation in the northern region  
9 which is the New England States from Connecticut  
10 north are in the northern region, and it's 58  
11 percent of the annual quota, and the remaining 42  
12 percent is divided up by state in the southern  
13 area.

14 So what happens is the federal plan,  
15 which is periodically allocated with 57.9 percent  
16 going to Period 1 and 42.1 percent going to Period  
17 2, if the Period 1 quota is caught, then federal  
18 waters close until the first day of Period 2, which  
19 is November 1.

20 Meanwhile, in the interstate plan,  
21 state waters are open in a given state or region  
22 until that state or region's quota is caught. And  
23 so you can have situations where federal waters are  
24 closed but state waters are open.

1                   You can also have situations where state  
2 waters are closed and federal waters are open.  
3 That's a little more tolerable, I guess, for folks  
4 who land in that given state. But nevertheless.

5                   It has caused a lot of problems, and we  
6 have guys getting out of the federal fishery,  
7 surrendering their federal permits just in order  
8 to continue to fish because the state waters are  
9 open. So what we came up with was a couple of  
10 options here. One was to just get out of the  
11 allocation of the coastwide quota, to just specify  
12 quota that would correspond to a fishing mortality  
13 rate that we're either trying to avoid, such as the  
14 overfishing one or some target rate and when that  
15 entire quota is caught in federal waters close.

16                   The other alternative is 4C, which would  
17 be to match identically the percent allocation of  
18 that coastwide quota that goes to the  
19 states/region.

20                   And under the latter, it would require  
21 that there be regional accountability measures  
22 because the offending party in this case is now not  
23 the commercial fishery overall, but the commercial  
24 fishery in a given region or state.

1 Another problem with that is that  
2 there's a lag in the federal process in applying  
3 accountability measures compared to the  
4 Commission process which will actually adjust the  
5 quota within the fishing year to deal with the  
6 overages that were done in the previous year.

7 Another thing is that the Commission has  
8 the latitude to change those percentages and can  
9 do so fairly quickly through their process. One  
10 of the ways we've come up with to deal with that  
11 if we were going to try to match the percent  
12 allocations is to have an automatic five-year  
13 review, such as in the interstate plan.

14 Also, like any interstate plan, there  
15 would be an allowance for trading of quota, sort  
16 of like we do with some of our other fisheries where  
17 states get allocated portions of the quota.

18 But there are some conflicts just on  
19 timing as far as overages go. Here you have the  
20 percentages that go to the different states under  
21 Addendum 4, Commission's plan.

22 And here we have just a table that has  
23 the history of the percent that has been landed in  
24 the North and in the South over time since 2000.



1                   And you can see that sort of 58/42 split  
2 has been achieved more consistently in recent  
3 years, and that's because of that geographic  
4 allocation.

5                   So basically, no matter what we do, 4B  
6 or 4C, there's still potential for problems with  
7 the Commission plan because if the quotas don't  
8 match exactly, then -- if the quotas matched  
9 exactly, then under 4B then when the last state has  
10 closed its fishery, the federal quota would also  
11 close on that exact date because it would match  
12 pound for pound. If the quotas are not exactly in  
13 sync like that, then you're going to have a lag in  
14 the closure of the federal and state fisheries.

15                   And that would also occur if each  
16 state/region was allocated. Only it would occur  
17 that many more times. So I think for that reason  
18 the Service had spoken at the New England Council  
19 in support of 4B. The Commission spoke in support  
20 of 4B. And the New England Council adopted 4B at  
21 their meeting in September.

22                   There was some -- you did have during the  
23 public comment period some support for 4C for  
24 matching as well. That came from -- and I'll get

1 into that. So we had a public comment period. We  
2 had hearings in early September in Virginia Beach,  
3 Manahawkin, and Warwick, Rhode Island.

4 And my thanks to those who served as  
5 public hearing officers, the Spiny Dogfish  
6 Committee Chair, Rob O'Reilly, and to the Virginia  
7 Beach one there. Unfortunately, we didn't have  
8 anybody except him show up. So the one in  
9 Manahawkin was a little better attended. We had  
10 nine fishermen show up there. And then I went up  
11 to Warwick, Rhode Island, and it was me and Mark  
12 Gibson, and Dave Borden sat around waiting for  
13 people to come talk. So, anyway, this amendment's  
14 not very controversial. It's only doing good  
15 things and things that make a pretty small splash,  
16 so.

17 The support among the written comments  
18 were for 1B, the 3 percent RSA from Garden State  
19 and from the Maine Coast Fishermen's Association,  
20 for the EFH update from Garden State, for  
21 maintaining management measures for the start of  
22 the fishing year from Garden State, and then  
23 coastwide quota only from ASMFC and Garden State,  
24 and then a matching ASMFC plan from Cape Cod

1 Commercial Hook Fishermen's Association and the  
2 Maine Coast Fishermen's Association.

3 At the verbal testimony at the  
4 Manahawkin meeting, the only one there folks  
5 showed up was for the ones you see here. So the  
6 New England Council has approved it.

7 If the Mid-Atlantic Council chooses to  
8 approve the amendment today, then there will be a  
9 December submission of the final EA. It's not and  
10 EIS but an EA. And then we're hoping to get the  
11 thing in place in May 1. So I have hopefully not  
12 too presumptively come up with some motions that  
13 are on the screen. We could either move to adopt  
14 and do it all in one motion, or we've got it broken  
15 out into a motion for each alternative and a final  
16 to submit. Whatever your preference is, sir.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
18 thank you. And I'll start out with questions, and  
19 then we'll take some public comment and then come  
20 back and consider discussion and action. Peter.

21 PETER HIMCHAK: Yes. Thank you, Mr.  
22 Chairman. Yeah. This Amendment 3 the first  
23 three issues I think are no-brainers. And Issue  
24 No. 4, boy, we have to get this thing right to get

1 the alignment correct and efficiently monitor a  
2 quota.

3 So I read the five letters in the book,  
4 and even the ones that called for 4C it seemed like  
5 they wanted 4B. So my understanding is that  
6 you're eliminating the commercial quota in the  
7 EEZ, but the ASMFC plan it will have the percentage  
8 at the point of landing, and that will decide the  
9 shares.

10 And we already have those, and they may  
11 change more expeditiously than any federal FMP.  
12 And that's the one we want because, yeah, the  
13 confusion, and somebody from the state agency that  
14 has to answer questions constantly. The feds  
15 closed down the northern area quota; can I fish in  
16 state waters? I have a federal permit. And it's  
17 like -- that led to our 180,000 pound overage, is  
18 just the confusion on what has to be closed and  
19 getting the word out.

20 So this alignment, boy, if I have to beg  
21 for support on this, I will. But this is critical.  
22 This is the crown jewel of the amendment -- will  
23 be.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Mike.

2 MICHAEL LUISI: I'm in the same  
3 position, and I certainly would support or beg, I  
4 guess was Pete's word for support of the alignment.

5 One of the important things to remember,  
6 though, is that it's not -- Pete, I think you said  
7 there would be no quota in the federal waters, but  
8 I think that there would be no regional  
9 allocation.

10 And one important thing that we all need  
11 to keep in mind is that we need to keep the quotas  
12 as close together as we can as we go down this road  
13 because as quotas move away from one another state  
14 and federally, it makes it very difficult to manage  
15 it at the state level, so. And I also have one  
16 question, Mr. Chairman, for Jim.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Go  
18 ahead.

19 MICHAEL LUISI: Do I understand it  
20 correctly that if we did foresee there would be a  
21 match with ASMFC's plan; however, if ASMFC were to  
22 change their allocations then we'd have to go  
23 through another amendment process in order to  
24 match it again, and it would just lengthen the

1 period of time to make adjustments?

2 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

3 JAMES ARMSTRONG: Well, that came up I  
4 think when we were in Philly, possibly, and the  
5 solution was that we would allow frameworking or  
6 allow those percent allocations to be adjusted  
7 through a framework.

8 But because if 4C was chosen by this  
9 council, then the amendment would kind of go into  
10 a holding pattern where I guess I could take it back  
11 to New England and try to talk them into 4C.

12 Because they've already chosen 4B, and  
13 if we choose 4C and then submit it that way, then  
14 1 through 3 are going to be approved, and 4 is not  
15 going to happen at all, and it's going to be sent  
16 back to us.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Other questions for Jim? Jim Weinberg.

19 JAMES WEINBERG: Yeah. This is just  
20 something I don't quite understand it. It might  
21 be correct, but I don't understand it. In the  
22 amendment figures 5 through 10 for EFH, it seems  
23 that -- this is just a technical point -- the colors  
24 go from red to green, and presumably those are

1 representing catch rates of ranked 10-minute  
2 squares.

3 And the legend has -- you know, 50 being  
4 red, and up to a hundred green. It just seems to  
5 me if they were ranked, then the one with the  
6 highest catch rate are in the top percentile, that  
7 the colors should be in the reverse order. So just  
8 something to check.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
10 do you have any comment?

11 JAMES ARMSTRONG: The highest catch  
12 rates were in the ones with the red. Those were  
13 hot spots as far as I could tell. That's why I  
14 colored them that way.

15 JAMES WEINBERG: Right. But in the  
16 legend, they're listed as 50, and green is 100. So  
17 why would they be in the 50th percentile if they  
18 were the highest ranked?

19 JAMES ARMSTRONG: They're the 50th,  
20 right, ranked percentile. So you start, I guess,  
21 in descending order. So the most inclusive is the  
22 higher number. So you're starting to fall off and  
23 get just a lot of squares with little catch in it.  
24 So maybe. Yeah.

1 COUNCIL CHAIRMAN RICHARD ROBINS: You  
2 all can follow up off line on that one. All right.  
3 Other questions? At this point I'd like to open  
4 it up for public comment on the amendment. Is  
5 there anyone here who would like to offer public  
6 comment? Yes, sir. Jim.

7 JAMES LOVGREN: Thank you, Mr.  
8 Chairman. Jim Lovgren, Fishermen's Coop. A  
9 question for Jim, first. Jim, is there a control  
10 date set for dogfish?

11 JAMES ARMSTRONG: It's in 1998 I  
12 believe.

13 JAMES LOVGREN: It would probably be  
14 considered stale at this point, so I'm going to  
15 recommend that a fresh control date be made. The  
16 biggest concern among industry people I think is  
17 this ability of people when the federal quota is  
18 caught they drop the federal permit and they go  
19 fishing in state waters, and it creates an unfair  
20 advantage to these people that do that. So I think  
21 a fresh control date would legally protect that.  
22 And really it looks to me like the dogfish fishery  
23 is going to expand. Okay.

24 And it should because we really need to



1 get the population down so other stocks can  
2 recover. In light of this you need to be  
3 considering limited access permits on this  
4 fishery. You have them on just about everything  
5 else.

6 So it's really something that needs to  
7 be looked into, and you should be taking care of  
8 that issue there. I can see people already  
9 getting geared up to get into the dogfish fishery.

10 This will be a small boat fishery in most  
11 cases, but me, like, I have a 70-foot dragger, and  
12 to me the dogfish fishery at that level is let us  
13 bring in these fish we inadvertently catch as  
14 bycatch so that they're not wasted. And a lot of  
15 people in the industry think that way.

16 It's just something that helps pay for  
17 the fuel basically when you're out fluke fishing  
18 or scup fishing or whatever else it is you're  
19 doing. And that is the biggest thing to a lot of  
20 fishermen. At the same time though, too, going to  
21 create a new fishery basically, and I personally  
22 the 3,000 pound trip limit should remain 3,000  
23 pounds and not go up to 4,000 because at that point  
24 you're just opening the door to a lot of new

1 participants. Okay.

2 And we'll have closed seasons and so  
3 forth. So they're just comments on that in  
4 general. As the alternatives and so forth, I just  
5 want to see an even playing field between the ASMFC  
6 and the federal fisheries.

7 When federal waters are closed, state  
8 waters should be closed. Okay. So we need to  
9 open that up or even that out. The ASMFC has  
10 divided up state-by-state quotas and allocated  
11 them, and I don't know how it happened, but New  
12 Jersey's really got the shaft in that deal.

13 If you go through any of the years of  
14 data, and you see New Jersey should have got at  
15 least twice the allocation they got. Certain  
16 states always make out really well at the ASMFC,  
17 and certain states always get shafted, and that's  
18 New Jersey.

19 So, if we go to something where you're  
20 going to allocate federal and state shares  
21 state-by-state, you need to revise that and have  
22 adequate and fair quota distribution. Thank you  
23 very much.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,

1           thank you. And as you're probably aware, we did  
2           consider limited entry permits in this amendment.

3                     Ultimately, we recognized that a lot of  
4           the states were having significant problems  
5           administratively dealing with the disconnects  
6           between the ASMFC plan and this plan, and so in the  
7           interest of moving us along more quickly in order  
8           to satisfy and remedy that problem, we set that  
9           issue aside.

10                    But it's something that we could come  
11           back to in a future action. I think it is an  
12           important question. Some of the states also have  
13           adopted limited entry.

14                    In my home state of Virginia, they've  
15           adopted a limited entry permit at the state level  
16           which does help address some of that capacity  
17           concern. Dewey, I think I passed you by, and I  
18           apologize. Go ahead.

19                    DEWEY HEMILRIGHT: I had a couple  
20           comments about this. Fishing in federal waters  
21           with a federal permit and fishing in state waters  
22           the things been happening in the last two years  
23           most of the time your federal fishing will close  
24           a couple days ahead of what your state quotas to

1 be caught. I'm kind of mixed up here looking at  
2 4B and 4C, but I know what needs to be done. You  
3 have state-by-state quotas with Atlantic States  
4 Marine Fishery Commission Plan, and it should be  
5 incumbent upon that state to set the trip limit to  
6 whatever they want to in their own state.

7 It shouldn't be -- that state should  
8 have that prerogative up and down the coast if they  
9 have their own quota how to manage it and make sure  
10 they stay in it.

11 Anyway, here, and I'm not sure which one  
12 it is, whether it's 4B or 4C, to look at where the  
13 state is. You know most of the time in North  
14 Carolina -- and different places are different --  
15 we don't have a whole bunch of federal fish going  
16 into -- most of the fish are caught in state waters.

17 So fixing that part which one is it going  
18 to be -- 4B or 4C to where we don't have three days  
19 before the season closes I got to turn my dogfish  
20 permit in, like Jim says, but yet I've been fishing  
21 in state waters. You're allowed that.

22 But once the federal season closes, you  
23 can't go in state waters and fish. So that needs  
24 to be fixed. I'm not going to go into the

1 allocation issue 'cause I can go all day on that.  
2 I'm pretty much an expert on how that got down the  
3 shaft or who didn't get shafted or who gained just  
4 based on historical records looking over it.

5 But this needs to be fixed. And I  
6 guess we're at the point here where we're looking  
7 at is 4B going to fix it, or do we have to go back  
8 to the New England Council and say 4B to them or  
9 ask them -- or how we're going to work it.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Dewey, I think -- and I'll let Jim comment -- but  
12 I think either 4B or 4C would potentially remedy  
13 the problem that you've discussed between state  
14 and federal waters. And, Jim, do you have any  
15 further detail?

16 JAMES ARMSTRONG: Thanks. Just that I  
17 think that the problem it's not going to go away,  
18 and I'm not sure when claiming the process the  
19 harvest of the quota translates to a message being  
20 sent out that the fishery is closed.

21 There's something there that needs to be  
22 fixed where there's a bit more of a delay from the  
23 state communication compared to the federal  
24 communication -- you know, if they're operating

1 off the same page. That would be one issue. My  
2 understanding is that the Commission gets together  
3 with the regional office and tries to coordinate  
4 that so that they send that message out on the same  
5 day. Last year I think there were some problems  
6 with it. But I think that's one issue.

7 The other issue that's not going to go  
8 away or that's not going to be fixed by either 4B  
9 or 4C is that when the total quota is different.

10 So, if you're taking the total coastwide  
11 quota that we set here at the Council and then the  
12 Service puts into place and then the Commission  
13 using the same technical information puts  
14 something similar in there but has some  
15 adjustments to it, based on overages and this other  
16 stuff, you're going to end up with a different  
17 total quota and then maybe -- even under 4C if the  
18 federal allocation was -- if under the federal plan  
19 quota was allocated to North Carolina, it would be  
20 a percentage of possibly a larger number or  
21 smaller, however it works out, and then you're  
22 going to end up with that same problem where  
23 there's a different understanding of when the  
24 fishery needs to close based on what the landings

1 are. So I don't know. In the FMAT discussion of  
2 this amendment and all that, there does appear to  
3 be a very important remaining issue of not having  
4 total alignment on that quota, on that coastwide  
5 quota between the two management bodies.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Pete.

8 PETER HIMCHAK: Yes. Thank you, Mr.  
9 Chairman. Dewey, we ran into this last year where  
10 the Mid-Atlantic Council came out with 35.6  
11 million pounds and then the ASMFC board  
12 recommended 30 million pounds, and New England  
13 Council recommended 35.6, and it would have put us  
14 in the box, the problem that Jim's talking about.

15 But on the third try, we got the ASMFC  
16 board to vote 35.6 million pounds. So this will  
17 work like the black sea bass quota. The state has  
18 the percentage of the pie out there.

19 And, yeah, I think in the state of New  
20 Jersey, it would behoove us to rectify this federal  
21 permit state waters fishing because we're tied to  
22 the federal permit.

23 And out of 4,000 people who have  
24 permits, 200 that actually land spiny dogfish. So

1 it would behoove us to deal with the control date  
2 and set up limited access fishery. That's one of  
3 the recommendations I would make after this  
4 meeting. And then we would determine our own  
5 fate.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Dewey.

8 DEWEY HEMILRIGHT: Yeah. I understand  
9 that, and I think it's going to be different for  
10 different states. In North Carolina with the trip  
11 ticket program, they have a daily thing where  
12 these dogfish are reported in, so they got an  
13 accurate figure.

14 The last two years, just going on my  
15 recollection, the federal season has shut down  
16 like three or four days ahead of the state season.  
17 So they're getting it right on the overages and  
18 underages, and some other states got different  
19 things.

20 But it's just getting everything, like  
21 we've said here -- I'm not rehashing it -- just on  
22 the same page 'cause this is kind of confusing --  
23 you know, with the different things here.

24 But the scenario that Jim talked about



1 is luckily the third time around Atlantic States  
2 got it right where everybody was on the same quota.  
3 But that would help greatly.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Mike  
5 Luisi.

6 MICHAEL LUISI: One other thing that's  
7 important to remember for those of us at the state  
8 level: The management of the state quota plays a  
9 factor in this too because if the state's fail to  
10 manage their quota according to the target and it's  
11 exceeding that quota, NMFS is going to continue to  
12 take away from whatever the federal quota was,  
13 which could lead to the case where there are still  
14 a few days left worth of fishing in your state;  
15 however, the EEZ gets closed. So that's just  
16 another important thing that ties into all of this  
17 as well.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Rob  
19 O'Reilly.

20 ROBERT O'REILLY: Yes. I guess for  
21 those who want part of the ASMFC process, I want  
22 to make sure that there's not this premise that  
23 shafting was the order of the day at the ASMFC.

24 In fact, there was a regional approach

1 which was not working, and when the states combined  
2 in the southern region to look at this problem,  
3 there were problems with data; there were  
4 situations where there was modern harvest; there  
5 were situations where there was past harvest;  
6 there were a lot of scenarios that could have been  
7 beneficial to one or two states at the time but not  
8 others. So what was finally done was in fact a  
9 hybrid option. And I know because I was the one  
10 who came up with that, and it combined options that  
11 were already available.

12 And then, of course, it definitely was  
13 a compromise, but it certainly was not a situation  
14 where one or two states were shafted. It was more  
15 of an idea that everyone wanted to get something  
16 that they could have state by state. That was the  
17 driving force.

18 And it was spelled the words liveable  
19 and doable, things like that were the words at the  
20 end of that when it was finally developed and voted  
21 at the ASMFC.

22 So there's certainly a record on that at  
23 the ASMFC, and you can probably trace those events  
24 of how that all transpired. There were many

1 conference calls among those states. There was  
2 lots of e-mail traffic.

3 There were lots of: I like that; I  
4 don't like that. And eventually this is what  
5 developed, and you can see it in your document in  
6 that table.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Rob,  
8 thanks for that background. Is there any  
9 additional public comment on the amendment?

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:  
12 Seeing none, we're back to the Council for  
13 discussion. Peter.

14 PETER HIMCHAK: Mr. Chairman, I'm  
15 prepared to offer a motion.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Go  
17 ahead.

18 PETER HIMCHAK: I think Jim Armstrong  
19 had a crack at. Move to adopt Alternative 1B, 2B,  
20 3B and 4B in Amendment 3 and submit the amendment  
21 for secretarial approval.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
23 there a second to the motion? Second by Erling  
24 Berg. Discussion on the motion? Jim, do you mind

1 going through, or Peter, do you mind just going  
2 through your briefing book and reading into the  
3 record what those options are so we have a clear  
4 record of it? Turn your microphone on, please.

5 PETER HIMCHAK: Okay. 1B: Allow  
6 allocation of up to 3 percent of commercial quota  
7 as RSA. 2B: Update EFH definitions as needed.  
8 3B: Maintain previous year quota until effective  
9 date for new quota. And 4B: Eliminate  
10 allocation of commercial quota.

11 COUNCIL CHAIRMAN RICHARD ROBINS:  
12 Thanks for doing that, Peter. Is everybody clear  
13 on the motion as made? Is there discussion on the  
14 motion? Yes. Go ahead, George.

15 GEORGE DARCY: I have one question. I  
16 think 3B includes all management measures not just  
17 the quota. In other words, the trip limits would  
18 roll over as well. Was that the intent?

19 JAMES ARMSTRONG: That's the intent.  
20 And actually, that's I might suggest better  
21 language, and that's also the motion where in New  
22 England that was used, the language that we used  
23 there. I think I might have had that on the screen  
24 differently.

1                   But if you'd like for the record to  
2 clarify in Alternative 3B would be: To maintain  
3 all of the previous year's fishing management  
4 measures including the quota until they are  
5 replaced via rule making.

6                   COUNCIL CHAIRMAN RICHARD ROBINS: I'd  
7 ask the maker of the motion if we could just add  
8 that parenthetically to the motion behind 3B.  
9 Would that be acceptable to the maker and the  
10 seconder of the motion?

11                   PETER HIMCHAK: Yes, that's  
12 acceptable. And also under 4B I see the New  
13 England motion where it says elimination of  
14 commercial quota. I guess it would be better to  
15 put seasonal commercial quota, because the current  
16 federal quota is dividing 58 percent, 42 percent  
17 by season. So to perfect the motion, I would add  
18 the word seasonal as well.

19                   COUNCIL CHAIRMAN RICHARD ROBINS:  
20 Okay. Is the seconder agreeable to that?  
21 Erling, is that acceptable to you? It is. Jim,  
22 do you mind perfecting that language as it appeared  
23 on the screen? (Pause.) Peter, is that  
24 acceptable as it appears on the screen?

1 PETER HIMCHAK: Why is seasonal in  
2 brackets? (Pause.) Agreed.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
4 do you want to just clean up that first part. I  
5 don't know if you want to put what appears after  
6 3B in parentheses and delete the quotes. (Pause.)  
7 Peter is that acceptable?

8 PETER HIMCHAK: Yes.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Jeff  
10 Deem, comment on the motion?

11 JEFFREY DEEM: Yeah. Will this  
12 require that the New England Council go back and  
13 review this again?

14 COUNCIL CHAIRMAN RICHARD ROBINS: No.  
15 It's consistent with their action. Is there any  
16 further discussion on the motion?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: So,  
19 again, the motion is: To adopt Alternatives 1B,  
20 2B, 3B, maintain all the previous year's fishing  
21 management measures including a quota until  
22 they're replaced via rule making; and 4B,  
23 eliminate seasonal allocation of the commercial  
24 quota in Amendment 3, and submit the amendment for

1 secretarial approval. Is the Council ready for  
2 the question?

3 (Motion as voted.)

4 {Move to adopt Alternatives 1b, 2b, 3b,  
5 (maintain all the previous fishing year's  
6 management measures, including the quota,  
7 until they are replaced via rulemaking) and  
8 4b (eliminate seasonal allocation of the  
9 commercial quota) in Amendment 3 and submit  
10 the amendment for Secretarial approval.}

11 COUNCIL CHAIRMAN RICHARD ROBINS: All  
12 those in favor please indicate by raising your  
13 hand. I'm sorry. Yes. Since this is final  
14 action on an amendment, we'll do a roll call vote.  
15 Give us just a minute while I get the roll.

16 (Pause.) Steve Heins.

17 STEVEN HEINS: Yes.

18 COUNCIL CHAIRMAN RICHARD ROBINS:  
19 McMurray.

20 JOHN MCMURRAY: Yes.

21 COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Nolan.

23 LAURIE NOLAN: Yes.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 DiLernia.

2 ANTHONY DILERNIA: Yes.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Zeman.

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Berg.

8 ERLING BERG: Yes.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Elliott.

11 WARREN ELLIOTT: Yes.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Himchak.

14 PETER HIMCHAK: Yes.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Jeff.

17 JEFFERY TINSMAN: Yes.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Anderson.

20 LEE ANDERSON: Yes.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 King.

23 HOWARD KING: Yes.

24 COUNCIL CHAIRMAN RICHARD ROBINS:



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Linhard.

(No response.)

COUNCIL CHAIRMAN RICHARD ROBINS:

Luisi.

MICHAEL LUISI: Yes.

COUNCIL CHAIRMAN RICHARD ROBINS:

Deem.

JEFFREY DEEM: Yes.

COUNCIL CHAIRMAN RICHARD ROBINS:

O'Reilly.

ROBERT O'REILLY: Yes.

COUNCIL CHAIRMAN RICHARD ROBINS:

Batsavage.

CHRISTOPHER BATSAVAGE: Yes.

COUNCIL CHAIRMAN RICHARD ROBINS:

Hemilright.

DEWEY HEMILRIGHT: Yes.

COUNCIL CHAIRMAN RICHARD ROBINS:

Pate.

PRESTON PATE: Yes.

COUNCIL CHAIRMAN RICHARD ROBINS: Have

I missed anyone? Bullard.

JOHN BULLARD: Abstain.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank

1 you. The motion carries. Jim, is there anything  
2 else to come before us with respect to the  
3 amendment?

4 JAMES ARMSTRONG: No.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Are  
6 you ready for specifications? With that we go  
7 into spiny dogfish specifications. Jim.

8  
9 SPINEY DOGFISH COMMITTEE AS A COMMITTEE  
10 OF THE WHOLE (TAB 6)

11 JAMES ARMSTRONG: Okay. For those of  
12 you who haven't seen it, this is the flow chart that  
13 was established in what would be Amendment 2 to  
14 spiny dogfish FMP or what's more commonly referred  
15 to as an omnibus ACIM amendment. And so we'll  
16 follow through using this process.

17 Of course, the first thing in the annual  
18 process, in the specification process is to get an  
19 assessment update. So that's before all of those  
20 --

21 Here we have spiny dogfish catch  
22 history. In the mid-1990s there was an  
23 unregulated fishery that targeted inshore female  
24 dogfish. In 1997 the fishery was declared

1           overfished.

2                       The FMP was developed and implemented in  
3           2000. Landings were greatly reduced during the  
4           rebuilding. There was a very restricted trip  
5           limit of 300 to 600 pounds in place during those  
6           years through 2008.

7                       In 2010 we got a letter from the Service  
8           declaring the stock to be rebuilt. So all the pain  
9           and heartache paid off. And then starting in  
10          2009, the quotas began to expand. In fact, they  
11          were actually expanded in 2009 prior to the stock  
12          being declared overfished while still achieving  
13          the rebuilding fishing mortality rate. And  
14          here's several, three time series of biomass  
15          estimates based on different methodologies. The  
16          one in green that says stockastic is the one that  
17          we intend to use for updating the stock status  
18          relative to the biological reference point.

19                      And as you can see, that during the 1990s  
20          there was that decline as the unregulated fishery  
21          -- we removed a lot of mature females from the  
22          spawning stock biomass.

23                      And then there's a period in the early  
24          2000s when the survey catches were very low. And

1 then the stock started taking off in 2006, and it's  
2 been climbing upward ever since.

3 Now, the survey catches are not a window  
4 into stock biomass, or if they are, there's a lot  
5 of stuff on the window, and it's kind of hard to  
6 see in there real clear.

7 So the general trend here is accepted.  
8 It was high. It went low. And it's returned to  
9 high again. The year-to-year changes are just  
10 biologically unreasonable and aren't expected to  
11 be taken to be exact.

12 Given the uncertainty in the estimate in  
13 any year, Paul Rago who does the stock assessment  
14 for spiny dogfish represents both the biomass  
15 estimate and the fishing mortality estimates this  
16 way where the distribution stockastic estimates of  
17 spawning stock biomass are indicated by this red  
18 line here. So the peak or the median value of that  
19 distribution ends up being used and compared to the  
20 reference point.

21 What we have here is this is the biomass  
22 target, 159,288 metric tons of female spawning  
23 stock biomass. And what we have here is the peak  
24 here is about 215,000 metric tons. So above the

1 MSY.

2 And then here we have the distribution  
3 of fishing mortality estimates using methods that  
4 Paul uses, and they're right at about .1.

5 .2439 is the fishing mortality  
6 threshold. So that's off the charts. That would  
7 be over here. Very low probability that  
8 overfishing is occurring. So we can declare that  
9 it's not overfished; overfishing is not occurring.

10 Spawning stock and F are stable for now.  
11 The biomass in 2012, using this year's spring  
12 survey estimate, is 215,000 metric tons, and the  
13 F for the previous complete fishing year is .114,  
14 compared to FMSY. So now comes the part where we  
15 get the assessment update, and we need to determine  
16 OFL and ABC. And it comes out -- but before we  
17 do that, I'll give it to John in a second. We had  
18 the AP meet to develop a fishery performance  
19 report.

20 And one of the things that we noted --  
21 let's see; yeah, it's in there -- is that the  
22 fishery under performed in the early part of the  
23 year. And you can see that right here. I'm  
24 sorry. This is 2011.

1                   So this is 2011. The red line up here  
2                   is the quota. Moving up and then some to the  
3                   quota. Here's 2012, Period 1, the one we're in  
4                   right now.

5                   And here's at the early part of the  
6                   fishing year. Not much coming in landings wise.  
7                   And then it picks up and starts going parallel to  
8                   that green line. Which if landings were equal to  
9                   the green line, you catch the quota on the last day  
10                  of the period.

11                  So this is on the performance here,  
12                  which if that continues does not reach the red line  
13                  by the end of that period. Okay. So why is that?

14                  Well, the explanation from the AP during  
15                  that discussion was that: the fish were offshore;  
16                  they're low value fish, not going to go through a  
17                  lot of gas to get them; so when they're not that  
18                  available, they don't come in. Another thing  
19                  constraining the overall fishery is the recipients  
20                  of the fish primarily are in Europe, and the  
21                  economy is not doing very well, and so the idea is  
22                  that that's going to be limiting somewhat on  
23                  demand.

24                  It was stated that the market right now

1 is not ready for huge increases in bulk fish supply  
2 if that were to be possible. There really isn't a  
3 market for them to go to.

4 The advisors were in favor of longer  
5 term specifications, multi-year specifications,  
6 which were considered to be desirable for  
7 planning. There was some statement about the  
8 closure of Oregon Inlet and how that would affect  
9 the amount of fishing that's going on offshore  
10 North Carolina.

11 And so in other words, that would  
12 constrain landings there outside of the  
13 availability of dogfish. There was a discussion.  
14 At least 25 percent of the advisors were in favor  
15 of some serious examination for a male-only  
16 dogfish fishery.

17 There were four advisors at the meeting,  
18 and one of them was Mr. Fletcher. And so he spoke  
19 in support of that, and everybody agreed that  
20 that's an under exploited component of the stock.  
21 But in a more formal sense, there was a  
22 recommendation by the AP to in a more sophisticated  
23 sense try to model how from a management or an  
24 assessment standpoint such a fishery like this

1 could exist.

2 And finally, there was, as had been  
3 expressed during public comments on Amendment 3,  
4 there was interest in exploring limited-entry  
5 options for the spiny dogfish fishery. So that's  
6 that. And then I'll hand it to Dr. Boreman.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.  
8 Boreman.

9 JOHN BOREMAN: I'll set it on stun.  
10 Thanks. The SSC was very pleased with -- Peter,  
11 do you have a question?

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 Peter, go ahead.

14 PETER HIMCHAK: I had a question for  
15 Jim's presentation on the quota monitoring report  
16 figure. It shows under performance through I  
17 guess early October, but basically November 1st in  
18 the spiny dogfish fishermen in New Jersey they all  
19 gear up, and they're -- you know, ready to go  
20 November 1st, and that's the pulse really that I  
21 think the price per pound is higher. So while they  
22 start May 1st and they fish to a certain capacity,  
23 there's a huge increase in effort November 1st.  
24 So I just wanted to point that out when you're



1 talking about under performance of a quota that we  
2 still have another November through April season  
3 to go through.

4 JAMES ARMSTRONG: Sure. We're going  
5 to get back to that. Actually, Dr. Boreman's  
6 presentation is within my presentation, so I'm not  
7 done yet, and I've got more on that later.

8 PETER HIMCHAK: Okay. Sorry to  
9 interrupt.

10 COUNCIL CHAIRMAN RICHARD ROBINS:  
11 Thank you. Dr. Boreman.

12 JOHN BOREMAN: As I said, the news is  
13 good, I guess, if you're a dogfish at least. All  
14 the indices are pointed in the right direction  
15 which is good. In terms of addressing the terms  
16 of reference the SSC first of all one term of  
17 reference asked what level the assessment would be  
18 in. And we determined like last year it's a Level  
19 3.

20 And the reason for that is that the  
21 assessment provides plausible estimates of the  
22 absolute levels of biomass and abundance, and it  
23 also provides a plausible set of reference points  
24 at the end that represent what they felt was best

1 available science. But we thought we would add a  
2 paragraph to say what would it take to get up to  
3 a Level 2. And right now the biological reference  
4 points were calculated outside of the assessment  
5 model, and that qualifies it as a Level 3. So that  
6 is one reason why it's not a Level 2.

7 The SSC also believes that important  
8 sources of uncertainty were not incorporated into  
9 estimates for the biological reference points, and  
10 those concerns prevent this assessment from  
11 achieving a higher rank.

12 In terms of the OFL, the FMSY proxy is  
13 calculated from a projection model, and they  
14 basically run the model out for a number of years  
15 under different fishing mortality scenarios and  
16 see which scenario of fishing mortality will have  
17 that population level off it. We call it 1.0.

18 But that means neither increasing or  
19 decreasing. And that turns out to be  
20 approximately a .2439, a cumulatory measurement.  
21 And that's equivalent to a catch of at least for  
22 the coming year of 30,662 metric tons based on the  
23 projection what the biomass is going to be in 2013  
24 and the assumption that the catch in 2012 is going

1 to be equal to the ACL from last year. That was  
2 set last year. And we're not so sure that's going  
3 to happen now, but we'll have to wait for the whole  
4 year, I guess, to play out before we see if the ACL  
5 is going to be that. In terms of the ABC, we  
6 applied the Council's risk policy for a typical  
7 life history.

8 And in this case you're wondering, well,  
9 when we first came up with the term atypical and  
10 typical a lot of us including myself thought, well,  
11 dogfish would probably have an atypical life  
12 history because it breeds like humans.

13 It doesn't breed until it's a teenager,  
14 and then it has a very low pup size and pup rate  
15 and so on. But as it turns out, a lot of the  
16 characteristics or the unusual characteristics  
17 that we found in dogfish life history are already  
18 in the model, and that's the important part.

19 An atypical life history according to  
20 our ABC rule is one in which it has unusual life  
21 history characteristics that are not incorporated  
22 in the model, like we have for black sea bass.

23 So in this case, it is termed a typical  
24 life history, and the ratio of biomass we expect

1 in 2013 to be the MSY is over one, as Jim pointed  
2 out. And we have a default coefficient of  
3 variation that we use is a hundred percent if we  
4 don't believe the CV that came with the assessment,  
5 which we don't. We think that the CV in the  
6 assessment is underestimated. So using these  
7 parameters, the Council's risk policy says that we  
8 need a P Star of .40. And applying that P star to  
9 the OFL we have an ABC of 24,709 metric tons.

10 But we did note that the stock biomass  
11 if you look at it for a few years because we've had  
12 poor recruitment in the mid-2000s, 2005, '06,  
13 somewhere around there. That's going to play out,  
14 as we say here, around 2018.

15 In 2023 we're going to see a drop  
16 probably in stock biomass, and it probably will  
17 drop below the BMSY level, which means that that  
18 ratio of whatever that biomass is for that year to  
19 the BMSY will be less than one.

20 And that means that the P star will no  
21 longer be .4, but something less than .4 for those  
22 years. And that's just giving you a heads-up.

23 Last year the prediction was more dire  
24 than this year. The updated assessment looks a

1 little better. In the future it's not going to dip  
2 as much as we were advised last year, though we do  
3 expect it to drop below the MSY level around 2018  
4 and stay there for about five years before coming  
5 back up again. So another term of reference which  
6 we started using this year is, again, if we can set  
7 multi-year specs.

8 And for this I had asked the SSC  
9 subcommittee as chaired by Mike Wilberg to look at  
10 developing criteria that the SSC can use  
11 consistently across all our stocks in terms of how  
12 we would apply multi-year specs for ABC, when we  
13 would use it and when we would not.

14 They came up with a draft report,  
15 presented it at our meeting. We're going to be  
16 polishing that report and getting some real data  
17 from the staff to use looking at time series of  
18 catch and recruitment data and stock biomass  
19 indices to get a better handle on the proposed  
20 criteria we'd like to use.

21 We'll be working on that at our winter  
22 meeting, and then probably at the April council  
23 meeting we'll be coming in with a recommendation  
24 for the Council to adopt in terms of control rules

1 basically for using multi-year criteria.

2 But the SSC is in general agreement with  
3 the report in terms of using a constant F rather  
4 than constant catch for Level 3 stocks for setting  
5 multi-year criteria at least for Level 3, but the  
6 question is when the indices of stock in the out  
7 years when they wander too far away from that  
8 constant F level when do you stop using the  
9 multi-year specification and abandon that  
10 approach and go back to a single-year approach.  
11 And that's what we're going to be working on  
12 between now and the middle of the winter.

13 We're going to be looking at real  
14 numbers so we can look at whether we want to use  
15 plus one standard deviation -- plus or minus one  
16 standard deviation, 25 percent above or below or  
17 whatever, but we'd like to see the actual time  
18 series of data before we come up with any solid  
19 recommendations.

20 But we still with the guidance from the  
21 subcommittee, we do say that -- that guidance says  
22 that multi-year ABCs tend to say that the stock is  
23 not experiencing overfishing, obviously or if the  
24 stock is not subject to an upcoming assessment, and

1 both is the case with dogfish.

2 It is a candidate for a  
3 multi-year ABC setting, and we recommended a three-year  
4 ABC specification. One of the reasons is that we  
5 do expect the stock to drop in 2018, so if three  
6 years, it would be 2013, '14, and '15. That means  
7 in 2016 we can review the updated assessment and  
8 see if the stock is still going to be dropping by  
9 2018 and then make a recommendation to the Council  
10 to get actions in place to change the ABC if  
11 necessary.

12 So the SSC again recommends that the ABC  
13 be calculated on a constant fishing mortality rate  
14 policy that translates to ABCs in subsequent years  
15 of 25,154 for '14 and 25,057 metric tons for 2015.

16 In the meantime, we're going to go back  
17 and look at the numbers, well, what are we going  
18 to look at next year, for example, to make sure that  
19 we're still on track with our recommendation.

20 We're going to be looking at: the  
21 discard rates, the survey abundance trends in  
22 terms of its size composition to sex ratio and pup  
23 size, the average size and sex in commercial  
24 landings, the agreement between what's being

1 observed out there in terms of catch and what the  
2 model has predicted in terms of catch and the  
3 survey forecasts, changes in the Canadian landings  
4 which to us is an unknown at this point, and the  
5 spacial distributions of catch and survey  
6 abundance indices each year of the specifications.  
7 So those are the parameters that we're going to be  
8 seeking information from the Center to give us in  
9 the coming years. And Paul Rago, who is the lead  
10 assessment scientist, Paul Rago and Kathy Sosebee.

11 Paul was at our SSC meeting and was in  
12 the room when these were crafted, and he agreed  
13 that this is possible. So we're not asking for  
14 something that's beyond the realm of capability of  
15 the Center.

16 Most significant sources of scientific  
17 uncertainty there are quite a few. The estimate  
18 relies heavily on an assumed deficiency of the  
19 survey gear because they extrapolate from the  
20 swept area of the survey to estimate total stock  
21 biomass and spawning stock biomass.

22 There are interact annual differences  
23 in availability of stock to the survey gear, as we  
24 saw. Industry says there's interannual



1 differences in availability to the fishery. So it  
2 works with the survey, too.

3 The FMSY proxy is just that. It is a  
4 proxy, and it's based on a projection model that  
5 relies on a time and variant selectivity estimated  
6 from data up to 2008. And the assessment assumes  
7 that this selectivity has not changed  
8 subsequently, but it may be variable. In other  
9 words, it does have some variation, but there's no  
10 trend, and we're not so sure that's going to happen  
11 especially if the fishery has expanded and moving  
12 into other areas.

13 Both the FMSY proxy projections rely on  
14 a model that assumes constant pup survival and pup  
15 production rates and the evidence, the biological  
16 evidence, that's collected suggests that the  
17 larger females have a higher survival rate of their  
18 pups.

19 So this hasn't been taken into account  
20 in the model, and if we are getting a change in the  
21 size distribution of the female part of the  
22 spawning stock, that may effect the pup survival  
23 rate, which will feed back into the model.

24 More significant sources of

1           uncertainty, there's one model used to estimate  
2           the biological parameters, and there's another  
3           model used to do the projections, and there's some  
4           inconsistencies between those two models.

5                   Ideally, you'd like to have one model  
6           doing both for you, but that's not the case now.  
7           Again, potential changes in fishery selectivity.  
8           These large increases in catches that we could have  
9           over the next few years could produce changes in  
10          the overall selectivity pattern of the fishery.  
11          And there's an inconsistency potentially between  
12          the life history-based estimates of fishing  
13          mortality rates and the biomass reference points  
14          derived from the retrospective recruitment curve,  
15          which is used in the model.

16                   And finally, the total discard  
17          estimates and estimated mortality of discarded  
18          dogfish is a source of uncertainty, significant  
19          uncertainty, and the revised estimate of the  
20          biomass reference point is also uncertain.

21                   And I put it in here asymptotic  
22          coefficient of variation about 30 percent.  
23          Thirty percent is not terribly bad, but the  
24          asymptotic nature of it worries me. So that's the

1 report from the SSC. Thank you.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you, Dr. Boreman. Questions for Dr. Boreman  
4 regarding the SSC report? Rob O'Reilly.

5 ROBERT O'REILLY: Is that available,  
6 that report?

7 JOHN BOREMAN: It's in your briefing  
8 book.

9 ROBERT O'REILLY: The whole report is?

10 JOHN BOREMAN: Yeah.

11 ROBERT O'REILLY: Okay. I guess the  
12 question I had was on the constant F. And with  
13 that having thought about it, it would seem that  
14 that would lend itself better to multi-year  
15 control rules and constant catch, but I wasn't sure  
16 when you started talking about the indices I guess  
17 the abundance indices wandering away from F what  
18 really -- what's the dilemma there; what are you  
19 trying to pinpoint there.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.  
21 Boreman.

22 JOHN BOREMAN: I'm not sure about what  
23 your question is.

24 ROBERT O'REILLY: I think when you were

1 talking about the multi-year control rule.

2 JOHN BOREMAN: Oh, okay. Okay.

3 ROBERT O'REILLY: And you said then  
4 we're going to do constant F.

5 JOHN BOREMAN: Right. We're going to  
6 do constant F, but we want to see if the realized  
7 F in those years or there's other indices like the  
8 stock biomass starts to collapse.

9 We're going to have some range of  
10 variation that's going to be "acceptable" to keep  
11 that constant F going from year to year. But if  
12 we see a sudden drop in recruitment or a sudden  
13 increase in recruitment, it might cause us to  
14 change our minds and say, whoa, let's step back;  
15 this constant F is not working because the stock  
16 is collapsing or growing too fast or pup survival  
17 or the whole fishing selectivity pattern has  
18 changed in the past couple years, something that's  
19 radical.

20 Just we need to put bounds on there  
21 because we can't have a knee-jerk reaction every  
22 year if we're setting multi-year specs, but there  
23 has to be some bounds put on the parameters that  
24 define those specs.

1                   So we want to make sure that we don't  
2 wander too far away from our original idea of how  
3 this stock is going to behave under that constant  
4 F scenario. I don't know if that answers your  
5 question.

6                   ROBERT O'REILLY: That does  
7 completely. And then I guess there's a small  
8 follow-up then. Could you comment whether the SSC  
9 when they deliberated about constant catch versus  
10 constant F what were some of the pros and cons there  
11 perhaps.

12                  JOHN BOREMAN: Well, the con of the  
13 constant F is that you're relying on the level of  
14 stock biomass. So that's going to be an issue if  
15 the stock -- in other words, you're at the mercy  
16 of the stock biomass in that year 'cause it's a  
17 fixed rate multiplied against your biomass figure.  
18 But from a biological viewpoint, it's more stable  
19 for the stock to have that. Rich, you got to help  
20 me out here.

21                  RICHARD SEAGRAVES: I think the key is  
22 that in general the SSC endorsed constant F because  
23 it reacts to any changes in the stock biomass;  
24 whereas, if you set a constant catch, then it

1 results in a variable F.

2 And the general feeling was that the  
3 performance of the constant F would be better in  
4 the long term in terms of meeting their biological  
5 objectives.

6 JOHN BOREMAN: A constant catch is  
7 insensitive to biomass. And as you'll see in our  
8 report for Level 4 stocks we're forced to use a  
9 constant catch because Level 4 we really can't  
10 calculate. We don't have a reliable estimate of  
11 the fishing mortality rate.

12 So that's one thing that separates a  
13 Level 4 from a Level 3. So what we'll be looking  
14 at is also what bounds do we put on constant catch,  
15 the parameters that go into calculating the  
16 biological characteristics of the stock, how much  
17 do they have to change before we move away from a  
18 constant catch scenario for Level 4. So that's  
19 the short answer.

20 COUNCIL CHAIRMAN RICHARD ROBINS: I  
21 think also the constant F approach rather than  
22 constant catch maintained a more similar  
23 probability of overfishing during the period  
24 because it does respond to the change in biomass.

1 Other questions? Lee.

2 LEE ANDERSON: Thank you, Mr. Chairman.  
3 John, I'm reading on page three of your report  
4 where you've got the top paragraph there has the  
5 ABC specified for those three years 24, 70 and 90  
6 right around there. Can you tell me just for  
7 reference what the ABC was for last year?

8 COUNCIL CHAIRMAN RICHARD ROBINS: Or  
9 Jim, do you have that? Either one. Last year's  
10 ABC.

11 LEE ANDERSON: In 2012.

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 2012.

14 JAMES ARMSTRONG: 20,350.

15 LEE ANDERSON: 20,000. So it's about a  
16 5 percent increase.

17 JOHN BOREMAN: It's in our report, page  
18 two under Term of Reference No. 2. It's the last  
19 sentence there.

20 LEE ANDERSON: Oh, sorry.

21 COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Thanks, Dr. Boreman. Jeff Deem.

23 JEFFERY DEEM: I have just a curiosity.  
24 It was said that the larger females -- the pups of

1 the larger females survive longer. Can you tell  
2 me how that was determined and why do they survive  
3 longer? Do they actually take care of their pups?

4 JOHN BOREMAN: Well, the pups are  
5 bigger when they come out. So they're basically  
6 more robust, probably have more body fat or  
7 something. But they have a tendency to have a  
8 higher survival rate. Probably Jim could answer  
9 that.

10 COUNCIL CHAIRMAN RICHARD ROBINS:  
11 They're tough. They take care of themselves.  
12 Dewey.

13 DEWEY HEMILRIGHT: I got a couple  
14 questions. It's on the subject here, but it's on  
15 the male dogfish. And I was wondering about most  
16 of the plan here in the amendments is made up for  
17 the female spawning stock biomass.

18 And I was wondering has the SSC or Dr.  
19 Rago and Ms. Sosebee there, has anything been  
20 looked at if there could be a fishery for male-only  
21 dogfish, given that this plan made up doesn't  
22 appear to have -- the only thing for spawning stock  
23 biomass is for females and given the fact that  
24 there's an extremely large number of males that



1 could be targeted in certain areas.

2 COUNCIL CHAIRMAN RICHARD ROBINS: John  
3 or Jim, either one of you, do you have a comment?  
4 Jim.

5 JAMES ARMSTRONG: There's been an  
6 interest in that even from when the FMP was first  
7 developed in a male-only dogfish fishery. I think  
8 during rebuilding it was just something that  
9 wasn't explored because we were in rebuilding, and  
10 so developing a new dogfish fishery wasn't really  
11 on the radar screen.

12 But now that the stock's been rebuilt  
13 and we're expanding the catches, it was actually  
14 something that was included in Amendment 3 for  
15 consideration.

16 It was on the list of things to address  
17 there along with limited access. But just because  
18 of the need to kind of align the plan with the  
19 Commission's plan as quickly as possible, it was  
20 dropped out of there. But it's certainly  
21 something that can be explored in the future.

22 DEWEY HEMILRIGHT: So basically this  
23 plan the spawning stock biomass has nothing to do  
24 with the male dogfish. And second of all, would

1           it be a good thing maybe -- I'm not here for the  
2           Commission -- I mean the Council -- but maybe have  
3           some consultation with yourself and Dr. Rago and  
4           the SSC or something just looking about if there  
5           could be something where you have a fishery develop  
6           for the male fishery. You know it would be up to  
7           the fishermen or something to develop it.

8                     But look at what it would do to the  
9           stocks or the stock of it or -- you know, some of  
10          these biological ramifications or something like  
11          that. Because there's a lot of dogfish out there,  
12          and they're not treading water.

13                    They're probably eating on something,  
14          and it probably could be predation the small ones  
15          or the males or some other stocks of species of  
16          fish. So I was wondering if maybe we could look  
17          at that.

18                    Maybe I'll ask Jim and a couple others  
19          to look at that just to go to the science people  
20          and the SSC and just ask a few questions about what  
21          could be looked at for maybe some future reference  
22          if it's possible just to get some questions  
23          answered.

24                    COUNCIL CHAIRMAN RICHARD ROBINS: We

1 have had a discussion about this before at least  
2 from a management standpoint. But there are  
3 opportunities I think to follow up on this. Dr.  
4 Boreman had his hand up.

5 JOHN BOREMAN: Yeah. A couple of  
6 things. First, many stock assessment models are  
7 females only models for estimating spawning stock  
8 biomass and so on because well, they make the  
9 assumption that as long as you have females out  
10 there, there will be males out there to fertilize.

11 So they focus on the reproductive  
12 capacity side of the population. So, if you track  
13 females, and you make the assumption as long as  
14 there are males out there to spawn, you're  
15 basically worried about egg production and pup  
16 production.

17 Second, I'm on a Ph.D. student  
18 committee. I have a student over at East Carolina  
19 University, Ph.D. student Andrea Delappia. He's  
20 from Italy.

21 But he's been working on dogfish, and he  
22 and Roger Rulifson have been involved with a survey  
23 in Massachusetts, the dogfish fishery around Cape  
24 Cod looking at investigating into whether it's

1 feasible to have a male-only fishery, and his  
2 conclusion -- I don't want to jump the gun -- but  
3 this conclusion is basically it is possible to have  
4 that because of the yield differences they found  
5 in appearance of males and females in the fishing  
6 area around Cape Cod. Whether that's applicable  
7 to the whole coast we don't know, but at least it's  
8 a first step in the direction.

9 They've been looking at that for a few  
10 years, and he's got that out now for publication  
11 in the journal. At least that's a first step.  
12 The next step is to expand that study to work on  
13 a more coastwide basis probably through a  
14 cooperative research program.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Dewey, we can follow up on some of these points also  
17 later. John Bullard.

18 JOHN BULLARD: I wanted to pick up on  
19 something that Dewey mentioned in part of his  
20 questioning, and that is I've heard a lot in the  
21 listening sessions I've held, number one, that  
22 there's lots of dogfish, which is certainly  
23 confirmed by Jim's presentation and

24 Dr. Boreman's presentation, but also -- you know, that

1 our management goal shouldn't be just to maintain  
2 stocks at a very high level, but in fact the  
3 prevailing wisdom, and my question: Is this  
4 prevailing wisdom, or is it myth?

5 We shouldn't necessarily have as a goal  
6 maintaining stocks at a very high level, but  
7 perhaps we ought to fish the stocks down to lower  
8 level because is this prevailing wisdom, or is it  
9 myth because dogfish eat lots of other fish, and  
10 we'll never rebuild other stocks unless we fish the  
11 dogfish stocks down.

12 And so my question is -- and it's not in  
13 your report, but I think some good work has been  
14 done at the Science Center on this, and that's why  
15 I wanted to ask the question.

16 What do we know about what dogfish eat  
17 and how much do they contribute to the mortality  
18 of other stocks, and is this a problem?

19 Because it's certainly something that I  
20 think there is a sense in the fishing community  
21 that they're significant contributors to the  
22 mortality of stocks like cod and flounder and other  
23 things like that. And I think there's been  
24 science on this. I wonder if someone would want

1 to share what we know on that topic.

2 COUNCIL CHAIRMAN RICHARD ROBINS: And  
3 just to follow up, John, I appreciate that, and  
4 we've heard very similar comments throughout the  
5 region as we went through our data collection  
6 process.

7 As you know, that was one of the  
8 overwhelming themes about the health of the  
9 ecosystem we heard as it relates to our fishery.  
10 But I'll ask if the Center -- Jim, would you like  
11 to respond to that?

12 JAMES WEINBERG: Yeah. I don't know  
13 all the details, but Jason Link of our Ecosystem  
14 Program has published, co-authored papers with  
15 several people at the Center, and they looked at  
16 the stomachs of tens of thousands of dogfish.  
17 It's a really extensive database.

18 And in fact the main diet item of dogfish  
19 are tentacules, which are those little jelly  
20 animals that are small balls floating in the water.  
21 And they've looked closely to see if cod were in  
22 the stomachs, and the number of cod was lower.

23 Like a lot of people, the conventional  
24 wisdom is that the dogfish must be eating all the

1 cod, but in fact the database does not support  
2 that. The number of cod in the stomachs was quite  
3 low. And then they're eating a whole variety of  
4 other prey items.

5 And I'd have to go to the paper to pull  
6 out any more details. But the question that John  
7 raised earlier about whether the dogfish maybe  
8 should be moved to a different level or stocks in  
9 general whether they should be kept at their BMSY  
10 value. That gets into the ecosystem management  
11 questions, and you have to have a really good  
12 understanding of predator-prey interactions and  
13 all of that to really develop a strategy for  
14 figuring out what the particular biomass you're  
15 striving for should be.

16 And then whether you can achieve that or  
17 not is whole other question. But he's right. In  
18 general with single species management each stock  
19 has a particular biomass target which we call BMSY.

20 And then the real concern that most  
21 people have in management is not to let that stock  
22 get below a threshold level which is typically half  
23 of the biomass target.

24 So there hasn't been a lot of work done

1 in single species management looking at that other  
2 issue of whether stocks should be managed at  
3 particular levels between BMSY and one-half BMSY.

4 COUNCIL CHAIRMAN RICHARD ROBINS: And I  
5 would just follow up. In terms of the recent  
6 history, we went through the rebuilding period,  
7 and as we came out of that for a couple years we  
8 were stuck in a pattern where we were still  
9 constrained by the rebuilding F that was in the FMP  
10 because we didn't have a rebuilding target, so we  
11 went back and worked with the Science Center and  
12 the SSC, and they provided and reviewed a  
13 rebuilding target that was ultimately adopted and  
14 approved. And after that the stock was declared  
15 rebuilt. At that point we could get out of that  
16 box that we were in and operate at higher quota  
17 levels.

18 So I believe today as we set the quota,  
19 it will be a third year in a row where we've had  
20 quotas at or about 30 million pounds. So we went  
21 through a long period of time where we were at much  
22 lower levels.

23 Now we're able to fish at a  
24 significantly higher rate still constrained by the



1 probability of overfishing and the control rule  
2 that we have. But we're coming out of that  
3 history, and so the fishery is once again emerging  
4 as a much more robust fishery after the rebuilding  
5 period. Go ahead, Rob.

6 ROBERT O'REILLY: A question on another  
7 topic, and that was I think in Jim's report he  
8 mentioned something about stocks being offshore;  
9 and therefore, that was making it difficult I think  
10 at the early part of the year for us to reach the  
11 quota.

12 And my question is: Do we have any  
13 indication that that is the case, and does that  
14 have an implication on trip limits and our ability  
15 to reach the quota? Is there an indication about  
16 location of the stocks and an implication about  
17 trip limits so that we might reach the quota on that  
18 last day, as your table suggests?

19 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

20 JAMES ARMSTRONG: Recall that last  
21 winter almost didn't happen. I was warm  
22 throughout the winter, so it sort of went from fall  
23 to spring. And the idea there is that the waters  
24 offshore were warm so the fish were off and north.

1 And everything's been that way.

2 This whole year has been crazy with red  
3 drum getting caught in Delaware and stuff. So one  
4 of the things with spiny dogfish that -- we  
5 probably have the information on hand in the survey  
6 data to make some stronger inferences about the  
7 predictive value of temperature on the stock.  
8 That drives the seasonal migratory behavior of the  
9 stock.

10 And there's been some work, I think, by  
11 one of the SSC members, Mike Frisk, to suggest --  
12 you know, that temperature is a strong driver in  
13 availability to the fishery. It's interesting  
14 that if the fishery is near shore, the survey is  
15 all over the shelf. So the catches in the survey  
16 this year were actually higher than usual, while  
17 the fishery didn't catch much. So you have that  
18 kind of a strange position where they appear to be  
19 quite abundant from the standardized sampling  
20 program suggesting the population size is really  
21 high, but the fishery isn't catching anything  
22 because they're just not where the fishing is  
23 occurring. So, yeah, that information is  
24 available and probably could be -- you know, more

1 looked into.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thanks, Jim. Mike Luisi. Rob O'Reilly.

4 ROBERT O'REILLY: I guess I'd like to  
5 follow up and maybe just a little bit different  
6 from Dr. Weinberg and what he was talking about and  
7 not having maybe a current background in some of  
8 the ecosystem events.

9 But is it established as a predator?  
10 Spiny dogfish is a predator? The different prey  
11 items to any great extent has that work been done?  
12 Is there a lot of information there?

13 Is there enough information for any type  
14 of management group, body, agency to be able to  
15 look at the composite of the prey in that predator  
16 and then access the status of each and then go from  
17 there to begin to start talking about, well, what  
18 do you really need for one of those prey items or  
19 even for the predator in terms of BMSY and half  
20 BMSY, those types of things? Is that already  
21 underway?

22 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

23 JAMES WEINBERG: I'm really getting out  
24 of my comfort zone. But I think Jason Link and

1 Mike Fogerty and those people are experts on this,  
2 and they are developing those sorts of models which  
3 like any model has a lot of assumptions built into  
4 it.

5 Which you have to make assumptions about  
6 time and space and where the fish are and when they  
7 interact and how much they eat, how quickly they  
8 digest food and so forth.

9 But the paper that I mentioned, alluded  
10 to earlier by Jason is published, and it has a list  
11 of all the things that dogfish consume. And I'm  
12 sure there are other papers as well.

13 I think that if there's interest on this  
14 on the part of the Council, we could easily have  
15 Jason or someone else come here to give you a talk  
16 to inform you with whatever details you would like.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
18 I was going to suggest just that as we go forward  
19 over the course of the next year and work on the  
20 ecosystem guidance document. Obviously, this is  
21 one area of interest, so I would think at the  
22 appropriate point in time we could have a  
23 presentation to this council. Peter Himchak.

24 PETER HIMCHAK: Yes. Thank you, Mr.

1 Chairman. A quick question for Dr. Weinberg and  
2 just to keep my optimism on fishing down spiny  
3 dogfish.

4 Are they not particularly problematic  
5 in doing food web analyses because of either the  
6 regurgitation of the stomach contents on capture  
7 and/or the number of specimens that are  
8 encountered that have zero stomach content  
9 analyses? Aren't those issues that may not give  
10 you a pretty good picture of what they're feeding  
11 on?

12 JAMES WEINBERG: Yeah. Those are  
13 issues in general in any kind of study like this,  
14 but I'm not an expert enough to comment on how  
15 dogfish lie in that spectrum. So, again, those  
16 are things for Jason.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
18 do you want to pick up with your specs  
19 presentation? Do you want to go back to that?

20 JAMES ARMSTRONG: Sure.

21 COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Thank you. Jim, before you start, I think Chris  
23 had a question. Chris.

24 CHRIS BATSAVAGE: Thank you, Mr.

1 Chairman. I guess this question's either for Jim  
2 or John. It's been anticipated for a while that  
3 we'd see a dip in the dogfish stock resulting from  
4 the six or seven years of poor recruitment in the  
5 late '90s and early 2000.

6 The projections show that those dips  
7 occur in the spiny stock biomass maybe in the next  
8 five/six years or so. Has there been any evidence  
9 in the last few years of that poor recruitment  
10 going through the younger smaller size classes of  
11 dogfish?

12 JAMES ARMSTRONG: Yeah. It does seem  
13 to be supported by the size structure of the  
14 population. One thing the dogfish assessment or  
15 the projections is that that dip has tended to  
16 shallow up and move forward as the assessment is  
17 updated.

18 So it's not staying right in the same  
19 spot, but it's moving. So that's an interesting  
20 phenomenon that I don't understand completely.  
21 So, yeah, I mean we haven't really ever gotten to  
22 the point where the roller coaster is going over  
23 the hill, and I think we were kind of expecting to  
24 be there by now.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thanks, Jim. If you want to pick up with the  
3 specifications.

4 JAMES ARMSTRONG: All right. Under  
5 the tab for dogfish specs, on page 5 I have -- it  
6 may be a little bit easier for you to read -- a set  
7 of tables. It's Table 1, but there are three  
8 panels in the table.

9 And what that does is it illustrates  
10 based on the ABC determination by the SSC, which  
11 are put in at the top of the table, we then go through  
12 the process of trying to account for all the  
13 different sources of all different types of  
14 removals, Canadian landings, discards,  
15 recreational landings; and we build those into the  
16 process, and we also use that flow chart. So this  
17 is kind of reflective of that as well.

18 And so that's where we picked up. The  
19 Monitoring Committee then received the SSC's  
20 recommendations and went through the process of  
21 trying to come up with a commercial quota and any  
22 other management measures -- you know, for the  
23 upcoming fishing years. So we started with ABC,  
24 and then according to the process in the Omnibus

1 Amendment, we take out our estimate of Canadian  
2 landings to come up with a domestic ABC. And the  
3 Canadian landings were basically taken as an  
4 average of 2009 through 2011.

5 The reason it started in 2009 is because  
6 that's when the Canadian fishery kind of fell off  
7 the table. It was high when the U.S. fishery was  
8 being constrained during the rebuilding, but then  
9 when the U.S. fishery came back, the Canadian  
10 fishery went away.

11 So that was a new regime really, and so  
12 we start averaging from 2009. So that gives us our  
13 domestic ABC. And then from that we have to  
14 calculate in -- well, and then by definition, our  
15 ACL is equal to our domestic ABC.

16 After that comes a management  
17 uncertainty buffer or the accounting for  
18 management uncertainty. That's used to derive an  
19 ACT. Some of the information that was given to the  
20 Monitoring Committee we looked at the performance  
21 of the fishery in terms of total landings versus  
22 the quota.

23 And then also there's other types of  
24 renewables, other catch whether it's Canadian



1 discards or recreational. You add all those  
2 together and see how that's performed relative to  
3 what we expected, which was generally an average  
4 or something or the previous year's value,  
5 whatever we used in a given year. And for those  
6 other sources we tend to underestimate removables.

7 For the quota and landings versus the  
8 quota it's been pretty tight. We've been hitting  
9 the quota. Sometimes we've gone over. Sometimes  
10 in recent years with the Commission going to  
11 accountability measures, we've actually been  
12 under.

13 Last year we had a particular overage in  
14 2011 that had to do with some discovered  
15 transporting of dogfish, over two million pounds,  
16 had occurred in Massachusetts. It was an  
17 unlicensed transporter.

18 So this was discovered by Mass. DMF and  
19 reported to the ASMFC in a letter. And so that's  
20 the kind of stuff you find out about. And the  
21 Monitoring Committee felt well, this is exactly  
22 what we mean when we say management uncertainty.

23 We set the limit, and we are uncertain  
24 as to whether landings are going to be at or below

1 that limit. So we decided that the performance of  
2 the fishery since 2010 and we've been using that  
3 because we think we're in a new effort regime after  
4 the Ground Fishermen 16 I believe it is -- that put  
5 sectors in. So that's what we've been using for  
6 discards and other things. So we've had 2010 as  
7 an anchor year.

8 So we averaged the 2010 and 2011  
9 landings against the quota and found a 3.99 percent  
10 overage, and so we applied that as a source of --  
11 as a buffer. Now, I originally proposed that.

12 And I applied it to the ACL to get the  
13 ACT. So I applied it to overall catch. But in  
14 discussion with the Monitoring Committee, we noted  
15 that in the top right over there on the screen you  
16 see the red line, which is what we thought was --  
17 or what actually happened versus the blue line  
18 which is what we thought was going to happen in  
19 terms of other types of catch that it wasn't really  
20 fair to take it out of the total catch.

21 It was more appropriate because the  
22 landings overages were the source of uncertainty  
23 in the negative sense. So what we did is in this  
24 table where it looks like I take this management

1           buffer out, and that's actually a 3.99 -- or it says  
2           4 percent -- 4 percent reduction, but that's  
3           actually of the quota overage. So what we did is  
4           we worked through the table. We set that at zero,  
5           saw what the quota was going to be and then find  
6           out what 4 percent of that is, put that back in  
7           here, and then work back down. So that's the way  
8           we did it.

9                         In terms of a big point of discussion was  
10           discards, and that had to do with overall effort  
11           and what happens if the fishery closes versus  
12           staying open all year. And we ended up using a  
13           much longer term average -- this is a 2002 to 2011  
14           average -- than we had used in the past. And  
15           that's because we see discards as being stable.

16                         And this is the total dead discards.  
17           That looks very stable even though in recent years  
18           from about here on we've had increases in quota.  
19           And what we can do is look at this. This is the  
20           ratio of discards to landings.

21                         So you see that there's a trend going  
22           down there. Okay. So we didn't want to take --  
23           you know, take like the regression of these points  
24           here and try to project what the new lower ratio

1 is going to be in the upcoming years.

2 We instead observed and had greater  
3 confidence in what looks like a flat line there.  
4 So we took this long-term average as the basis for  
5 deducting discards for the out years. Okay.  
6 Also in here the actual values, the 3.99 percent  
7 is the average of this -.43 and 12.43 overage in  
8 2011 and 4.3 under harvest in 2010 average out to  
9 that.

10 So that gives you those tables that you  
11 see on page five of the latest sort of staff note,  
12 the Monitoring Committee report, which is at the  
13 top of your tab.

14 So the quotas that you get at the bottom  
15 of each of those tables are the Monitoring  
16 Committee's consensus recommendations. And they  
17 are: 40.8 million pounds for next year, for 2013;  
18 41.8 million pounds for 2014, and 41.6 million  
19 pounds.

20 That's a very stable -- that's at a  
21 constant F, but it's also -- you know, a stock that  
22 is projected to stay very stable over that period,  
23 so that's why you have those very stable quotas.

24 In preparation for the Monitoring

1 Committee, there was a trip limit analysis that was  
2 done by Toby Curtis, Mark Brady and Mike Pitney at  
3 the regional office. I've inserted that as well  
4 into my presentation.

5 Basically, one of the questions was:  
6 With these expanding quotas -- you know, is the  
7 existing trip limit still appropriate? And so one  
8 of the questions to look at is, well, is the current  
9 trip limit constraining and also how many trips  
10 might be impacted if the trip limit went up. So  
11 here you have a histogram of trip level landings  
12 from one pound up to 3,000 pounds. You also have  
13 more, which shouldn't happen.

14 But 3,000 is the trip limit, and so, of  
15 course, you have this enormous quantity of trips  
16 right at 3,000 and fairly flat along the others.  
17 It turns out that as a percentage of trip level  
18 landings in 2010, '11 and so far in '12, looks like  
19 a little over, right around a third of the landings  
20 are right at the limit.

21 -- and if they're trip were increased,  
22 it would probably impact a large portion of the  
23 trips, those that were constrained. The other  
24 question would be: Well, what about the rate of

1 landings and the effect of trip limits on how the  
2 landings accumulate toward the quota.

3 And so what they did is they did an  
4 extrapolation exercise where they looked at the  
5 new around 40 million pound quotas that we're  
6 considering for these upcoming years, and the rate  
7 of landings for 2011 and 2010 -- it looks like at  
8 those rates and under those trip limits, we would  
9 likely get in the ballpark of that quota.

10 Now, here's that 2012 landings figure  
11 again, and we can see that there's this kind of lag  
12 in the pick up of the fishery until about July, and  
13 then it takes off at a rate that is real steady.  
14 It looks just parallel to that line.

15 And if it had indeed started out at that  
16 line, it would really hit the quota probably smack  
17 on. Right? And that's the Period 1 quota. So  
18 imagine if this went all the way out to April 30,  
19 2013. The idea is that that would hit the total  
20 coastwide quota at about the same thing. And that  
21 the reason it's down below it here has more to do  
22 with this episode here than it does to do with the  
23 rate at which landings are coming in, suggests that  
24 whatever we're doing right now achieves a pace of

1 landings that corresponds to the existing quota.

2 So the conclusions they came up with:  
3 It's possible to land a 40 plus million pound quota  
4 with the 3,000 pound trip limit or slightly higher,  
5 but if trip limits are significantly increased,  
6 then you would likely result in an in-season  
7 closure.

8 The Monitoring Committee's position in  
9 regard to trip limits is it's not a biological  
10 issue, and so we don't really have a  
11 recommendation.

12 It's a policy call, and it has to do with  
13 whether you want to have a faster rate of landings  
14 and the potential for a closure or a lower rate of  
15 landings -- or the current rate of landings I  
16 should say -- and a lower probability that  
17 fishery's going to close at some point. And I  
18 believe that is everything. And I've got a motion  
19 up there, but we'll hold off on that.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
21 you, Jim. Questions for Jim? Peter.

22 PETER HIMCHAK: Yes, Jim, regarding the  
23 trip limit, we usually discuss this at the ASMFC  
24 Board, and I know there's a difference of opinion

1 who wants 4,000 and who wants 600. But really, I  
2 mean the states can come up with 4,000 or 5,000.

3 But the processing capacity is a  
4 limiting factor. So what is the utility of going  
5 out and catching a higher number of pounds in a  
6 shorter period of time that they can't be  
7 processed?

8 And we have somebody from the audience  
9 that may be able to speak to this much more -- more  
10 than I can. But that's a real problem. So 3,000  
11 pounds getting us to the quota might be the best  
12 thing on a price basis throughout the entire  
13 fishing year for most states.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
15 did you have a comment?

16 JAMES ARMSTRONG: Well, that's exactly  
17 right. The processors have a finite capacity for  
18 production, and so if they open the valve up all  
19 the way as much as they can do, then -- you know,  
20 X amount of dogfish -- and I wish I knew exactly  
21 what that number is -- but X amount of dogfish is  
22 going to be coming out the back door. And if the  
23 supply -- you know, reaches a point where it's more  
24 than they can produce, the value -- either they



1 start turning guys away -- the message is sent down  
2 the line we're not accepting dogfish, or there's  
3 a lower price for the dogfish that do arrive. So  
4 any of those things can happen when the catches  
5 exceed the processing capacity basically.

6 There was discussed at one point in a  
7 public setting that there was possible interest in  
8 other processors -- you know, starting to accept  
9 dogfish if indeed it looked like there was going  
10 to be a consistent under harvest of the quota in  
11 the upcoming years.

12 But I don't know. The thing about  
13 dogfish processing is it's a real hands-on thing.  
14 Just drop them in a hopper and have fish sticks come  
15 out the other end.

16 There's a lot of people involved, and so  
17 there's an investment of that human capital, and  
18 there's a skill to doing it, and -- you know, that  
19 commitment to accept dogfish is a big one.

20 COUNCIL CHAIRMAN RICHARD ROBINS: It's  
21 a hands-on experience. Pete.

22 PETER HIMCHAK: I just had one thought.  
23 And this could be off the wall, or it could have  
24 some utility. But given the sorry state of the

1 Atlantic herring fishery and the severe cuts that  
2 we may be experiencing and they'd likely be  
3 experiencing in the menhaden fishery, maybe they  
4 can turn these things into lobster bait as giving  
5 utility for biomass. I don't know.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Lee  
7 Anderson. I'm glad we're having this discussion  
8 on trip limits 'cause as you know economists don't  
9 like trip limits because it makes things more  
10 inefficient. You have to come and waste gas and  
11 everything else.

12 And many of us were here at the visioning  
13 things, and that's what we talked about. And when  
14 it deals with how can we make things more efficient  
15 for the (inaudible), and are we really considering  
16 the economic effects of all this.

17 When I see this, I can see a start. We  
18 have looked at it, and there is the issue of  
19 processing and everything else. But just to keep  
20 the balance on what we were talking about, if we  
21 are going to follow up on that visioning thing, it  
22 may involve a little more detail on this to figure  
23 out what is best, is it best to catch it in a short  
24 period of time and be more efficient, or are there

1 gains from spreading it out? Sometimes you lose  
2 market if you catch your fish too fast, so. I  
3 don't know the answer, and I'm not going to second  
4 guess the Monitoring Committee, but I just want to  
5 put a little relevance in the discussion.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Dewey Hemilright.

8 DEWEY HEMILRIGHT: To this date, I  
9 don't know of any dogfish load that has been  
10 returned because they couldn't process it, meaning  
11 that when there wasn't somebody there to cut it.  
12 When the truck leaves, for instance, I've always  
13 been able to cut the fish.

14 Second of all, I think it's up to each  
15 state to decide what they want their trip limit to  
16 be, and that state is probably going to be basing  
17 their trip limit on the processor. They're not  
18 going to sit there and say, hey, give me 4 or 5,000  
19 trip limit, and they know doggone well they can't  
20 process it.

21 So I kind of tend to get a little leary  
22 when a state is given a right to have a quota, and  
23 you have another body that wants to dictate or look  
24 about or think about a trip limit.

1           Each state works different, and each  
2           location where these dogfish are being caught have  
3           different avenues to go. So the thing that I think  
4           that needs to be focused on here is getting the  
5           seasons right, that each state except for the  
6           northern region that chooses to be all together  
7           with their quota let them do what they want and to  
8           the states to work with the processors and the fish  
9           houses and the trucking companies to decide how  
10          we're going to process these fish.

11           Second of all, North Carolina started  
12          out with a 3,000 pound trip limit. At 18 cents a  
13          pound a couple years ago, that's not a lot of money.  
14          All right. We went to 4,000 pounds last year.

15           You add that up. I think it comes to 7  
16          20. Well, this year I think our state is  
17          proposing, and I hope they do; I'm advocating for  
18          it, a 5,000 pound trip limit. So that will put us  
19          up to \$920.

20           By the time you leave and the price of  
21          fuel, the whole thing about it is to make it  
22          economically feasible. You know, do I want to go  
23          there and spread it out.

24           You know the same amount of fuel that you

1 can use to catch 5,000 pounds, you'd have to make  
2 double that fuel to catch 2,000 pounds. So the  
3 economics part of this here. And it might not be  
4 for every state that has something different to do  
5 -- but the economic part of it it's working for us.  
6 We haven't had no rejection of the fish coming back  
7 to the states, and our fish houses are working with  
8 the processors. So it's kind of like maybe leave  
9 well enough alone if it's working.

10 COUNCIL CHAIRMAN RICHARD ROBINS: And,  
11 Dewey, I think the trip limit might be thought of  
12 as an upper limit in this specific plan. This is  
13 where there's a complexity with the ASMFC side of  
14 the equation too because as you point out, to the  
15 states that have allocations they are able to  
16 establish a state level trip limit.

17 It should be noted, though, that a  
18 federal permit holder is limited to what the  
19 federal regulation is while they have that permit,  
20 and also vessels in federal waters couldn't exceed  
21 the federal trip limit.

22 So that's just one added complexity that  
23 I want to mention on the record. But you're right.  
24 There's a trade-off between trying to provide for



1 impacts on the market side down the road. Other  
2 questions before we go to the public? And then  
3 we'll come back and discuss the motion. Peter.

4 PETER HIMCHAK: I was going to inquire  
5 if we're setting three-year specifications all the  
6 way down to the level of commercial quota, or are  
7 we just going to accept the three-year  
8 recommendation on the ABC? And I bring that up  
9 because, yeah, there was a significant overage,  
10 two million pounds, in the northern region. We  
11 went over by 120 or 180,000 pounds, and a lot of  
12 it was because of late notification and all that.

13 So I think management uncertainty  
14 should decrease in the matter of monitoring of the  
15 quota. So I'm getting the impression that the  
16 ABCs are set by the SSC, but it seems to me that  
17 we're applying the same percentage of management  
18 uncertainty over the three-year period, and who  
19 knows what the recreational catch is going to be  
20 or the Canadian catch. So are we going to  
21 essentially craft the motion for those three years  
22 all the way down to the commercial quota?

23 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
24 can you elaborate on that?

1 JAMES ARMSTRONG: Well, yeah. We had  
2 to come up with quotas that corresponded to the  
3 ABCs that we were provided, and so -- you know, when  
4 we decided when the basis was for each component,  
5 each step in the process of calculating the quota,  
6 we only had that to work with, and so that's what  
7 we came up with, and that's what was applied to the  
8 three years. Having said that -- you know, and  
9 specific to trip limits as well, the Monitoring  
10 Committee expressed the same interest that the SSC  
11 had in terms of like looking at sign posts along  
12 the way and -- you know, that the Monitoring  
13 Committee could reconsider its recommendations if  
14 fishery performance, say the fishery was under  
15 performing or something like that. Yeah. But  
16 those are the recommendations for the three years.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Well,  
18 Jim, I mean some of those components of management  
19 uncertainty like with respect to the recreational  
20 fishery are relatively small and constant over  
21 time.

22 But I mean, just for example, let's say  
23 in year two the Canadian catch was 10 times greater  
24 than what you had projected it to be, wouldn't it



1 be possible to come back in an out year and make  
2 an adjustment to that?

3 JAMES ARMSTRONG: Absolutely. If we  
4 were to put multi-year specs into place, then we  
5 can -- you know, re-initiate specifications next  
6 year to re-evaluate; it wouldn't be locked in and  
7 unavailable.

8 COUNCIL CHAIRMAN RICHARD ROBINS:  
9 Thanks, Jim. Toni Kerns.

10 TONI KERNS: I just want to remind the  
11 Council that the Commission's plan does include a  
12 payback overage. So for the northern region, that  
13 two million pounds has been agreed to come out of  
14 that northern region quota, the two million pound  
15 overage that we found in Massachusetts. And for  
16 the southern states if there is an overage, it does  
17 come out of the state quota.

18 COUNCIL CHAIRMAN RICHARD ROBINS:  
19 Thank you, Toni. Jeff.

20 JEFF DEEM: Jim, your graph that showed  
21 the slow start to this year's landings -- yeah,  
22 that's the one. You said if it had started out  
23 right, you would have reached the target exactly  
24 at the end of the year with a 3,000 pound trip

1           limit; but we're getting the impression now that  
2           we expect to do the same thing with a larger target.  
3           Do we need to expand the trip limits to get to the  
4           same end point within the year?

5                    JAMES ARMSTRONG: I guess that's the  
6           question. You know, it appears that whatever's  
7           going on now -- you know, based on that figure, the  
8           blue line is parallel to the green line, and if we  
9           can set those conditions up for 2013, '14, and '15,  
10          then the fishery should be maximizing its sort of  
11          daily performance throughout the year and finish  
12          right on time, and it would be wonderful. But we  
13          don't know exactly whether that's going to happen  
14          or not.

15                   One of the things that we considered  
16          was, well, could we do some adaptive management.  
17          And let's say we don't have the FMP set up for it  
18          right now, but what if -- and I guess this is  
19          something that's done with scup in the winter  
20          periods where the trip limits can be increased if  
21          the fishery is not harvesting all or doesn't look  
22          it's going to get to its allocation for that  
23          period.

24                   It's possible we could do that with

1 dogfish. It's a little complicated because of the  
2 migratory behavior and how you'd really only be  
3 cranking it up when it's in the southern area, so  
4 it may seem a little unfair in that sense.

5 But there are ways to adjust it I guess.  
6 We just don't have the FMP set up for that right  
7 now. But in speaking to the regional office about  
8 that, we could probably initiate a fairly easy to  
9 do framework, and then that would -- we could put  
10 in there and that wouldn't need to -- if we wanted  
11 to go that route it wouldn't get triggered until  
12 late in the 2013 fishing year, so hopefully it  
13 could be in place by then. But maybe something to  
14 get the trip limit bumped up to increase the rate  
15 if that's possible if processors are going to allow  
16 it just to try to get the whole quota.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Rob  
18 O'Reilly.

19 ROBERT O'REILLY: Sounds really  
20 complicated to me. But as Peter Himchak has some  
21 uncertainty about how the 4 percent goes through  
22 the years on the management uncertainty, my  
23 uncertainty is on the constant F.

24 And what I heard just a little while ago

1 from Dr. Boreman, that they will be monitoring the  
2 indices and the biomass and the information, and  
3 I guess before I would want to think about going  
4 down to the landings level, to go back below the  
5 ABC, I would want to know that at least there was  
6 a reasonable indication that the constant F  
7 approach here in a three-year time period was a  
8 pretty good situation, a good bet.

9 Because on the one hand, we're trying to  
10 allow industries and the public to know that you  
11 can plan, you have some certainty of what you're  
12 going to be doing in more than one year. On the  
13 other, if you have to come back with this adaptive  
14 management and make changes and go through that,  
15 it may backfire as far as having the multi-year  
16 approach here down to the landings level. Just  
17 concerns. But they're certainly something I'd  
18 like some discussion on.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Rob,  
20 I appreciate that. What we would do if we adopt  
21 a multi-year specs is still come back and have an  
22 opportunity to review them on an annual basis.

23 So it's fair to say on the one hand  
24 you're communicating several years worth of

1 expectations based on what we know about the stock  
2 right now based on the recent performance of the  
3 fishery and everything that we have been advised  
4 on in terms of scientific uncertainty and  
5 management uncertainty, et cetera.

6 But if we are two years out and something  
7 goes dramatically differently than what's  
8 projected, we would have to be responsive to it.  
9 I don't think we can get out of that box.

10 But I think we've heard enough about  
11 wanting to see management built up in a way that  
12 you can at least have some reasonable chance of  
13 regulatory stability that multi-year  
14 specifications do make sense if they're indicated  
15 based on the current understanding of the stock.  
16 That's what the SSC has been working on, the  
17 subcommittee. So that's kind of where we are  
18 today.

19 With that, though, I want to go to the  
20 public and take public comment. And then we'll  
21 come back and decide on specifications. I was  
22 John Whiteside's hand up earlier. I'm sorry to  
23 keep you waiting, but we're glad to have the input.  
24 John.

1 JOHN WHITESIDE: Good afternoon, Mr.  
2 Chairman and council members. I was taking notes  
3 and covered a lot of ground back then. I'm  
4 Attorney John Whiteside representing the  
5 Sustainable Fisheries Association, which at  
6 present is the four processors of dogfish for  
7 purposes of this committee meeting.

8 At this point, if I could just run  
9 through the three comments generally, and if there  
10 is something else, I could follow back up on that.

11 We would have three comments at this  
12 point. We would support the recommendation to  
13 maintain the trip limits at 3,000 pounds. We do  
14 not support the recommendation to increase the  
15 annual quota. We'd like to see a normal fishing  
16 year, where this year as we've heard dogfish didn't  
17 come in until later in the summer. The commentary  
18 of the warmer water kept them offshore. At this  
19 point we're about 68 percent of quota for landings,  
20 and we are six million pounds to go if we were to  
21 be at November 1.

22 Our calculations are that we are not  
23 going to reach the 35 million pounds by the end of  
24 the year. So we'd kind of like to see one year of

1 3,000 pounds, 35 million as an annual quota.

2 We've seen the quota jump from 12 to 20  
3 to 35, and we would urge you a cautionary approach  
4 based on the science that we've been told for years  
5 now, that there was going to be this drop in the  
6 exploitable population.

7 There were comments that were made about  
8 the development of a male fishery. What I've been  
9 hearing anecdotally is that the yields this year  
10 from the females have been much lower than they've  
11 been in the past, and almost the level or at the  
12 level of what the yields you get from males.

13 The really low yield when you combine  
14 that with increasing processing business costs  
15 that my clients are faced with and you then have  
16 increased supply if the recommendation is taken  
17 and no corresponding increase in demand, the  
18 simple economics would tell me that means a drop  
19 in price. At this point, yes, we did receive MSC  
20 certification back on August 30th, so we're six  
21 weeks into it.

22 It's very new to us and we have at this  
23 point haven't seen a real jump in the price that  
24 we're trying to get in sales to Europe. Now, that

1 may change over time, and we're trying to educate  
2 our customers and to push them into a higher price  
3 point, but when they see that the simple economic  
4 model where you have increasing supply, increasing  
5 supply, for them it doesn't make any sense to pay  
6 a premium when -- you know, the spigot is just wide  
7 open.

8 There are constraints on what we can  
9 process especially when we're talking about that  
10 anecdotal trend that I mentioned. If the yields  
11 do continue to go lower, that's something that is  
12 going to reflect in the cost that's paid at the  
13 boat.

14 So there are a number of concerns that  
15 we have, and we would like to kind of take a  
16 cautionary approach at this point, and that would  
17 be our recommendation.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you, John. Are there any questions with  
20 respect to the MSC issues or any of the other points  
21 that John brings up? Okay. John, thank you. Go  
22 ahead.

23 JOHN WHITESIDE: If anyone did have any  
24 questions about MSC, I would address that



1 privately. I'm going to be here for a couple more  
2 hours.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
4 you. I appreciate it. Thank you very much.  
5 Other comments? Jim Lovgren.

6 JAMES LOVGREN: Thank you. Jim  
7 Lovgren, Fishermen's Coop. And I would agree with  
8 the comments just made there in regard to taking  
9 a slow approach here regarding quota.

10 I know you have to set a total allowable  
11 catch here, but the idea keeping the season open  
12 at 3,000 pound trip limit should be something you  
13 might want to think about here, okay, as opposed  
14 to setting something and possibly having it  
15 closed.

16 Environmental conditions, as you said,  
17 there wasn't a winter last winter, so migratory  
18 pattern of the fish changed. That's fish not  
19 available to a lot of people.

20 In New Jersey we've had a number of times  
21 there where the processors told us they didn't want  
22 any fish, couldn't handle them. Okay. It's not  
23 a matter of returning them. It's a matter of them  
24 saying, no, we got too many fish. That's a number

1 of times in the last few years.

2 Now, sitting back there I had a lot of  
3 questions there, and one thing it was disturbing  
4 to me (1) in the past year ASMFC came out with the  
5 status of the stocks and I looked at the dogfish  
6 and I saw the graph on the spawning stock biomass  
7 and total biomass started in 1982.

8 And the same with Jim here, the graph  
9 starts with 1982, and I find that totally  
10 misleading to the council members and to the  
11 commission members because you have data that goes  
12 back to 1964, surveys and analysis of stock  
13 assessments.

14 And what you will find when you see, that  
15 is back in 1964 the population was a third the size  
16 that you observed in 1982. When you look at them  
17 graphs starting in 1982, you see the depletion of  
18 the dogfish stocks actually down to the level they  
19 were at in the 1960s and not really because the  
20 total biomass was still way higher than the '60s,  
21 but the spawning stock biomass had dropped. This  
22 information is available to you. It is there, but  
23 it's not being presented, and I really don't know  
24 why. And I, myself I find it misleading because

1 we have an ocean full of dogfish. Okay. Jim, you  
2 want to see what dogfish eat? Why don't you do  
3 some stomach sampling with the fish off of Pamlico  
4 Sound, off of the Outer Banks.

5 They go down in the wintertime with the  
6 striped bass, and they eat every spot, croaker and  
7 weak fish born. I've been on the *Albatross* and the  
8 *Delaware*. I was there. We made trawl surveys  
9 there. And it's a bag full of little fish there.

10 But if you take graphs of where dogfish  
11 are in the wintertime, they are right there within  
12 three miles of the beach right with all those weak  
13 fish and croakers feasting along with all the large  
14 striped bass.

15 It's not rocket scientists. If any  
16 recreational fisherman who's trying to get a hook  
17 down to the bottom and he's using fish for bait,  
18 not jellyfish, he can't get the fish down to the  
19 bottom because they're eating that bait he has on  
20 his hook. Okay.

21 I stood right alongside of Captain  
22 Sosebee on the *Delaware* on the trawl survey, and  
23 I pulled a 10-inch fluke out of the belly of a  
24 dogfish. I said, Captain, look at this; it

1 doesn't look like jellyfish to me. Okay. These  
2 fish are opportunistic. And maybe where you're  
3 doing stomach samples maybe there's a lot of  
4 jellyfish there. I don't know. But they do have  
5 a regurgitative effect.

6 I've seen a deck load of dogfish, and  
7 when we threw those dogfish over, we had a film of  
8 small porgies, half digested porgies, laying on  
9 the deck. They didn't show up until you removed  
10 the dogfish, and there they had been spit up all  
11 over the deck.

12 These fish are eating everything out  
13 there. Steve Murowsky's own research -- 1991  
14 recommended the removal of the spiny dogfish  
15 population. That was his observation.

16 He thought about at that point --  
17 documented the take over of Georges Banks by dog  
18 fishing in states that you would probably never  
19 recover the (inaudible) population without the  
20 removal of some of the dogfish  
21 population.

22 I have hammered on this for years, and  
23 I don't know why it keeps -- the train just keeps  
24 on rolling. The environmental hero who saved the

1 dogfish was over-destroying the German fishing  
2 market in the last few years. And these  
3 processors can vouch for that 'cause they saw the  
4 West German spiny dogfish belly market down. We  
5 have a population here, Mr. Bullard, I'm glad you  
6 mentioned that there, but this is a population that  
7 can be reduced and needs to be reduced.

8 Your own science for a number of years  
9 they were saying the stock wouldn't recover by 2017  
10 with minimal fishing or no fishing, 2037 if you  
11 allowed some fishing. And one stock assessment  
12 even showed never recovering, and here it was 2008  
13 and the stock fully recovered.

14 That leaves a lot of questions to the  
15 whole thing. Point being don't be concerned about  
16 raising quota of the dogfish. You're not going to  
17 hurt that stock.

18 They totally ignored the Northwest  
19 Pacific dogfish, the spiny dogfish fishery after  
20 World War II. Decimated the stock, okay, by the  
21 early 1950s. By 1960 that fishery had recovered.

22 These dogfish are puppy factories, like  
23 I've said years ago. They're very resilient. I  
24 don't know. When you say a little spiny dogfish

1 baby -- you know, the bigger babies survive more.  
2 I don't know what kind of baby you really have to  
3 back that up when it comes to diet. I asked the  
4 trainer at Jenkinson's Aquarium about dogfish. I  
5 said how much do they eat cause they had one there.  
6 It just died. But she said six to eight ounces a  
7 day and they weren't feeding it jellyfish.

8 And there's a lot of dogfish in  
9 captivity in aquariums here, and if you really want  
10 to get a handle on what they eat, maybe somebody  
11 should go check with them, 'cause I think that's  
12 a really good source of information for it.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
14 do you have any more recommendations about the  
15 specifications specific to that?

16 JAMES LOVGREN: Stay with the 3,000  
17 pound trip limit. Okay. It's a market matter for  
18 the stock itself and for the fishery and limited  
19 access. Thank you.

20 COUNCIL CHAIRMAN RICHARD ROBINS:  
21 Thank you. Jeff Kaelin.

22 JEFFREY KAELIN: Thank you, Mr.  
23 Chairman. Jeff Kaelin with Lund's Fisheries in  
24 Cape May, New Jersey. We're moving into dogfish

1 processing. We're expanding some processing  
2 operations -- the mackerel fishery being what it  
3 is and so forth. And I don't know. The way we're  
4 looking at it if the fish are there, the quota can  
5 go up. Let's find a way to process them and sell  
6 them. And I think we've heard from some of the  
7 other fishermen -- I know Jimmy wants to keep it  
8 at 3,000. We've heard from some other fishermen  
9 in New Jersey.

10 And think it's our position, too, that  
11 we'd like to see the trip limit go up to 4,000  
12 pounds a day. So we don't all agree here obviously  
13 within the industry. But that's our perspective  
14 right now. So thank you.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Thank you, Jeff. Jim Fletcher.

17 JAMES FLETCHER: I'd like to back up  
18 what Jim Lovgren said. But I'd also like to point  
19 out how many times you've come to us and asked for  
20 a visioning process and stuff like that.

21 This meeting, the inaccuracies and the  
22 hearsay that has gone around about the processing  
23 capabilities and about the science being  
24 (inaudible).

1           The science should come in and put a  
2           knife in the fish that the dogfish cutters in North  
3           Carolina that used to be in business before the  
4           Council put them out of business. I'm talking  
5           about Nixon's and Adenton, Louis Bask (phonetic)  
6           in Hampton, Virginia; Wanchese. You put us out of  
7           business. The Science Center has come in and said  
8           -- and I pushed for a male fishery -- that they  
9           don't have the information. The reason they don't  
10          have the information is their boat does not go  
11          where the satellite tags the best available  
12          science shows the male fish are.

13           Now, my suggestion is that we look at  
14          relieving some of these scientists. But coming to  
15          the point, let us catch what we can catch.

16           If the fishermen want 4,000 pounds, let  
17          it be 4,000 pounds. But I have sat back here and  
18          gotten so mad on this issue because 90 percent of  
19          what I've heard about the processing ability that  
20          came from this side of the table and what was  
21          available has been totally incorrect.

22           You have run a number -- and I say you,  
23          this council, and the ASMFC by managing weak fish,  
24          by managing flounders, by managing scup has set it



1 up that the number of processors have passed away,  
2 gone out of business.

3 Whether we can rebuild it or not I don't  
4 know. But for the Council to get into economics,  
5 what has happened is that in scallops and in  
6 dogfish the processors that used to be in Virginia  
7 and North Carolina you have made it impossible for  
8 them to operate. For the trawl boats that used to  
9 work out of Carolina and Virginia, you have  
10 disadvantaged them that they -- and I have brought  
11 it up before -- at least 40 of the big scallop boats  
12 have been sold, and that has taken the money from  
13 North Carolina and Virginia.

14 I don't know how to reverse it because  
15 every time I come up with an idea -- these aren't  
16 my ideas; these are the fisherman on the water that  
17 won't come to these meetings and be ignored.

18 That's the reason, we don't have your  
19 visioning. You want people here. They're  
20 ignored. The best scientific available  
21 information is the men on the water, and it's being  
22 ignored, but I don't know how to change it.

23 I'm disgusted after this discussion.  
24 You've heard Lovgren who's been on the water. If

1 Jamie Rhule was on here, he would be saying the same  
2 thing.

3 If the majority of the fishermen were  
4 here, they would be basically saying that there are  
5 more dogfish out there than you all realize. If  
6 the Science Center would take that survey boat and  
7 go 250/300 miles off shore with a mid-water trawl,  
8 they would find out where the dogfish were. But  
9 how to change it I don't know. How to be disgusted  
10 and aggravated I know. And this Council has a  
11 process that can't be changed.

12 And as long as the group think mentality  
13 comes in that one person says something and  
14 everybody around this table has to chime in and  
15 back it, we're in trouble, and that's the reason  
16 commercial fishermen. And I appreciate you  
17 listening.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
19 do you have a specific recommendation about the  
20 trip limit?

21 JAMES FLETCHER: Back it off to 4,000  
22 and let us worry about it. And for god's sake set  
23 it up so that we can open up some fish eyes and some  
24 packing houses in North Carolina and Virginia and

1 that you do not give all of the money to New  
2 Bedford. Thank you.

3 COUNCIL CHAIRMAN RICHARD ROBIN: Jim,  
4 thank you. And I appreciate your concerns about  
5 the male fishery. We've had some discussion about  
6 following up on that. With respect to where the  
7 industry is on that I mean it's not a consensus.  
8 We just heard from the processing industry today  
9 about their concerns with that. And obviously,  
10 historically there was a lot more processing  
11 capacity on spiny dogfish before we went into stock  
12 rebuilding than there is today. That's very fair.  
13 But today's capacity is much more limited than it  
14 was. Sean.

15 SEAN MCKEON: Thank you, Mr. Chairman.  
16 I appreciate it. Sean McKeon from North Carolina  
17 Fisheries Association. I just wanted to make a  
18 couple quick comments with respect to processing.

19 Certainly, if I was one of the few  
20 processors I'd be all in favor of keeping it at a  
21 very manageable level where it would benefit you,  
22 but I think what we need to do or what I'm asking  
23 you all to do is consider that there are several  
24 people, not just in our state but in other states

1 that are looking for two things, consistency and  
2 continuity in order to set up a business plan or  
3 business model that would take into consideration  
4 that we have some sort of idea as to whether or not  
5 that would make sense as a business to get back into  
6 it or get into.

7 And I think when we knit-pick some of  
8 these areas that we don't make specifications and  
9 that have long-term continuity, we let these  
10 people know that we're not really interested or  
11 they feel that they're not really interested that  
12 it's not a good idea to have that kind of a  
13 business. The predation problems I think  
14 everybody agrees that they're enormous whether or  
15 not you can specifically tell us from the Science  
16 Center not exactly what they eat.

17 Most of the guys that I represent can  
18 tell you exactly what they eat, where they eat it  
19 and how much they eat. And it's a huge problem  
20 down our way, and specifically with the fish we're  
21 trying to manage, weak fish being one of them.

22 I would advocate for the higher trip  
23 limits. I think that the more of them the better.  
24 And I think that once we understand that process,

1 I'm hoping that we're not going to suggest  
2 management for the benefit of two or three people  
3 or one or two companies, that we would look to a  
4 long-term solution, a long-term plan that would  
5 give some consistency to folks who are considering  
6 getting into this business. And that's really all  
7 I wanted to say.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thank you, Sean. Are there any other comments?  
10 Greg DiDomenico.

11 GREGORY DIDOMENICO: Thank you, Mr.  
12 Chairman, council members. I appreciate the  
13 opportunity to talk. Greg DiDomenico, Garden  
14 State Seafood Association. I sat through the SSC  
15 deliberations on the quota recommendations. It  
16 was very thorough, to say the least, and I was very  
17 satisfied and encouraged by the opportunity to  
18 have a larger quota. We support a larger quota.

19 And without a doubt from the gillnet  
20 perspective, an additional thousand pounds in the  
21 directed gillnet fishery would also be  
22 advantageous. It's not that large of an increase.

23 It offsets some of the probably emerging  
24 higher fuel prices and makes just a little bit more

1 of a profit at the end of the week especially  
2 combined with our other directed gillnet fishery.

3 So, again, we do support the higher  
4 quota. We think scientifically justifiable.  
5 And we do support the additional one thousand  
6 possession limit to get it to 4,000. Thank you  
7 very much.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thank you. Is there any additional public comment  
10 on this issue before we come back to the Council?  
11 All right. Seeing none, Jim, do you have a  
12 template that would include all the elements that  
13 we need to consider in the specifications package?

14 JAMES ARMSTRONG: I do. I have  
15 something. It was based on when we did the  
16 specifications for bluefish in July -- not in July  
17 but August -- and it's a separate motion for each  
18 year. So if that's --

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Okay. And obviously, the Council can modify any  
21 element of that, but you do have a template with  
22 the elements that are required in the  
23 specifications?

24 JAMES ARMSTRONG: Yes, I do. A

1 separate motion all except for the trip limits.  
2 And also because we're doing Amendment 3, which  
3 would allow for RSA, there's an RSA motion as well  
4 for 2014 and '15, since '13's off the books.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
6 you. Are there any comments before we get into  
7 consideration of motions? All right. Seeing  
8 none, I'll go ahead and ask the Council what the  
9 pleasure is. Peter.

10 PETER HIMCHAK: Well, thank you, Mr.  
11 Chairman. I'll volunteer to read into the record  
12 the motions. I support the higher quota. I'm  
13 happy to hear that Lund's Fishery is considering  
14 processing. Cape May had been processing in the  
15 past. That's good news to me. So I would move  
16 to adopt the spiny dogfish in 2014 an ACL of 54.295  
17 million pounds equivalent to domestic ABC, an ACT  
18 of 52.598 million pounds corresponding to a TAL of  
19 40.900 million pounds resulting in a commercial  
20 quota of 40.842 million pounds.

21 COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Peter, before I call for a second, I believe  
23 verbally you said 2014. Did you mean 2013 as  
24 appears there?

1 PETER HIMCHAK: 2013.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thanks for that clarification. Is there a second  
4 to the motion with that perfection? Second by  
5 Erling Berg. Thank you. Discussion on the  
6 motion?

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
9 there any discussion on the motion?

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Seeing none, is the Council ready for the question?

13 (Motion as voted.)

14 {Move to adopt for spiny dogfish in 2013 an  
15 ACL of 54.295 million pounds equivalent to  
16 Domestic ABC, an ACT of 52.598 million pounds  
17 corresponding to a TAL of 40.900 million  
18 pounds resulting in a commercial quota of  
19 40.842 million pounds.}

20 COUNCIL CHAIR RICK ROBINS:

21 COUNCIL CHAIRMAN RICHARD ROBINS: All  
22 those in favor please indicate by raising your  
23 hand.

24 (Response.)



1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Fifteen. Opposed like sign.

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Abstentions like sign.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: One

8 abstention. The emotion carries. Thank you.

9 Jim, what's the next option? Is it 2014? What's

10 the pleasure of the Council with respect to the

11 quotas for 2014? Peter.

12 PETER HIMCHAK: I'd be happy to

13 introduce the motion. I'm sort of stealing Laurie

14 Nolan's thunder. She usually does all this.

15 Move to adopt the spiny dogfish in 2014

16 an ACL of 55.277 million pounds equivalent to

17 domestic ABC, an ACT of 53.540 million pounds

18 corresponding to a TAL of 41.842 million pounds

19 resulting in a commercial quota of 41.784 million

20 pounds.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Is

22 there a second to the motion? Second by Erling

23 Berg. Discussion on the motion?

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
2 the Council ready for the question?

3 (Motion as voted.)

4 {Move to adopt the spiny dogfish in 2014 an ACL  
5 of 55.277 million pounds equivalent to  
6 Domestic ABC, an ACT of 53.540 million pounds  
7 corresponding to a TAL of 41.842 million  
8 pounds resulting in a commercial quota of  
9 41.784 million pounds.}

10 COUNCIL CHAIRMAN RICHARD ROBINS: All  
11 those in favor please indicate by raising your  
12 hand.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:  
15 Fifteen. Opposed like sign.

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:  
18 Abstentions like sign.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS: One  
21 abstention. The motion carries. Thank you.  
22 Jim, do you have the option for 2015? With respect  
23 to the quotas for 2015, what's the pleasure of the  
24 Council? Peter.

1 PETER HIMCHAK: I would move to adopt  
2 for spiny dogfish in 2015 and ACL of 55.063 million  
3 pounds equivalent to domestic ABC, an ACT of 53.335  
4 million pounds corresponding to a TAL of 41.637  
5 million pounds resulting in the commercial quota  
6 of 41.579 million pounds.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
8 there a second to the motion? Second by Erling  
9 Berg. Discussion on the motion?

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:  
12 Seeing none, is the Council ready for the question?

13 (Motion as voted.)

14 {Move to adopt for spiny dogfish in 2015 an  
15 ACL of 55.063 million pounds equivalent to  
16 Domestic ABC, and ACT of 53.335 million pounds  
17 corresponding to a TAL of 41.637 million  
18 pounds resulting in the commercial quota of  
19 41.579 million pounds.}

20 COUNCIL CHAIR RICK ROBINS:

21 (Motion as voted.)

22 COUNCIL CHAIRMAN RICHARD ROBINS: All  
23 those in favor please indicate by raising your  
24 hand.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Fifteen. Opposed like sign.

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Abstentions like sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: One

9 abstention. The motion carries. Thank you.

10 Jim, what's the next element of specifications?

11 JAMES ARMSTRONG: Trip limits.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you. With respect to the trip limit, what's

14 the pleasure of the Council? Lee. Microphone

15 please.

16 LEE ARMSTRONG: I'm sorry. I'm going

17 to change it. I'll announce it to put it on the

18 table. But I think we've been listening about the

19 economic effects of our regulations, and I've

20 heard enough from the audience to say that I can

21 go for a higher one, and I don't think it will have

22 any problem with biology. And so I would move to

23 adopt a trip limit of 4,000 pounds for spiny

24 dogfish in 2013, 2014, and 2015.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
2 there a second to the motion -- seconded by Howard  
3 King. Discussion on the motion. Mike.

4 MICHAEL LUISI: If I can just ask a  
5 question for clarification. If we move to adopt  
6 this measure and go to 4,000 pounds, I believe it  
7 states we'll still have the option to implement in  
8 their state a lower limit.

9 And the reason I ask is that if  
10 Maryland's currently in the process of evaluating  
11 individual quotas or limited access for this  
12 fishery, the movement to 4,000 pounds would open  
13 up maybe more incentive to have more folks come  
14 over to that fishery, which is a concern for the  
15 guys in Ocean City right now. Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS:  
17 Mike, as I understand it, the state could be  
18 working (inaudible) that. It could also be higher  
19 than that; although, if they're higher than that,  
20 then that landing limit would be landed to state  
21 waters. I know that's been an issue given the  
22 dissolution of fish. So I'll just point that out.  
23 Further discussion on the motion?

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
2 the Council ready for the motion?

3 (Motion as voted.)

4 {Move to adopt a trip limit of 4000 pounds for  
5 spiny dogfish in 2013, 2014, and 2015.}

6 COUNCIL CHAIRMAN RICHARD ROBINS: All  
7 those in favor please indicate by raising your  
8 hand.

9 (Response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:  
11 Fifteen. Opposed like sign.

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:  
14 Abstentions like sign.

15 (Response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: One  
17 abstention. The motion carries. Thank you.  
18 Jim, what else do you have -- RSA? With respect  
19 to the RSA set-aside, what's the pleasure of the  
20 Council? Dewey, go ahead.

21 DEWEY HEMILRIGHT: What  
22 happens if -- I don't think the research  
23 set-aside -- this is the first year there's been one.  
24 So what happens if it's not used? Will it just go

1 right back in to be given out amongst the states  
2 or given back into the quota? Because given the  
3 low -- I mean maybe it will be something that we  
4 can work on in the future, but I right now I think  
5 everybody's chomping at the bit to do RSA for  
6 dogfish. Maybe it will change, and they can help  
7 something. But is that what happens if the RSA is  
8 not used in a certain period, it gets to be rolled  
9 back into the quota?

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 George, can you comment on the mechanism for that?

12 GEORGE DARCY: Yeah. I think you're  
13 talking only about 2014/2015 here on the  
14 assumption that your permit will be approved by  
15 that time.

16 And yes, either there won't be a demand  
17 for it, in which case the RSA would go back into  
18 the total pool; or if during the year for some  
19 reason it's allocated and the researches decide  
20 not to do that project, we do return that to the  
21 fishery as a whole. We've done that a few times  
22 in the past.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 What's the pleasure of the Council on the RSA

1 set-aside? Rob.

2 ROBERT O'REILLY: -- ask a question  
3 just based on what George said. When you talked  
4 about it going back to the pool, is the RSA pool,  
5 or is it the fishery as a whole in the first  
6 scenario that you talked about? 'Cause you gave  
7 two scenarios.

8 You gave one where if it's not used, it  
9 goes back in the pool; and the second one you gave  
10 was if an investigator leaves his duty, then that  
11 goes back to the fishery as a whole.

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 George.

14 GEORGE DARCY: In both cases it goes  
15 back to the spiny dogfish quota.

16 COUNCIL CHAIRMAN RICHARD ROBINS:  
17 Thanks for that clarification. Steve Heins.

18 STEVEN HEINS: Just a quick question.  
19 Is there any reason why we wouldn't take the 3  
20 percent RSA off of the TAL as opposed to the  
21 commercial quota?

22 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
23 can you comment on that?

24 JAMES ARMSTRONG: Based on the way



1 we've crafted the 3 percent matching, the setup for  
2 all of the other FMPs taking off the TAL is for when  
3 there's a mixed recreational and commercial  
4 component to the fishery. So, since this is a  
5 commercial-only fishery, it's off the commercial  
6 quota.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
8 what's the percentage of recreational landings?  
9 Is it negligible?

10 JAMES ARMSTRONG: Less than one  
11 percent.

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 Preston.

14 PRESTON PATE: Since it's RSA quota, I  
15 guess it's fair for me to make the motion. I move  
16 to allow a research set-aside of up to 3 percent,  
17 1.254 million pounds of the commercial in 2014.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
19 there a second to the motion? Second by Rob  
20 O'Reilly. Discussion on the motion?

21 (No response.)

22 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
23 the Council ready for the question?

24 (Motion as voted.)

1 {Move to allow a research set-aside of up to  
2 3%, 1.254 million pounds, of the commercial in 2014.}

3 COUNCIL CHAIRMAN RICHARD ROBINS: All  
4 those in favor please indicate by raising your  
5 hand.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:  
8 Sixteen. Opposed like sign.

9 (No response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:  
11 Abstentions like sign.

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: The  
14 motion carries. Preston.

15 PRESTON PATE: Relative to the 2015  
16 quota, I'm moving to allow a research set-aside of  
17 up to 3 percent, 1.247 million pounds for the  
18 commercial in 2015.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
20 there a second to the motion? Second by Rob  
21 O'Reilly. Discussion on the motion?

22 (No response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
24 the Council ready for the question?

1 (Motion as voted.)

2 {Move to allow a research set-aside of up to 3%, 1.247  
3 million pounds, of the commercial in 2015.}

4 COUNCIL CHAIRMAN RICHARD ROBINS: All  
5 those in favor please indicate by raising your  
6 hand.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:  
9 Seventeen. Opposed like sign.

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:  
12 Abstentions like sign.

13 (No response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: The  
15 motion carries. Thank you. Jim, what other  
16 elements of specifications do we have?

17 JAMES ARMSTRONG: None. That's it.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
19 there anything else to come before us under this  
20 item?

21 JAMES ARMSTRONG: No.

22 COUNCIL CHAIRMAN RICHARD ROBINS:  
23 Thank you very much. And thanks for your  
24 presentation. Let's go ahead and take a 10-minute

1 break. Let's come back at 25 after. And at that  
2 point we'll take up the squid, mackerel,  
3 butterfish framework. Thank you.

4 (Break: 4:12 p.m to 4:30 p.m.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jason, are you ready to go ahead with the framework  
7 to the Squid, Mackerel, Butterfish Plan?

8 JASON DIDDEN: Yes.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Why  
10 don't you go ahead. Thank you.

11 \_\_\_\_\_  
12 FRAMEWORK 7 (MEETING 2) AND 8 (MEETING 1)  
13 TO MACKEREL, SQUID, AND BUTTERFISH FMP

14 JASON DIDDEN: Okay. Thank you.

15 We're going to be discussing Framework 7 to the  
16 Mackerel, Squid, Butterfish Fishery Management  
17 Plan. This framework involves the butterfish cap  
18 specifically the methodology for that cap. This  
19 would be Framework Meeting 2, which means that  
20 action can be taken on this framework. It's a  
21 relatively simple problem this addresses, and it's  
22 that directed butterfish fishery fishing which the  
23 Council has recommended recommence for next year  
24 to NMFS at the June council meeting may skew the

1           butterfish cap on the longfin squid fishery,  
2           specifically the ratio and how that ratio is  
3           calculated.

4                   And so this little picture, kind of  
5           schematic, up there right now there are these boats  
6           out there squid fishing, and they catch mostly  
7           longfin squid. They catch some butterfish.

8                   Their total catches are used to  
9           determine the ratio for the cap. That's used to  
10          scale up landings for how much they caught. And  
11          most of that's discarded right now.

12                   But next year there's going to be one or  
13          several boats out there who are butterfish  
14          fishing, and in one trip one of those butterfish  
15          directed vessels could catch as much butterfish as  
16          was observed in the whole cap.

17                   So that ratio based on one trip could  
18          change dramatically and not be reflective of the  
19          squid fleet. And so the issue is that the cap is  
20          for longfin squid fishing with butterfish catch.  
21          It's not for butterfish fishing with some longfin  
22          squid catch. Now, that butterfish vessel out  
23          there also retains 2500 pounds of loligo squid.

24                   The program goes ding, ding, ding,

1 that's a longfin squid trip, associates all those  
2 butterfish landings with the longfin squid cap,  
3 and the ratio will just not be reflective of  
4 reality.

5 So the proposed solution is to change  
6 the cap from a catch cap to a discard cap. So all  
7 those butterfish landings that are going on in the  
8 butterfish directed fishery that would be proposed  
9 for next year will not mess with the lolligo  
10 fishery's cap and that ratio.

11 Now, if some of these butterfish vessels  
12 if they keep 2500 pounds of longfin squid and they  
13 discard a lot of butterfish, they will still  
14 influence the cap to some degree, and we'll have  
15 to watch that.

16 But hopefully, that's not a huge issue.  
17 We're just going to have to track that and see what  
18 happens. But I think the next round of  
19 specifications for 2014 will probably consider  
20 some other things, maybe trying to change the trip  
21 definitions of 2500 pounds of longfin, look at how  
22 much butterfish they're catching. But for the  
23 start of the 2013 fishery, this should correct the  
24 majority of this potential problem. And maybe it

1 doesn't occur, but it definitely could occur.

2           These vessels are out butterfish  
3 fishing. There's definitely a mixture of  
4 butterfish and longfin, and it could be an issue,  
5 and this should prevent the majority of such a  
6 thing.

7           So, again, it's Alternative 2 in  
8 Framework 7 in the document. It changes the cap  
9 from a catch cap to a discard cap. And it also  
10 proposes Alternative 2 to reduce the cap amount  
11 that you approved in June by 13 percent.

12           And the idea is that in 2011, the year  
13 we have data available on the catch cap, 13 percent  
14 of the lolligo cap's butterfish squid was  
15 retained; 87 percent was discarded.

16           So we're just basically trying to do the  
17 same thing but make the accounting make sense. If  
18 you're moving from a catch cap to a discard cap,  
19 you would just lower it by the amount that was  
20 retained.

21           And this slide I think kind of explains  
22 it maybe a little bit. If you think right now you  
23 propose for next year a 4,500 metric ton total  
24 catch butterfish cap for the longfin squid

1 fishery, and if it went along and the fishery  
2 operated in a similar way that happened in 2011,  
3 the year we have data for, you would have seen 3,950  
4 metric tons of discards, 87 percent -- that's what  
5 happened in 2011 -- and 13 percent in landings.

6 So, if we're going from a total catch cap  
7 to a discard cap but you want to maintain the same  
8 control of mortality, you would just say, okay, we  
9 expect 4,500 metric ton total equates to 3,950  
10 metric tons of discards.

11 You're just trying to keep the same  
12 things. Now you're just looking at discards. So  
13 it's really kind of two components; (1) change it  
14 to discards, (2) lower the cap by a little bit so  
15 you're still maintaining the same control.

16 If you're just looking at discards, you  
17 have to change the cap so it's just looking at  
18 discards, not total catch. So with that, I can  
19 take questions or motions.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
21 you, Jason. Questions? Peter.

22 PETER HIMCHAK: I have a couple quick  
23 questions. Jason, what is the definition of a  
24 directed butterfish trip?



1 JASON DIDDEN: Well, I would say right  
2 now there's probably not a lot of directed  
3 butterfish fishing going on. There are some trips  
4 will go out. And the specifications when I  
5 analyze discards, I have to create a definition of  
6 a butterfish -- a directed trip for any of the  
7 fisheries, and I try to construct something that  
8 kind of makes sense.

9 For butterfish we haven't been doing it  
10 because there really hasn't been a directed trip.  
11 And next year there will be at least for the  
12 beginning part of the year no trip limits on  
13 butterfish.

14 So it's really if the captain's going  
15 out looking for butterfish, that's a butterfish  
16 directed trip. And we really have to see how the  
17 fishery performs before we can say, oh, that was  
18 a directed butterfish trip.

19 And recently the lolligo trips have been  
20 discarding most of their butterfish. Some of that  
21 was probably regulatory, some market.

22 It will be interesting at the start of  
23 this year we'll see since there are no butterfish  
24 trip limits -- you know, were the regulations

1 driving discards, or is it something else. And so  
2 we could have like a mixed trip, a mixed loligo,  
3 butterfish trip since the regulations will allow  
4 more incidental catch to be retained. We're just  
5 going to have to see how the fishery plays out.  
6 But once we kind of see that for next year, maybe  
7 we incorporate a directed butterfish trip to try  
8 to separate the loligo cap and the butterfish cap.  
9 Until we see how it goes, it's hard to know.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Peter.

12 PETER HIMCHAK: One more question. It  
13 says if a directed butterfish cap is observed.  
14 Okay, what if a directed butterfish catch is not  
15 observed and the loligo landings are quite in  
16 excess of 2,500 pounds; is it likely that the  
17 unobserved data butterfish to squid would get into  
18 the cap estimation through VTR data?

19 JASON DIDDEN: Well, the cap works by  
20 looking at the observer data and that's used to  
21 develop and estimate for the whole fleet. And  
22 then that ratio is scaled up based on the dealer  
23 landings data.

24 So I mean there's probably some observer

1 effect I'm sure going on. We've been doing some  
2 work to try to see, okay, are observed trips  
3 representative of the fleet as a whole? New  
4 England has been looking at more of this observer  
5 bias effect potentially in the groundfish fishery,  
6 and I think it will be kind of an ongoing issue for  
7 the Monitoring Committee as we look at -- you know,  
8 is this cap performing as it appears to be. And  
9 that's definitely an ongoing issue.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Other questions? Jeff.

12 JEFFREY DEEM: Yeah. From an  
13 environmental standpoint, I don't understand why  
14 we're discarding that much of anything. There is  
15 a market for butterfish. They catch them. Why  
16 are we allowing them to just discard that many  
17 butterfish?

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Jason.

20 JASON DIDDEN: The longfin squid  
21 fishery has a lot of discards of a lot of species.  
22 And I think it's a mix of reasons. There may be  
23 a vessel, a tank vessel, and it's really focused  
24 on squid. It just wants to put squid in its tank.

1           It doesn't want a mess of other things  
2           in there. I think some of the vessels I do see they  
3           retain some of their butterfish. Some of their  
4           butterfish may be small. And we have the  
5           regulations of late have required if you're using  
6           small mesh, you can only keep a thousand pounds of  
7           butterfish anyway. More than that has to be  
8           discarded. As I said, at the start of this year,  
9           a lot of those regs are going to be loosened up.

10           So I think we'll kind of start to see  
11           what's driving the discarding. Was it the regs?  
12           Is it just a market issue that they don't want to  
13           bother with butterfish?

14           Once we have it less constrained by  
15           regulations, I think we'll be able to try to figure  
16           out what's driving that discarding. And then the  
17           bycatch minimization is an ongoing process.

18           And I think it will give a little more  
19           information to kind of continue that process: Are  
20           there other things to do to try to reduce that?

21           COUNCIL CHAIRMAN RICHARD ROBINS:

22           Other questions for Jason?

23           (No response.)

24           COUNCIL CHAIRMAN RICHARD ROBINS:

1           Seeing none, is there any public comment on the  
2           proposed framework? Yes. Jeff, come on up.

3                   JEFFERY KAELIN: Thank you, Mr.  
4           Chairman. Jeff Kaelin, Lund's Fisheries again.  
5           This is something we're supporting. I just wanted  
6           to take time today to thank the Council and John,  
7           George, and also Jason over the last few weeks  
8           because of the flexibility that's been developed  
9           in Framework 6 and this measure and the next one  
10          that we're going to consider.

11                   It's just been really refreshing and  
12          enjoyable to see everybody working towards giving  
13          us the flexibility to continue to catch loligo  
14          squid.

15                   So more than anything else I just wanted  
16          to say thank you because this has really been I  
17          think the way this process ought to work. So  
18          that's what I wanted to say. Thank you.

19                   COUNCIL CHAIRMAN RICHARD ROBINS:  
20          Thank you, Jeff. Is there any additional comment  
21          on the proposed measure?

22                   (No response.)

23                   COUNCIL CHAIRMAN RICHARD ROBINS:  
24          Okay. What's the pleasure of the Council with

1 respect to the framework? Howard.

2 HOWARD KING: I would make a motion if  
3 I knew what to say. Jason, do you have any  
4 language?

5 JASON DIDDEN: Well, there's one  
6 alternative, Alternative 2, and that was what was  
7 just described. So if it's the Council's  
8 pleasure, someone could make a motion to approve  
9 Framework 7 including Alternative 2 as a preferred  
10 alternative.

11 COUNCIL CHAIRMAN RICHARD ROBINS:  
12 Howard.

13 HOWARD KING: Jan, can you put that up  
14 there?

15 COUNCIL CHAIRMAN RICHARD ROBINS: Just  
16 give us a minute, and we'll get it up on the board.  
17 Peter.

18 PETER HIMCHAK: I would second the  
19 motion and ask for a perfection like we did on the  
20 spiny dogfish. After Alternative 2 just put in  
21 parentheses discard cap. Insert those two words  
22 if that's okay, Howard.

23 COUNCIL CHAIRMAN RICHARD ROBINS:  
24 Howard, is that agreeable?

1                   HOWARD KING: It is. I'll go ahead and  
2 read the motion into the record.

3                   COUNCIL CHAIRMAN RICHARD ROBINS:  
4 Please do.

5                   HOWARD KING: Move to approve Framework  
6 7 with Alternative 2 with the discard cap and the  
7 cap adjustment as the preferred alternative.

8                   COUNCIL CHAIRMAN RICHARD ROBINS:  
9 Second to the motion? Second by Peter Himchak.  
10 Thank you. Discussion on the motion?

11                   (No response.)

12                   COUNCIL CHAIRMAN RICHARD ROBINS: Is  
13 there any discussion on the motion?

14                   (No response.)

15                   COUNCIL CHAIRMAN RICHARD ROBINS: Is  
16 the Council ready for the motion?

17                   (Motion as voted.)

18 {Move to approve framework 7 with alternative 2  
19 (discard cap and the cap adjustment) as the  
20 preferred alternative.}

21                   COUNCIL CHAIR RICK ROBINS:

22                   (Motion as voted.)

23                   COUNCIL CHAIRMAN RICHARD ROBINS: All  
24 those in favor please indicate by raising your

1 hand.

2 (Response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Sixteen. Opposed like sign.

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Abstentions like sign.

8 (Response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: One  
10 abstention. The motion carries. Thank you.  
11 Jason, is there anything else to come before us on  
12 the framework?

13 JASON DIDDEN: Not on  
14 Framework 7.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
16 you. And nothing else related to the Squid,  
17 Mackerel, Butterfish Plan at this time?

18 JASON DIDDEN: Framework 8.

19 COUNCIL CHAIRMAN RICHARD ROBINS:  
20 Framework 8. Go ahead.

21 JASON DIDDEN: Okay. So Framework 8  
22 this is related to some management tweaks on the  
23 butterfish cap. This would be the first framework  
24 meeting, so no action will be taken here.



1           The Council asked that these issues be  
2 looked at after you set the specifications in June,  
3 two issues. First is there's currently no control  
4 of longfin squid in Trimester 2 in terms of the  
5 butterfish cap.

6           The butterfish cap currently cannot  
7 close longfin squid in Trimester 2. That causes  
8 some potential problems I'll get to later.

9           Issue No. 2 is there could be either a  
10 lot of unused landings or a lot of unused cap at  
11 the end of the year; and if one was constraining  
12 and the other was not, it may be useful to allow  
13 NMFS to switch back and forth a little bit.

14           So I'll get into a little more detail.  
15 Issue 1, the Trimester 2 issue historically  
16 there's been low butterfish catch by the longfin  
17 squid fishery in Trimester 2, and Amendment 10  
18 focused on Trimesters 1 and 3. The Trimester 2  
19 activity just comes out of the total, so it's not  
20 unaccounted for. It's just not controlled  
21 directly in Trimester 2. Whatever the estimate is  
22 just comes out of the total. But there was very  
23 low discards of butterfish in Trimester 2.

24           Well, in 2012, this year, there was a lot

1 of longfin squid fishing in Trimester 2, and you  
2 had the ratio kind of left over from Trimester 1.  
3 It's a cumulative thing that goes on.

4 And that Trimester 1 ratio and then some  
5 new trips in Trimester 2 combined with all the  
6 squid landings in Trimester 2 the cap took off like  
7 a rocket, and it looked like Trimester 2 could use  
8 up the entire cap, and there's be no Trimester 3  
9 fishery, or even the ABC could be exceeded because  
10 there was no control in Trimester 2.

11 Now, as we've kind of gotten into it,  
12 there's some question was that real fish or paper  
13 fish. And NMFS, NERO, the Science Center and  
14 Council staff is currently in evaluation of does  
15 that methodology need to be tweaked a little bit  
16 to say, okay, well, maybe Trimester 2 is so  
17 separate that it needs to be estimated separately;  
18 or maybe it's a depth thing. And so that's  
19 ongoing. But nevertheless, there's this issue  
20 that maybe Trimester 2 needs to be managed  
21 separately so it doesn't wipe out Trimester 3. So  
22 in the Framework 8 document, which is in the tab  
23 for this discussion, there essentially there are  
24 two cap allocations.

1                   Because if you're going to close  
2 Trimester 2, there has to be an allocation to  
3 Trimester 2. Currently there's a very low one  
4 percent allocation to Trimester 2.

5                   But if you set that as the actual  
6 allocation, there's almost nothing there.  
7 Trimester 2 would close very quickly because in the  
8 past they've had very low butterflyfish bycatch. It  
9 doesn't seem necessarily fair.

10                   So there's two options in the document.  
11 One is set the allocation in the butterflyfish cap  
12 equal to the allocation of longfin squid -- longfin  
13 squid is 43 percent, 17 percent, 40 percent -- and  
14 say, okay, well, whatever the cap is allocate it  
15 the same way. And that's one option.

16                   The other option is say, well, we know  
17 that Trimester 2 typically has a low incidental  
18 encounter rate, so we don't need that much in  
19 Trimester 2 and shuffle that sum into Trimester 1  
20 and 3. So there are two options there. Again, I  
21 think there may be some input from industry about  
22 what they think. I think those are two reasonable  
23 options. Again, I think the same allocation as  
24 squid makes sense.

1           If a given trimester is cleaner, they  
2 stay open. At the same time, since one is  
3 historically very low, it may not need that much.

4           So there's some analysis in the  
5 document. There will be an initial analysis when  
6 we look at it in two months from now, but that's  
7 the general way that I've been approaching the  
8 problem. So that's Issue 1.

9           Issue 2, again, is this idea there could  
10 be a lot of unused landings or cap quota, and the  
11 cap in the longfin squid fishery has a lot of  
12 landings left over.

13           And the Council actually did this a few  
14 months ago. You decided to take 200 metric tons  
15 of butterfish landings and shuffle it over to the  
16 cap, because it looked like that would have no  
17 impact on butterfish fishing.

18           But you had to do a framework action, and  
19 there was a lot -- you know, all the process that  
20 goes along with that. This would set up a process  
21 where NMFS come November would take a look at the  
22 data and it says, okay, butterfish landings are  
23 going along; if they don't look like they're not  
24 going to get anywhere near the butterfish landings

1 quota, then whatever amount you can slide over to  
2 the cap without looking like you're going to impact  
3 butterflyfish landings at all, you would do that.

4 And the impact would be that maybe  
5 longfin squid fishing would go on.. The idea is  
6 if one looks like it's going to be very  
7 constraining and the other's really not  
8 constraining, you can kind of shuffle some over and  
9 then NMFS would have the ability to do that in  
10 November.

11 There's some operational issues that  
12 the stats office has with this, and we'll be  
13 working on those over the next month or two. So  
14 the alternative proposed for this is NMFS could  
15 transfer up to 50 percent of the landings or cap  
16 to optimize the use of overall  
17 butterflyfish -- I say landings here but really quota --  
18 and generally would occur on November 15th.

19 And it would only be done if the transfer  
20 appeared unlikely to negative impact on one  
21 getting reduced either way. And so what's the  
22 impact? It makes it more likely that overall  
23 catch is closer to the ACT. Catch would be higher  
24 utilizing more, but it still should be at or below

1 the ACT. It's really a transfer of the ACT between  
2 uses. That's all this is. So I can take  
3 questions.

4 Again, no action is needed at this  
5 point. This was asked by the Council to look at  
6 it in June. This is where we're at. And there'll  
7 be some additional analysis come next meeting.

8 COUNCIL CHAIRMAN RICHARD ROBINS: But,  
9 Jason, will we be taking final action at the next  
10 meeting since it's a framework?

11 JASON DIDDEN: If it was your pleasure  
12 to do so, yes.

13 COUNCIL CHAIRMAN RICHARD ROBINS:  
14 Okay. But do we not still need a motion at the end  
15 of this to move forward with what we really want  
16 to move forward in the framework at the end of this  
17 discussion?

18 JASON DIDDEN: I defer to the region.  
19 I think in past cases, that there was no particular  
20 motion at the end of Framework Meeting 1, but you  
21 could also provide such a motion.

22 COUNCIL CHAIRMAN RICHARD ROBINS:  
23 George, did you have a comment?

24 GEORGE DARCY: I don't think you need

1 the motion. If by consensus you're happy with the  
2 direction, I think we'll just proceed that way.

3 COUNCIL CHAIRMAN RICHARD ROBINS: So at  
4 the end of the discussion if there are any  
5 modifications to what Jason put before us, we can  
6 entertain discussion on that and go forward.  
7 Peter.

8 PETER HIMCHAK: Yes, Mr. Chairman.  
9 Jason, I like the alternatives. I was having  
10 trouble understanding Alternative 3.  
11 Essentially, you're taking the butterfish cap as  
12 it currently exists and adding it to the  
13 percentages of Alternative 2 and taking the mean  
14 of that to get 54.15 and 35.85? I'm trying to  
15 figure out how you calculated the numbers.

16 JASON DIDDEN: It's just there's a  
17 current allocation for the butterfish cap. It's  
18 65 for Trimester 1, like 1 percent -- 3.3 percent  
19 to Trimester 2, and 31.7 percent to Trimester 3.

20 But it's just taking the mean between  
21 that and the current longfin squid. So it's kind  
22 of a middle point from where we are now and where  
23 longfin squid is.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Are

1 there any other questions for Jason regarding the  
2 framework? Laurie.

3 LAURIE NOLAN: Thank you. Jason, I'm  
4 just confused, the numbers you just gave when you  
5 say that's where we're at now. I thought we had  
6 no allocation of cap to Trimester 2 right now.

7 JASON DIDDEN: Amendment 10 did  
8 describe it as "allocation" because if Trimester  
9 1 is allocated something and Trimester 3 is  
10 allocating something, well, then the leftover is  
11 Trimester 2.

12 But in the sense that there's no way to  
13 shut it off in Trimester 2, even though it says 3.3,  
14 this year it's probably up 20. So from that  
15 perspective, it's not a real allocation. But on  
16 the books is "an allocation."

17 COUNCIL CHAIRMAN RICHARD ROBINS:  
18 Laurie.

19 LAURIE NOLAN: And those allocations  
20 were derived from history, from a time period that  
21 was looked at, and that was what each trimester  
22 period attributed to butterfish discard?

23 JASON DIDDEN: It was a mix of squid  
24 catch and incidental catch of butterfish.



1 Amendment 10 kind of looked at, okay, this is how  
2 squid has been distributed, this is how butterfish  
3 incidental catch has been distributed, and that  
4 kind of roughly mirrored the amount of butterfish  
5 that was caught in those trimesters.

6 So it's rooted in the butterfish catch,  
7 and I'd have to look at Amendment 10 to get the  
8 exact time period. It's probably five or ten  
9 years. So that followed kind of the best guess of  
10 how butterfish catch has been distributed in the  
11 squid fishery through the trimesters.

12 But, again, if you set it right at that  
13 level for Trimester 2, it's kind of the idea of  
14 maybe going above that is that would you want to  
15 -- well, another reason why it wasn't a firm  
16 allocation of the closures is it would be such a  
17 tiny quantity it would be almost impossible to  
18 monitor, and the CV of the estimate would be sky  
19 high because it's so small. So just to be  
20 operational, it would have to be something above  
21 that. And so that's where those alternatives came  
22 from.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thank you, Jason. Any additional questions on

1 this? Lee.

2 LEE ANDERSON: This isn't a question,  
3 Mr. Chairman. I would just like to say we're not  
4 going to vote. I've looked this over, and I think  
5 it's a good idea, and I'd let the record show that  
6 this makes sense to me at this point, and I look  
7 forward to seeing the second version of it next  
8 time when we can make an official vote on it.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thanks, Lee. Is there any public comment on the  
11 draft framework?

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Okay. Seeing none, we'll come back to the  
15 Council. Peter.

16 PETER HIMCHAK: So the Advisory Panel  
17 can provide comments on Framework 8 prior to our  
18 summer meeting, and then we can entertain it?  
19 Because, yeah, I don't know Alternative 2 or 3. I  
20 don't know which. They might have better  
21 information than I have.

22 COUNCIL CHAIRMAN RICHARD ROBINS: That's  
23 something we can solicit. Jason.

24 JASON DIDDEN: Yeah. I can definitely

1 hit both the AP and my squid, mackerel, butterfish  
2 interested parties list. It's a pretty wide group  
3 of folks, fishery participants and others just to  
4 flag so they're clearly aware that this is ongoing.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Laurie.

7 LAURIE NOLAN: Thank you. Jason, you  
8 told us that NMFS is in the process of reviewing  
9 the estimation methodology for the cap, and I know  
10 industry has concerns of this ratio that gets  
11 developed, and yet we're carrying it over, and  
12 we're always averaging to what happened prior to  
13 the new ratio, if that makes sense.

14 I mean if there's a ratio determined in  
15 Week 1, and now we're in Week 3, and we have a new  
16 ratio, rather than moving forward with that new  
17 ratio, my understanding is we average the two  
18 ratios and move forward with that.

19 I know there is confusion. And perhaps  
20 the idea that if we're doing real time data we  
21 should be monitoring the quota with the current  
22 ratio rather than always averaging the two ratios  
23 together.

24 I know industry has some other concerns

1 regarding the methodology. The summer period --  
2 you know, could that period start with a clean  
3 slate and develop the ratio on Day 1 of that period?  
4 Can any of these concerns or issues be added to this  
5 framework, or does that have to come under a new  
6 action?

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Jason.

9 JASON DIDDEN: So I forwarded to the  
10 Committee -- there's a meeting in a couple weeks  
11 to look at the methodology. The methodology is  
12 owned by NMFS. They can change it without any  
13 Council action, but it's done in cooperation with  
14 the Council.

15 So they consult Council staff, and it's  
16 a pretty cooperative process. Ultimately, NMFS  
17 decides what is the best available science, what's  
18 the best way to do it.

19 So restarting the ratio at Trimester 2  
20 that's on the table. Looking at some depth  
21 stratifications I think will be on the table.

22 NMFS has a right of analyses that  
23 they've been working on that will be presented.  
24 It's a webinar. It's open to the public. And

1 ultimately NMFS will select -- you know, what is  
2 the best methodology. And it's kind of in flux  
3 right now of what is the best.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Howard.

6 HOWARD KING: Just a quick question.

7 Jason, will butterfish in relationship to the  
8 squid fishery be part of the squid summit in  
9 January?

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Jason.

12 JASON DIDDEN: Howard, I don't know, I  
13 think it was mentioned at the last council meeting.  
14 The Council is kind of planning a squid summit, for  
15 lack of a better word.

16 I think that so far the squid summit has  
17 been gearing toward focusing on ways to address the  
18 biological nature of squids in real time  
19 management and good and effective conservation  
20 management of squids.

21 Also, there's a variety of kind of more  
22 kind of basic management things that are going on  
23 in the squid fishery that could be optimized. I  
24 think the butterfish cap I'm sure will come up. It

1 may be kind of an extension of that.

2 But so far I think the focus has been on  
3 real time assessment and management, and then  
4 these other kind of management issues of which I  
5 imagine the cap would come up as one of them.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
7 other questions? Or are there any other issues  
8 that the Council wants to address relative to the  
9 draft document before we move forward with it?

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:  
12 Okay. Seeing none, we'll go ahead and move  
13 forward with the draft document and look forward  
14 to that at the December meeting. Thank you,  
15 Jason. Is there anything else to come before us  
16 under the Squid, Mackerel, Butterfish Plan?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:  
19 Okay. Thanks. Our next order of business is  
20 going to be the presentation on the SBRM, the  
21 standardize bycatch reporting methodology  
22 alternatives for analysis, and Doug Potts is going  
23 to be presenting that to us. Doug, do you need a  
24 minute to set up? Jason, go ahead.

1 JASON DIDDEN: I did have one other  
2 thing. Lisa Hendrickson, a squid biologist, had  
3 major open heart surgery of late. I've got a  
4 little card. If folks who know Lisa want to sign  
5 that card, I've got it with me. I'm going to send  
6 it up to her soon.

7 COUNCIL CHAIRMAN RICHARD ROBINS:  
8 Jason, do you mind just passing that around?

9 JASON DIDDEN: Sure.

10 COUNCIL CHAIRMAN RICHARD ROBINS:  
11 Thank you. Doug, welcome.

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12  
13 STANDARDIZATION BYCATCH REPORTING

14 METHODOLOGY (SBRM) REPORT

15 DOUGLAS POTTS: Thank you. Doug  
16 Potts, Northeast Regional Office. I'm going to  
17 talk today briefly, hopefully not too long, about  
18 the SBRM, the Center's bycatch reporting  
19 methodology and our alternatives for analysis, the  
20 new version of the action.

21 This is work done by the SBRM FMAT,  
22 members from both councils and the regional office  
23 and the Commission. A little bit of background.  
24 I haven't been here for a little bit, and there's

1 some new council members I know.

2 The Magnuson-Stevens Act requires all  
3 FMPs contain a standardized methodology to assess  
4 the amount and type of bycatch in the fishery.

5 In 2007, the New England and  
6 Mid-Atlantic Councils both approved and  
7 implemented an omnibus SBRM amendment to all the  
8 FMPs to add SBRM elements to each of the FMPs that  
9 are managed by those councils.

10 Right after it was implemented, it was  
11 challenged in court. There was a district court  
12 decision that found in favor of the government on  
13 all points. That ruling was appealed. Last  
14 summer the Appeals Court found fault with one  
15 aspect of the amendment, vacated the amendment,  
16 and remanded the action back to NMFS for additional  
17 action.

18 This table roughly shows the various  
19 alternatives that were adopted and implemented in  
20 the 2007 amendment. It consisted of seven  
21 different elements of the SBRM.

22 The Appellate Court found fault with  
23 only one of those seven elements, mainly the  
24 prioritization process that's labeled as Item 6 up



1           there.

2                     The prioritization, it was designed or  
3           implemented to cover when or not enough funds to  
4           fully implement the needed amount of observer  
5           coverage across all of the fleets.

6                     The court found that the process as  
7           adopted in 2007 was a little bit too vague, and the  
8           reallocation process was ambiguous and left too  
9           much discretion to the Agency.

10                    Following the court's vacatur action,  
11           the NRCC formed the FMAT to address this. They  
12           also came to the councils, both councils at the  
13           April meetings. The task given to the FMAT was to  
14           target our actions on the prioritization process  
15           that was found deficient by the courts. In  
16           addition to addressing the court's failings, we  
17           were also asked to add in minor improvements and  
18           suggestions that came out of the three-year review  
19           of the SBRM process.

20                    That three-year review just  
21           coincidentally was also being done in 2011, so it  
22           was prepared around the same time. Our focus was  
23           primarily on the prioritization process, spent a  
24           little more time on the alternatives for that

1 particular element.

2 As I said, the prioritization process  
3 really has two parts. One is the trigger, which  
4 is how we determined what funds are available for  
5 SBRM coverage.

6 And the second part is how we would  
7 adjust sea days if the trigger is met. If there  
8 are available funds, if they're sufficient, then  
9 the second part does not happen in a given year.

10 In this case -- no. Sorry. Moving on.  
11 We now come to 6A. The prioritization presses the  
12 trigger. There's two alternatives we're  
13 proposing. One would be a status quo, which uses  
14 the 2007 SBRM amendment. It sort of uses a  
15 combination of the available sources of funding we  
16 have within whatever the historical funding  
17 restraints and restrictions that come down. That  
18 does maintain some perceived agency discretion,  
19 and that may be a bit of an issue. Sorry. I went  
20 forward one. There we go.

21 6-2 identifies a specific funding  
22 formula that would be used to announce sort of  
23 ahead of time what SBRM funding could be expected  
24 in a year.

1                   It would consist of the funds that are  
2                   directed specifically in congressional  
3                   appropriations to the Northeast Fisheries  
4                   Observer Program, but there are also at least two  
5                   other additional funding items that have  
6                   historically gone to funding the Northeast Region.  
7                   One is called the Atlantic Coast Observers.

8                   That money is split between the  
9                   Northeast Region and the Southeast Region  
10                  Headquarters. And there's also a national  
11                  funding line that's split among all of the NMFS  
12                  regions.

13                  Although, we don't have it up on the  
14                  slide for the draft amendment, we would have an  
15                  exact funding for it. So it would be a hundred  
16                  percent of the money targeted to NEFAP of the  
17                  observer program a fixed percentage. I'm not  
18                  sure. I think it's something like roughly 30  
19                  percent of that Atlantic Coast's line item and then  
20                  whatever the historic funding level from the other  
21                  funding line has been. So it will specify the  
22                  exact funding lines as well as the historical  
23                  percentages that have been used for SBRM in the  
24                  past.

1                   So these numbers are well known, and  
2                   they're in the budgetary process and would allow  
3                   us to preset what level would be expected for SBRM.  
4                   This would not preclude any additional funding  
5                   items that are directed by Congress or found by  
6                   NMFS that could address other management needs  
7                   that come up for observer coverage.

8                   But SBRM will only deal with -- the SBRM  
9                   coverage would be set by the specific funding  
10                  identified in the draft amendment. So the second  
11                  part of the prioritization process is the  
12                  adjustment to sea days.

13                  There are three options under this one,  
14                  and I'll go into a little more detail on each of  
15                  those. It's called 6-3 is status quo.

16                  Again, you'll notice it says: Within  
17                  agency funded fleets. This does not apply to  
18                  industry funded fleets; namely, the Atlantic  
19                  scallop fleets where all of their coverage is paid  
20                  for through the RSA program as a set-aside of  
21                  scallops. That's just the way that particular  
22                  plan was set up. Under this set-up, NMFS would  
23                  consult with both the councils about adjusting  
24                  coverage; however, it does give the Agency

1 discretion to reassign coverage based on available  
2 funding.

3 How the coverage would be adjusted is  
4 not specified in this case in the FMP. It allows  
5 the adjustment for various priorities as well as  
6 efforts that are needed.

7 This is, again, the status quo. This  
8 may not be considered acceptable -- may not be able  
9 to meet the court's requirements, but it is  
10 reflective of the 2007 SBRM amendment.

11 Two new alternatives that were  
12 developed by the FMAT, one was a proportional  
13 approach. This is sort of the most  
14 straightforward, sort of easy to understand.

15 But essentially, you take the total  
16 number of sea days that we have funding for, the  
17 total number of days that would be needed to reach  
18 the 30 percent CV performance standard for all of  
19 the various fleets and species group combinations.  
20 That would give you a ratio of the shortfall for  
21 any given year. Again, this is if there was a  
22 shortfall in a given year. We'd then take that  
23 ratio and apply it to all of the fleets across the  
24 board. It would have an effect on every single

1 fleet, but it would not necessarily bring all of  
2 the species combinations below the 30 percent CV;  
3 but all of the fleets would be below 30 percent for  
4 at least one of their species.

5 The alternative minimum coverage along  
6 the bottom. It means if that process would show  
7 too few days of meaningful discard information, we  
8 would switch to having three trips per quarter as  
9 a minimum level of coverage. That allows some  
10 meaningful discard across all of the fleets.

11 Under the current status quo process,  
12 there are some fleets that don't get any observer  
13 coverage. As things get balanced out, some will  
14 drop off entirely. This will actually ensure some  
15 level of coverage on all the fleets.

16 The other option that's being developed  
17 by the FMAT is what's being called the penalty  
18 approach, a very descriptive name. But I'll try  
19 to describe it. It will take about three slides  
20 to go through this particular option. This is  
21 trying to get the most sort of bang for the buck  
22 as we adjust sea days. It identifies the single  
23 fleet among all of the different fleets that has  
24 the most sea days needed to meet the 30 percent CV

1 across all of the bycatch species in it.

2 Instead of using the maximum amount of  
3 days in that fleet, it uses the next highest value  
4 sea days in that fleet. So, therefore, there  
5 would be one species group across that fleet that  
6 rises above the 30 percent CV but would hit the CV  
7 for the next one.

8 Then that checks if you've hit the  
9 funding constraints. If not, you go through all  
10 the fleets again, find the next highest number and  
11 reduce that number. I'll have an example in the  
12 next slide.

13 The point is to try to hit the lowest  
14 number of fleets and species combinations and,  
15 therefore, have the fewest number of cells that  
16 would not reach the 30 percent CV performance  
17 standard in a year.

18 Hopefully, this will explain a little  
19 better what I was just trying to describe. Don't  
20 particularly focus on the numbers because they're  
21 really just here for demonstration. This is the  
22 way the SBRM if you're familiar with it usually  
23 sets up. There's a column on the left for the  
24 different fleets. The fishing modes they're

1 often called. And then across each column are the  
2 various species and coverage levels that are  
3 calculated.

4 So there's an estimated number of sea  
5 days in each cell that would be necessary to hit  
6 the 30 percent CV performance standard for that  
7 group. Then there's applied a filter, an  
8 importance filter, that removes some species with  
9 combinations based on the very small contribution  
10 of mortality or total discard for that species.

11 In this example, those are the gray  
12 cells. They just drop off. And then you'd go  
13 through, and you'd find out the farthest right  
14 column the filtered days.

15 The highest value in any particular row  
16 is the number of days that would be needed for that  
17 fleet to hit 30 percent CV across all of the various  
18 species.

19 In this case if you look down the  
20 filtered column, there's one at 2,175 days, and  
21 that happens to be hypothetically Mid-Atlantic  
22 large mesh otter trawl and small mesh groundfish  
23 caught in that fleet. You would drop that  
24 particular cell out, small mesh groundfish, and go



1 with the next highest number, which after  
2 filtering is black sea bass at 265 days. That  
3 action then saves 1,910 days while affecting only  
4 one cell as far as the CV goes. You then go back  
5 through if you still hadn't reached the number of  
6 sea days that you had funding for, the next highest  
7 number was 1,415 in the small mesh Mid-Atlantic.  
8 You can drop that out and go to the next highest  
9 number. And it repeats like that to reach it.

10 Another way of looking at this is it  
11 essentially one row -- a particular fleet in this  
12 case, also a large mesh Mid-Atlantic otter trawl  
13 and the various species. So the vertical axis is  
14 the CV that would be associated, and then the X axis  
15 would be how many days you would need to achieve  
16 that CV.

17 The dotted line across shows a  
18 30 percent CV performance standard. In this case, it's  
19 driven by red crab, and it would need 5,501 days  
20 to hit 30 percent CV in red crab.

21 If you were to drop that out, it drops  
22 all the way down to the next highest number, saves  
23 5,218 days or roughly 6.3 million dollars.

24 The red crab would go up to

1 140 percent CV, but all the other species groups in that  
2 particular fleet would maintain the  
3 30 percent CV or better.

4 So, again, it's hoping to try to skim off  
5 the highest numbers first and then get down to  
6 lowest numbers in this particular approach.

7 In addition to prioritization process,  
8 there were some suggestions that did come out of  
9 the three-year review from last year.

10 Specifically, in Element 2, which would be  
11 analytical techniques, the review recommended  
12 removing what's called the unlikely filter or gray  
13 filter. Their analysis showed that that  
14 particular filter was redundant with what's called  
15 the mortality or then total discard filters, so  
16 it's not necessary.

17 So we would have an alternative to remove  
18 that from the importance filters. Under Element  
19 4, the FMAT is looking into changing some of the  
20 reporting components in the annual SBRM report that  
21 comes to councils.

22 That's not actually sort of a new  
23 alternative, but it just changes the particular  
24 elements that are in the report already sent. It

1 would change the filters to be a little more what  
2 we're calling council friendly.

3 It moves toward the total discards  
4 rather than simply observed discards so that it  
5 provides a little more useful information towards  
6 management.

7 And then under Element 5, the framework  
8 adjustment process you would modify that so that  
9 the addition of new fleets would not take council  
10 action.

11 Under the 2007 amendment, there were  
12 various things that were listed under  
13 frameworkable items, the 30 percent CV performance  
14 standard, data collection technologies and  
15 procedures, SBRM reporting both the annual and the  
16 three-year review, and industry-funded observer  
17 programs; in addition was the changing of fishing  
18 modes.

19 We believe you can set it up so that the  
20 addition of fishing modes simply increases the  
21 precision of estimates can be done automatically  
22 with notice to the councils but wouldn't require  
23 a formal framework or specifications to add these  
24 additional fleets in, for example, like the

1 (inaudible) trawl or (inaudible) separative trawls  
2 that have been developed that have different  
3 discard characteristics than the other gears they  
4 came from.

5 It just reflects what's already being  
6 done in the fishery and does not actually require  
7 new action, not new gears being approved.

8 This is hard to read, but this is  
9 actually the full list of alternatives that would  
10 be in the amendment. Because the full amendment  
11 was vacated, we're including all of the  
12 alternatives from the original 2007 amendment plus  
13 those that I just outlined.

14 In this particular case, those that are  
15 bolded would be the preferred and implemented  
16 alternatives from 2007. Some also have asterisks.  
17 Those are the ones that have been added by the FMAT.  
18 If it's hard to read there, in your packet after  
19 the last slide, should be a one-page blown up at  
20 least that shows them in a lot easier to read  
21 format.

22 But this would be the full range of  
23 alternatives that would be analyzed in the draft  
24 amendment and then brought back to this council

1            hopefully at the December meeting under the current  
2            schedule.

3                            Under the current schedule, the draft  
4            amendment would come back here in December. Then  
5            it would be out for public comments that would be  
6            taken back, public and council comments, on that  
7            draft.

8                            A final amendment document would be  
9            expected at the April meeting and then go into rule  
10           making. The final rule sometime in the early fall  
11           of next year, and the new SBRM process would be in  
12           place for setting observer coverage for the 2014  
13           fishing year.

14                           A little rushed through, but that's the  
15           end of my presentation. I'll be happy to take any  
16           questions from anyone on what we've done.

17                           COUNCIL CHAIRMAN RICHARD ROBINS: Doug,  
18           thank you very much for the presentation. And our  
19           history with SBRM has been that we go through this  
20           annual process of getting the presentation on the  
21           SBRM allocations, and then inevitably we have to  
22           go back to the Center with the specific requests  
23           to try to piece together some additional  
24           allocations to meet what are shortfalls in coverage

1 on Mid-Atlantic species.

2 And that's always been. I mean ever  
3 since it's been in place, we've had to go through  
4 that process. But that flexibility that was there  
5 in that ad hoc approach, while it still left it  
6 short of what we needed to really effectively cover  
7 our fisheries, was an important step because so  
8 much of the sea days are allocated to the groundfish  
9 fleet in the model, and part of that is unavoidable.

10 But to the extent that we have some  
11 flexibility, that was very important, and it looks  
12 like that may be lost in several of these  
13 approaches.

14 And that may simply be a result of the  
15 lawsuit. But it seems like that's only -- the  
16 status quo is really the only option that preserves  
17 that full flexibility.

18 DOUGLAS POTTS: Yes. The status quo  
19 would have the most flexibility in it; however, one  
20 of the minor, I guess, additions of the  
21 alternatives we're working on is because it's  
22 formulaic and there's not a lot of shifting that  
23 comes out, there may be some of the Mid-Atlantic  
24 fleets that have gotten zero coverage in the past

1 would actually get minimum coverage through the  
2 proposals putting forward the three trips per  
3 quarter at least getting some discard information  
4 on it.

5 Also, by using the dedicated funding  
6 lines that we were speaking of in this for NEMAP  
7 and strictly observers, it does not include some  
8 of the additional funding that has been created for  
9 sectors, for example.

10 That money could go for sectors but  
11 wouldn't be in the SBRM calculation, so it might  
12 not skew some of the coverage towards groundfish  
13 under those funding restrictions that were on those  
14 funding lines.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
16 you. Jim Weinberg.

17 JAMES WEINBERG: Yeah. Along those  
18 lines of flexibility, I think that's a really  
19 important point. And I was looking at this  
20 penultimate approach, and the example that Doug  
21 gave was one in which you could save a lot of trips  
22 and money by not monitoring the red crab fishery.  
23 Now, that's one that isn't assessed very often, and  
24 it only has a few people who are involved in that

1 fishery. But I'm thinking about whether there  
2 would be any other flexibility in another case.

3 Say it was some other fishery that in  
4 general is a more high profile one, and just how  
5 much flexibility would be left for the people to  
6 say, yeah, it was okay for the red crab example,  
7 but we don't want that to happen for something else.  
8 And I have nothing against the red crab example.  
9 I'm just using that to make a point.

10 DOUGLAS POTTS: Right.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Doug,  
12 go ahead.

13 DOUGLAS POTTS: Thank you. One thing  
14 of this is also that -- and while it was the red  
15 crab example, it was the red crab in the trawl  
16 fishery, so it wasn't the directed red crab  
17 fishery.

18 But there could be the option of  
19 additional funding sources that could be used with  
20 more discretion. Part of the process here in this  
21 amendment is to clearly define the scope of SBRM  
22 and the funding that goes into SBRM and that  
23 additional funding sources could potentially be  
24 available if directed by Congress or otherwise



1 available. It could be used for other management  
2 priorities and not fall under the 30 percent CV  
3 system of allocating days. So there could be  
4 additional process if there were funding lines that  
5 came in for additional days outside of SBRM.

6 COUNCIL CHAIRMAN RICHARD ROBINS:  
7 Thanks, Doug. Other questions for Doug? And,  
8 Doug, can you comment on the timing and how many  
9 additional opportunities we'll have to comment on  
10 this? I mean at this point, it would be advanced  
11 for further analysis. Is that correct?

12 DOUGLAS POTTS: Right. So at this  
13 point, the schedule is to develop the draft  
14 amendment document that at the current schedule  
15 would come back to this council for the December  
16 meeting.

17 Then it would be open for a public  
18 comment period both from the Council and from the  
19 public before finalizing the amendment for the  
20 April meeting.

21 COUNCIL CHAIRMAN RICHARD ROBINS: So,  
22 in terms of what we need to do today, would be to  
23 approve these alternatives for analysis. Is that  
24 fair?

1 DOUGLAS POTTS: Yes. That would be  
2 helpful.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.  
4 Are there any other concerns about the proposals  
5 that have been drafted here in the SBRM document?

6 I think we've made the point that having  
7 some flexibility is important. We will have an  
8 opportunity to, I think, make those points clearly  
9 in our comments in December. But are there any  
10 other concerns around the table about the draft  
11 document? Lee.

12 LEE ANDERSON: I would move that we  
13 approve for analysis this list right here, SBRM  
14 alternatives, as presented by the FDM. And if you  
15 want a detail of it, it's the  
16 second-to-the-last page. It's the penultimate page of  
17 the powerpoint.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
19 there a second to the motion? Second by Pres Pate.  
20 Thank you. Discussion on the motion?

21 (No response.)

22 (Motion as Voted.)

23 {Move to approve for analysis the list of ABRM  
24 alternatives as presented by the FMAT.}

1 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
2 there any objection to the motion?

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:  
5 Seeing none, it's approved by consent. Thank you,  
6 Doug, for the presentation. With that, I'd like  
7 to thank everybody for their input today. We're  
8 adjourned. We'll be having hospitality in Room  
9 926 shortly. So we'll see you there. 926 in five  
10 minutes. Tomorrow morning we convene at nine  
11 o'clock. Thank you all.

12  
13 WHEREUPON:

14  
15 THE MEETING WAS SUSPENDED AT 5:25 P.M.

16  
17 C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court  
Reporter and Notary Public in and for the Commonwealth  
of Massachusetts, do hereby certify that the foregoing

transcript represents a complete, true and accurate transcription of the audiographic tape taken in the above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 30th, day of December, 2012.

\_\_\_\_\_  
PAUL T. WALLACE. Notary Public  
My Commission Expires

October 8, 2015

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MID-ATLANTIC FISHERY MANAGEMENT COUNCIL  
800 North State Street, Suite 201  
Dover, Delaware 19901-3910

COUNCIL MEETING

17-18 OCTOBER 2012

at

Ocean Place Resort  
One Ocean Blvd.  
Long Branch, NJ 07740

THURSDAY OCTOBER 18, 2012

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174

1 [9:03 a.m.]

2  
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS: Good  
5 morning. Let's go ahead and get started, please.  
6 The first item on today's agenda is a presentation  
7 about the Science Center for Marine Fisheries.  
8 This is behind Tab 9.

9 I'd like to welcome Dr. Roger Mann and  
10 Dr. Eric Powell, who are both leading this  
11 organization initiative. It's an exciting  
12 project and undertaking, and I wanted to make sure  
13 the Council had an opportunity to have a  
14 presentation on it so that we could understand what  
15 work was being done and how their work might feed  
16 into the stock assessment process and also to  
17 generally interact with the Council's management  
18 process. So with that, again, welcome, Dr. Mann.

19  
20 SCIENCE CENTER FOR MARINE FISHERIES [SCeMFis]

21 ROGER MANN: Thank you. I've got one  
22 of these interesting space age pointers, so we'll  
23 see what happens. First of all, thank you for  
24 being very generous of your time in allowing an



1 hour for this presentation.

2 I stand here today as a representative  
3 of a group that's working towards this end. I'd  
4 like to acknowledge my colleague, Eric Powell,  
5 who's sitting in the back here. I'm sure that many  
6 of you know Eric. If not, I'll have to make sure  
7 there's an invitation before we leave. Jeff  
8 Kaelin and Greg DiDomenico are also back there.  
9 Even though their names aren't up here are very  
10 much part of this effort. Let me see if we can go  
11 back.

12 SCEMFIS. We chose SCEMFIS because it  
13 wasn't claimed on the Web. The Science Center for  
14 Marine Fisheries what is it; why are we going this  
15 way? It's a proposed national science  
16 foundation.

17 I use the word proposed at this point in  
18 time because the funding hasn't yet quite arrived,  
19 but we're fairly confident it will. A proposed  
20 entity that is part funded by the National Science  
21 Foundation and is an industry university  
22 cooperative research center.

23 There are two university partners at  
24 this point in time. There is opportunity to

1 expand it. The way these things are set up they  
2 are called centers. The center has a lead  
3 geographical location. This is the University of  
4 Southern Mississippi.

5 Eric is the designated center director.  
6 And there are satellite components of it. You can  
7 have many. At this point in time, we just have  
8 one, which is (inaudible) science, so I get  
9 designated as the site director. What makes this  
10 particular construct unique? It's unique because  
11 no other program that has federal money put into  
12 it is essentially owned by the industry. This is  
13 very much something where NSF puts money in to  
14 encourage industry to work with academia where  
15 industry drives the bus.

16 Well, is this a new idea? It turns out  
17 it's not. It's a new idea in fisheries, but NSF  
18 has been doing this through its engineering  
19 program. This is why we don't see marine  
20 scientists there.

21 It's been doing this for over 20 years.  
22 There are currently 59 centers around the country,  
23 and it's still continuing. These centers again  
24 through these collaborations have been in

1 existence for over 20 years.

2 If you have a car seat for one of your  
3 children, the design came from one of these  
4 collaborations. Money that goes into the design  
5 of drone aircraft comes from these collaborations.  
6 Much of what we have in super computer technology  
7 is benefited here. Fuel cells, forest products.  
8 You could go on down the list.

9 But all of this is a matter of industry  
10 and academia getting together with NSF providing  
11 some catalysts to this whole thing. As you can  
12 see, we have a good distribution, and in fact some  
13 of these centers have expanded into having  
14 international footprints. What this means is  
15 that -- and we're already looking at potentially  
16 the build out of this -- there's no reason why this  
17 should exist as one center with two sites.

18 Over the years, there's no reason why we  
19 can't expand it within the United States. We'd  
20 like to expand it over New England. We have sites  
21 on the Pacific Northwest. And there are very good  
22 reasons why we should include expertise overseas.

23 But let's start with the baby steps  
24 first. Why do we need it? Good question. I

1 don't think anybody would really object to this.  
2 There's never enough information to do good  
3 management.

4 No disrespect. There's never enough  
5 good information. We all agree. This  
6 constrains what we do. The funding sources  
7 they're in decline. After November 7th, they're  
8 going to be in even more decline, and the question  
9 is how are we going to get to what we need to do?

10 And those funding sources they come from  
11 federal agencies, state agencies. And as one  
12 would expect, those federal and state agencies set  
13 their own agendas. The industry needs -- and,  
14 again, I look at my colleagues in the back in  
15 industry -- they've always been met in terms of  
16 one-on-one conversations, piece meal funding,  
17 focused agendas, focused research projects.  
18 There's a start and an end.

19 They don't necessarily encompass a  
20 whole industry, and they don't necessarily try to  
21 expand a footprint. There's nothing wrong with  
22 this, but it's not necessarily the most productive  
23 way of spending money.

24 And so I think there's a real

1 opportunity here to expand on this structure using  
2 this IUCRC, industry university collaborative  
3 research center structure.

4 And so what is needed? A coherent and  
5 continuing industry driven research program to  
6 essentially compliment everything else with an  
7 unbiased academic context. Just because there's  
8 industry money doesn't necessarily mean you're  
9 going to get the answer the industry might  
10 necessarily want. And this structure is designed  
11 to provide this program.

12 Everybody has a mission statement.  
13 This is pretty simple. SCEMFIS aligns academic,  
14 commercial, recreational fisheries resources to  
15 address scientific problems limiting sustainable  
16 fisheries. I think everybody in this room would  
17 agree that that's a good way to go. And we seek  
18 to simultaneously achieve sustainability in both  
19 the stocks and in the fisheries. You all are here  
20 working toward that end anyway.

21 This is really where we sort of get to  
22 the unique part. The science program is industry  
23 partner driven. I'll get to the definition of an  
24 industry partner shortly.

1                   It's not perhaps quite as restricted as  
2                   it would initially sound. It's industry partner  
3                   driven. It goes under industry partner  
4                   oversight.

5                   Just because Eric and I wear this  
6                   moniker of directors, we don't direct; we  
7                   facilitate. It provides products directly to  
8                   those industry partners, and it distributes them.  
9                   You're on the mailing list.

10                  Unlike practically all of the other  
11                  IUCRC centers -- and I also found this a little  
12                  strange -- we are not in the business of producing  
13                  intellectual problems; we are not in the business  
14                  of licensing things, and we're not in the business  
15                  of sole sourcing to industry so you can increase  
16                  profit margins. This is about producing  
17                  information and distributing it as widely as  
18                  possible in coherent forms for uses in the  
19                  management process. Which means that you're  
20                  going to get this information, and everybody else  
21                  gets the information. And we'll get back to where  
22                  we include you in this conversation a little bit  
23                  later.

24                  You are part of this conversation which

1 is why we are here today. So what is an industry  
2 partner? Traditionally, if you're building car  
3 seats -- and this is done out of the University of  
4 Austin, Pittsburgh, your industry partners are GM,  
5 Toyota, Honda, Ford, and all the other ones.  
6 Pretty obvious. Here's an industry partner.

7 Obviously, you can be a private company  
8 or publicly trading company. You can have a trade  
9 organization. Now, if you think about the  
10 comparisons of GM, Ford, Toyota with what we have  
11 in the fishing industry, they're very different  
12 models. In the fishing industry and especially as  
13 to the recreational component of fishing, what you  
14 don't have are the singular giants.

15 What you have obviously are many  
16 individuals, and they often are aggregated to  
17 trade organizations. So we've included them  
18 under this very broad umbrella, nonprofit groups.  
19 Maybe we don't always agree with nonprofit groups,  
20 but they have a right to be here as well. And  
21 government agencies. And in fact the Northeast  
22 Fisheries Center has already signed up with a  
23 letter of commitment to join this entity as well.

24 So this is a broad group. This is:

1 Welcome all; come in; join the conversation. So  
2 you have this industry board of directors.  
3 Industry, again, can be very broadly defined. The  
4 industry partners form the industry advisory  
5 board.

6 Now, this isn't something that we make  
7 up. This is a very set structure within NSF.  
8 They've been doing this in many places for many  
9 years, and they dictate what this structure is and  
10 how it's run. Eric and I do not get the  
11 opportunity to manipulate this. And the fact is  
12 it works.

13 So there is an industry advisory board,  
14 and they operate functionally as the board of  
15 directors, which is why I say Eric and I  
16 facilitate; we don't direct.

17 Each participating partner has a voting  
18 representation and its proportion to your  
19 financial commitment. You have to put money into  
20 this to get a seat at the table. We'll get to the  
21 money in a little while. The plans and the science  
22 agenda are approved by this board of directors.  
23 So, obviously, what you have is an ongoing,  
24 energetic conversation with all who are involved.



1 Ongoing, energetic conversation it's all about  
2 communication.

3 And this IAB, the industry advisory  
4 board, finds and approves the science agenda, and  
5 it evaluates performance. So there is an ongoing  
6 conversation. This isn't one of these one-on-one  
7 things. There are set structured meetings.

8 NSF has a protocol. They have an  
9 evaluator they assign to your project in your  
10 center. And that evaluator's job is to make sure  
11 that you maintain these lines of communication.

12 So this whole structure is about  
13 communication. It's about serving industry  
14 needs. It's about setting up a science agenda  
15 that serves as industry needs, and it's about  
16 getting the project out at the end.

17 So why would you join this? Does the  
18 system work well at the moment? Well, first of  
19 all, you get a chance to actually dictate the  
20 science agenda. Everybody likes to know where  
21 they want to go, and they all want a seat in saying  
22 how it's done. So this is important. There's  
23 obviously the goal of sustainable seafood.  
24 Everybody who's in the business knows that, wants

1 it, and they want to participate. One of the  
2 niceties about this particular structure with NSF  
3 is it does allow you to leverage federal support.

4 If you're going to be as an industry  
5 member, industry again, all the way across to the  
6 other agencies, if you're going to be putting money  
7 on the table, why should you put the money on in  
8 this direction?

9 And what we'll show you is there's lots  
10 of opportunity to leverage your money, and that's  
11 always a good thing in this environment. Anything  
12 that comes out with the NSF label on it especially  
13 when you have an assigned NSF evaluator who's going  
14 to ensure that you're doing things properly,  
15 clearly has a whole lot of quality.

16 You're not going to be able to get  
17 through with sub par materials here. We have no  
18 intention of doing that. But the point is there's  
19 going to be somebody there watching you.

20 This whole approach is pooled financial  
21 resources. This is an ongoing conversation. It  
22 certainly allows long-term better planning. You  
23 get an ongoing conversation and development of the  
24 plan, and it's long term. Often perhaps this

1 requires a little bit of massaging of the way in  
2 which you think, but once you all get around the  
3 table and see the value of this, this actually  
4 becomes quite a good selling point.

5 So what would the members gain that they  
6 don't get at the moment? A coordinated response.  
7 It doesn't matter whether you're a squid, whether  
8 you're a flounder, whether you're a surfclam.

9 There is some coordinated issues here  
10 that everybody can gain from being part of the  
11 larger core, whether it's on assessment, whether  
12 it's on regulatory needs. You gain access to a  
13 range of expertise.

14 One of the things that we'd like to sort  
15 of include in this, which in fact is fundamental  
16 to it working properly is that through the center  
17 you have a portal, and that portal gets you into  
18 areas of expertise.

19 If you want particular expertise in a  
20 subject and you don't know where to go in the  
21 proverbial telephone directory, one of the jobs  
22 that comes from Eric and I is go through us; we will  
23 find somebody for you. There's a record of  
24 sustainability. Without beating our own drums, I

1 think Eric and I have done a pretty good job.  
2 We're going to bring in other people who have done  
3 the same. Again, you have quality control just  
4 with three letters, NSF.

5 And then there's all of this leveraging  
6 that comes along. This potential structure can  
7 get you access to the Euro's fleet. Whether you  
8 like it or not this is paid for by your federal tax  
9 dollar. It would be awfully nice if you could get  
10 access to those gifts in order to allow you to  
11 facilitate the research.

12 There are other things that come along  
13 with NSF funding. REU. What is REU? REU is  
14 research experience for undergraduates. What  
15 this means is that if I have an NSF award over here,  
16 I can instantly go back to the National Science  
17 Foundation and ask them for supplementary funds to  
18 employ undergraduates, bright undergraduates who  
19 will work on that project. It's one example of  
20 leveraging.

21 Both Eric and I work in very good  
22 universities. There's an abundance of very smart  
23 kids. Wouldn't it be nice if you could take those  
24 smart kids and get them to work on these projects

1 for effectively nothing. There are other NFS  
2 funding sources that come under this. I'll talk  
3 about then one on one if people are interested  
4 later. And the way this structure is set and this  
5 is dictated by NSF, institutions when you receive  
6 monies from industry sources here we only charge  
7 them 10 percent in direct cost.

8 To give you an example of what indirect  
9 costs cover. In my institution it's everything  
10 from the light bill to a lab to whatever. When I  
11 do a grant proposal, I add everything up.

12 It's 43 percent on the bottom, which we  
13 add on as the indirect cost recovery. And this is  
14 federally negotiated based upon a lot of auditors  
15 coming through my institution.

16 I'm looking at what it costs to run  
17 research. It's about the same at the University  
18 of Southern Mississippi. And if you're going to  
19 take money from industry, you can't charge them  
20 more than 10 percent.

21 So this is a way of getting a pretty good  
22 deal if you're coming in and looking for the  
23 university to actually do work for you. You get  
24 it essentially at a cut rate because NSF says you

1 can't charge more than that. All right. What  
2 does it cost? I want to be a member. I own a fleet  
3 of fishing vessels. I want to come in. Industry  
4 partnerships the way we have it set at the moment  
5 for a subscription of 50,000 a year you get two  
6 votes on this industry advisory board. Remember  
7 this is the board of directors that runs  
8 everything.

9 Forty-five thousand gets you one vote.  
10 The commitment from NSF is that they will put up  
11 120,000 a year for five years when they make the  
12 first award, \$600,000, and it's renewable for up  
13 to 10 years.

14 What you have to get though on the  
15 industry side is commitments of matching money in  
16 order to get this piece from NSF. You need a  
17 minimum of six partners at \$50,000; 12 partners at  
18 \$25,000; or some amount that comes up to a minimum  
19 of \$300,000.

20 Now, not everybody is sitting around  
21 with 25 or \$50,000 in their pocket, and this is why  
22 the whole idea of having trade organizations and  
23 smaller groups can buy a single membership with a  
24 single representation is so important in this

1 structure.

2           Again, it's not GM, Ford, Toyota.  
3 \$50,000 to those guys is what's lying on the floor  
4 every morning. The members of the fishing  
5 industry, especially when you're looking at small  
6 organizations like recreational fishing groups,  
7 this is a significant chunk of money, but we  
8 nonetheless want to include them in this because  
9 they're part of the conversation. So you need  
10 \$300,000 worth through some format of individual  
11 construction, and you need a minimum of two  
12 academic institutions, and we have that at this  
13 point. Long term plans, yes.

14           We'll improve that. But this is where  
15 we need to start with. And we have this. So  
16 what's the current status of this debate? As I  
17 said, it's proposed. We don't give out the final  
18 letter of award.

19           All of these IUCRCs start with a request  
20 for a planning grant. These are very modest.  
21 Eric and I put one of these together it was very  
22 early in 2012. The end product of this planning  
23 grant is what NSF wants you to do is to actually  
24 have a workshop with all of your projected vendors.

1                   This is an open conversation.

2                   Everyone's invited. The NSF comes along. This  
3                   is a strange construct with the National Science  
4                   Foundation. Typically, what you do is you write  
5                   your proposal, you send it in to the (inaudible)  
6                   and then you get an anonymous letter three months  
7                   later that tells you you didn't get it funded. NSF  
8                   is right in the middle of every one of these  
9                   conversations. They talk to you regularly during  
10                  your presentations and the development of your  
11                  proposals. They want to be in there talking to  
12                  your industry members. They want to know what the  
13                  industry members think about what you're doing.  
14                  They want to know if you're any good. I mean  
15                  there's an awful lot of very active proactive  
16                  conversations during this process.

17                  But anyway, we use our planning awards  
18                  to put together the workshop with industry  
19                  members. In fact we hosted it after your past  
20                  meeting in Philadelphia. Many of the people that  
21                  are in this room were at that particular meeting  
22                  as were four representatives from NSF. And we had  
23                  an extraordinarily productive conversation for a  
24                  day and a half about the pros and cons of doing



1 this.

2 The upshot of all of that was that we  
3 developed a proposal that was submitted last  
4 month, and we have industry letters of commitment  
5 for \$300,000, and we've requested a start date of  
6 March 2013. So the whole thing is in review.

7 All I can say at this point in time is  
8 that Eric and I have been invited to the 2013,  
9 January 2013 directors meeting. So we don't have  
10 a letter of award, but why would they invite us if  
11 they had no intent on doing this? I am really  
12 optimistic, and I'm really excited about the fact  
13 because I think this is going to get off the ground.

14 Now, let's assume the money starts, all  
15 the industry members turn up, NSF is there, and  
16 we're all ready for kickoff. What are the  
17 projects going to be? How are we going to run  
18 this?

19 Again, this is not the sort of GM funded  
20 car seat, come and call us when you've got it.  
21 It's a very diverse number of individuals, and they  
22 have diverse needs that are in this conversation.

23 So most of the projects they're going to  
24 require multiple partner support. But you also

1 clearly that I have diverse needs and wishes.

2 Sounds like an interesting conversation.

3 There are a couple of different ways in  
4 which you can go at this. One of them is if you  
5 have sort of a massive attack on a general problem.  
6 Those are general problems and assessments. If we  
7 look at this, we'll give something to everybody.  
8 Or else let's have a very targeted problem. Let's  
9 look at a bycatch issue, or let's look at a sea bass  
10 issue, or let's look at a squid issue, or let's look  
11 at a menhaden issue. And is this really all  
12 federal fisheries? No. What we're doing at the  
13 moment is federal fisheries, but we've already had  
14 a number of conversations with fisheries that are  
15 not managed as part of a federal entity, such as  
16 oysters, and these parts of industry are very  
17 interested in joining up.

18 So, again, I see expanding a footprint  
19 in the future, but let's run before we try to walk.  
20 There is a variety of approaches that we could use  
21 here. And, again, it's an ongoing conversation  
22 that will need to be had with the IAB as we get to  
23 this.

24 But if you go into sort of taking these

1 approaches, how are you going to do this? And so  
2 I'm going to talk a little bit about a coherent  
3 approach to a large problem and then focused  
4 approaches on narrow problems but nonetheless ones  
5 that need some real significant input at this time.

6 And we hope in fact that as we go along,  
7 we can do all of these to some extent at any one  
8 point in time. If you look at assessments -- and  
9 I'm talking to a group here, so I'm sort of talking  
10 perhaps to the (inaudible). What's the problem  
11 with doing assessments? Anything that you want to  
12 do that's going to really improve issues requires  
13 multi-year planning. That's part of what we do.  
14 Identification of science issues. There's  
15 massive times on this. And development of all the  
16 resources and initiatives.

17 All of you who sit in this room struggle  
18 with every time there's an assessment. Data  
19 collection, analysis, models, records, points.  
20 This is what you eat, live and breathe. Can we  
21 contribute to this? I think we can.

22 All kinds of biological challenges.  
23 Data on fish stocks, sample year, (inaudible)  
24 design, gear efficiency, geographic variation all

1 of this especially as you (inaudible) -- this is  
2 a big problem. And at the end of it, the  
3 effectiveness of regulations, did you actually get  
4 anywhere towards your goal?

5 Having more people in this  
6 conversational area is a good thing to have. If  
7 we're going to make an impact -- and actually this  
8 is something that NSF kept saying, which was rather  
9 nice -- when you've got them in the room, you don't  
10 say we'll solve all the problems at once. One of  
11 the reasons why NSF looks at these in five-year  
12 increments is multi-year program planning is  
13 really critical. It allows you to look at  
14 multiple stocks in this particular instance. It  
15 gives you return on investments for more members  
16 each year. It allows you to think about the best  
17 ways to have data collection, to look at multiple  
18 targets at the same time.

19 It allows you to look at unique problem  
20 needs, and it's all about multi year. If you're  
21 going to progress from the piece meal approach that  
22 we've used in the past, hey, Eric, come look at this  
23 dredge; can you calculate efficiency; if we've got  
24 an efficiency number, can we put it back into the

1 assessment that's coming around next year? It may  
2 be a singular question.

3 In fact, it turned out not to be a  
4 singular question; it was a multi-year commitment.  
5 But when you've got this sort of structure, you can  
6 have these long-term plans. And that's I think  
7 really important.

8 It's essential that we develop  
9 multi-year approaches with yearly review. We can  
10 put this up because as scientists we believe this  
11 is critical to getting the data and to getting to  
12 the end point. NSF already knows this. Like I  
13 said, when you get one of these grants, there's an  
14 awful lot of structure that comes along with it.  
15 There is a structure that requires you to have two  
16 meetings a year. There is an evaluator who sits  
17 there and essentially tells you whether or not  
18 you're doing a good job. All of this is already  
19 part of the structure.

20 And it's sort of nice because when we  
21 actually have our planning meeting, they said, you  
22 join up, this is the way it's done. We've got 57  
23 other centers. They all work, and they all work  
24 well, and you don't get to change it.

1                   And what it says to your partners is you  
2                   have to realize the necessity of reaching this  
3                   goal. This is not a piece meal approach, but it's  
4                   a lot better because it's not a piece meal  
5                   approach.

6                   Are there matching resources? I told  
7                   you about NSF's commitment. There are individual  
8                   university commitments. There's industry  
9                   commitment. There are other sources of funds that  
10                  you can put into this.

11                  And one of the nice things about having  
12                  this base to start with is once you have money it's  
13                  actually a lot easier to go and get extra money.  
14                  It's getting the start that's always a problem.  
15                  On the research set-aside programs -- you're quite  
16                  familiar with those -- for additional partner  
17                  funding if you can get a certain amount of money  
18                  we would encourage you to go find extra partners.

19                  This is always a matter of getting the  
20                  first horse out the stall, and the others come  
21                  along afterwards. There are ultimate funding  
22                  sources within the federal program that require  
23                  match. There's a whole list of these. I could  
24                  fill several slides.

1                   But the point is is that they exist.  
2                   Once you've got money to start with, you can go look  
3                   for others. It allows you to have these match  
4                   opportunities especially because you've got long  
5                   federal money.

6                   Long federal money when you're going to  
7                   look for federal money is incredibly valuable,  
8                   incredibly valuable. And because we're looking  
9                   at a multi-year structure, you could commit it up  
10                  front.

11                  In terms of leverage, asking for  
12                  particular problems, a small amount of money that  
13                  is non federal, that is long term committed is  
14                  golden. And so those of us who live in the world  
15                  where we still write grant proposals will solicit  
16                  federal funds for long term problems. This  
17                  structure really does allow you something to build  
18                  upon. Not the least of which is access to vessels,  
19                  thousands to tens of thousands of dollars a day.  
20                  These vessels are available to us. There's a  
21                  suite of these vessels that are spread through the  
22                  East Coast and down into the Gulf that potentially  
23                  might be used for fishery-related research.

24                  We get our grants. We have options to

1 go and look at using these. Vessels are thousands  
2 of dollars a day. This is one of those examples  
3 of matching where you need to get into the  
4 conversation well ahead.

5 UNOLS ship requests usually have to come  
6 in 12 months in advance, but we're looking at a five  
7 year planning horizon, we can do this.

8 If we need to have a focus cruise that  
9 looks at squid, or if we need to have a focus cruise  
10 that looks at a particular sample strategy for  
11 black sea bass, if we can get these particular  
12 vessels set up, we can plan these things well  
13 ahead, and we're not going to industry hat in hand  
14 saying can you give us data ship time? which is the  
15 way Eric and I have functioned predominantly for  
16 the last 15 years. This is a big deal in terms of  
17 money. So there's a long-term planning horizon  
18 that we've already opened this conversation with  
19 NSF, and we've already opened this conversation  
20 with the partners. So we're looking down the road  
21 to see what we need in terms of at-sea work to look  
22 at these particular issues.

23 This is pretty exciting. You're not  
24 supposed to be able to read this. This is one of



1 those you do a powerpoint slide that nobody can  
2 read, and it's something that you really shouldn't  
3 do. But I put it up here for one reason.

4 This is actually condensed from a list  
5 of potential projects that we talked about at our  
6 Philadelphia meeting. And the nice thing is is  
7 when you get the industry people in the room with  
8 their many years of experience and a few of us who  
9 have worked with them for many years, you can go  
10 through if you had this money, what would you like  
11 us to do that will contribute to a process that is  
12 ongoing, that is already constricted by the lack  
13 of available federal funds, ship time, personnel  
14 time.

15 If you've sat in many of these  
16 assessments for many years, you clearly get  
17 frustrated because you don't have data on A,B,C,D,  
18 or E, and you all know that there's not enough money  
19 and not enough time to go around. It's not  
20 anybody's fault. We're not poking fingers here.  
21 It's not anybody's fault. But if you had money,  
22 what would you do with it? And so, when you ask  
23 these questions, the projects just come flowing  
24 out.

1 Survey methods with black sea bass,  
2 aggregated species, aggregated species spatially  
3 or aggregated species temporally cause real  
4 problems in the design of assessment surveys, if  
5 they're aggregated today and they're not tomorrow  
6 how you design the surveys. Black sea bass is an  
7 example. Bycatch avoidance.

8 Squid. Squid are really interesting  
9 animals. You've struggled with their assessment.  
10 They have really short term life histories. They  
11 move around a lot. Bycatch is an issue.

12 It tells us that there's lots of  
13 information that's coming out of satellite  
14 telemetry now that will be available to the fishing  
15 industry to avoid bycatch. Reference points.  
16 I'll talk a little bit about this.

17 The magical F number, jeez, everybody's  
18 nightmare. And we can go all the way down this.  
19 This was generated quite quickly. I could give  
20 you several pages. The point at issue here is  
21 there are many identified projects where modest  
22 amounts of effort could produce really valuable  
23 pieces of data. The industry is aware of it. The  
24 councils are aware of it. The people at the

1 Northeast Center, other centers are aware of it.  
2 They would like the data.

3 And this actually gives us a very large  
4 pallet to choose from. We could spend \$300,000  
5 many times over. One of our big problems is how  
6 we choose which project are we going to do first,  
7 and that's where the conversation with the IAB  
8 comes in.

9 We are not short of things to do and for  
10 all of those will hopefully contribute. I put  
11 together a whole presentation which I'm not going  
12 to run through here. It gives you a couple of  
13 reasons.

14 Why don't we talk about, for example,  
15 survey design. (Inaudible) density, stock  
16 coverage, the SARC activity, all of this stuff  
17 you've seen before. Everybody agrees that these  
18 are sort of problems, and we can actually take some  
19 of this money, work with industry, work with UNOLS  
20 vessels, design supplementary approaches which  
21 will then come back and provide you information  
22 that goes into your assessments. I could run  
23 through a bunch of these, and we won't because we  
24 don't have enough time. But the whole thing laid

1 out if anybody's interested in this one. This one  
2 I wanted to spend just a few minutes on because if  
3 you teach fisheries, F values become imprinted on  
4 your brain.

5 If you read assessments, F values become  
6 imprinted in your brain. Magnuson puts this stuff  
7 imprints it in your brain. If you look at these  
8 things, it's all about reference points, and the  
9 question is how good are we at estimating what  
10 reference points should be. Magnuson requires  
11 that you know something about them.

12 But in typical situations what we do is  
13 that we use proxies instead. Well, not a bad place  
14 to start, but these proxy choices are often  
15 (inaudible) and the question becomes can we  
16 actually do a better job with our F values that we  
17 use.

18 For those of you who struggle through  
19 the literature on this, there are in fact some very  
20 interesting contributions in the literature on  
21 this debate in the last year or two. (Inaudible)  
22 funded Brian Rothchild to look at reference points  
23 for summer flounder. Martin (inaudible) did the  
24 same thing. And one of the interesting things

1 that comes out of the analysis and (inaudible)  
2 papers was published on this earlier this year is  
3 really I think quite thought provoking is that the  
4 present reference points of F 40 for threshold and  
5 F 35 for target, the suggestion is that they made  
6 these disproportionately and that maybe we should  
7 be looking at F 25.

8 Good lord, we've taught this stuff for  
9 years. This is almost heresy. But if you read  
10 the papers, there's actually some very interesting  
11 thinking in them. And this is worth I think a  
12 really sort of good coherent debate.

13 So maybe what we should do is is we  
14 should look at these reference points in detail and  
15 ask precisely what do they mean. So I'll give you  
16 an example, and this is Eric's -- I'm stealing  
17 Eric's slides here -- about how we would go through  
18 this process of evaluating reference points as  
19 part of census.

20 They're typically always set in a highly  
21 precautionary manner because analysis isn't  
22 available. It's nobody's fault. You only have  
23 so much data. Maybe we could consider supporting  
24 a reference point evaluation, and this would

1 involve some fairly sophisticated simulations.  
2 You know, there's lots of smart people who do this  
3 stuff. It would be nice to get into this  
4 conversation. Mark (inaudible) and Brian  
5 Rothchild included.

6 So what would we do? Identify some  
7 species. Get some of these smart people in the  
8 same room. Ask what data do we need to get. Focus  
9 on getting those data. And then convene a group  
10 who would actually sit and look at it, including  
11 council and agency participation, including --  
12 your problem is conversation. I'll come back to  
13 this.

14 Develop the analysis, the modeling  
15 plans, provide supporting results. If you're  
16 going to lobby for F 25 instead of a 35; it may be  
17 a coherent argument, identify sources of  
18 uncertainty, and then working (inaudible).

19 Can you in fact work on those sources of  
20 uncertainty to define? Really all of our  
21 proposals have this at the end of it. I've been  
22 to all the science meetings, provide input into the  
23 management process looking towards Magnuson  
24 goals.

1                   You will see us at these meetings. Our  
2                   intent is to bring the end product of all of this  
3                   work to meetings such as that that is being  
4                   convened here and contribute. This is not an  
5                   aggressive standpoint. It's we are going to  
6                   contribute.

7                   So why are we here, why am I here today,  
8                   for heaven sakes. It's not even funded yet. You  
9                   may not be an industry member, but I'm always glad  
10                  to be loving to somebody around the table to find  
11                  somebody to give you a (inaudible) proposal. But  
12                  you are an integral part of this management  
13                  process.

14                  Eric and I have been attending these  
15                  meetings on and off for many years. Our industry  
16                  partners have attended them for many years. I see  
17                  Rick regularly. I see Rob regularly.

18                  This is an ongoing conversation.  
19                  You're as much a part of this conversation as  
20                  everyone else. You should be part of it. We want  
21                  you to be an active participant.

22                  We need you because you are part of the  
23                  decision making process. There's little point in  
24                  Eric and I talking to Jeff and Greg if what we are

1 going to produce is not what you need to move the  
2 management process forward.

3 So even though you're not sitting at the  
4 table paying, we need you as part of the  
5 conversation to make sure that we get the focus  
6 right. We have this statement about looking at  
7 those with scientific needs, achieving  
8 sustainability at least functionally on what we  
9 do. And one of the things that Eric and I agree  
10 upon -- and I think our industry members are -- is  
11 that we would like somebody from this council to  
12 participate in our IAB meetings.

13 We need you there even if you haven't  
14 paid for the vote. We would like you there for the  
15 voice. This is an all inclusive conversation.  
16 So the invitation is there. It's you as a council  
17 decide how you're going to structure that.

18 We would like you there as part of the  
19 conversation as we go into this. It's  
20 extraordinarily important because we all have the  
21 same goals. Contacts and updates. Eric you  
22 know. I know. You've got the business cards.

23 If at the end of it you can't remember  
24 anything about it, except this strange acronym, if



1 you google SCEMFIS, S-C-E-M-F-I-S. If you google  
2 that you get it.

3 But Eric and I will be around this  
4 morning. We would enjoy talking to anyone about  
5 this. Just because we're gone at lunchtime  
6 doesn't mean we go away. Rick and Rob are  
7 involved. Please call us. We'd be happy to talk  
8 to you about this. And hopefully, when we come  
9 back and see you in the new year, we will have the  
10 equivalent of a letter of award, and we will be a  
11 little more forceful about joining you in this  
12 process because we're fairly confident it's going  
13 to go forward, and we think it's a pretty exciting  
14 opportunity.

15 I've taken enough of your time. If  
16 anybody has any questions, I'd be happy to  
17 entertain them now as with Eric. And if you don't,  
18 tell me the time available, we'll be here this  
19 morning. Thank you.

20 COUNCIL CHAIRMAN RICHARD ROBINS: And,  
21 Dr. Mann, I appreciate the presentation and  
22 opportunity to have this information in front of  
23 the Council. I think it's an important  
24 initiative, and I wanted to talk a little bit about

1 the potential range of relationships.

2 It seems to me that first and foremost  
3 at the end of the process, we're largely a consumer  
4 potentially of some of the products to the extent  
5 that they might feed into the SAW/SARC process, and  
6 not every potential product you've identified is  
7 something that would go into the assessment  
8 process, and some of them may be more operational  
9 in nature, the regulated bycatch avoidance or  
10 things like that that are identified as needs  
11 within the fishery. But ultimately, we're going  
12 to be in a role where some of your products are  
13 feeding through the assessment process. That  
14 assessment is resulting in products that are then  
15 considered for quota recommendations that come to  
16 us, as you know, and we go through the  
17 specification cycle of setting quotas and  
18 specifications.

19 So, on the one hand, we're somewhat of  
20 a consumer, but I wanted to talk maybe a little bit  
21 more about the possibilities of interacting or  
22 transmitting what the Council identifies as  
23 research needs or priorities.

24 We have these other processes in place,

1 but to the extent that any work here could augment  
2 that -- you know, what is the opportunity for  
3 identifying research needs from the Council?

4 ROGER MANN: Well, I think both Eric and  
5 I agree that you pick up the phone and we talk. I  
6 mean you and I have always had a very open  
7 relationship in terms of issues that we dealt with  
8 in Virginia.

9 I see absolutely no difference here.  
10 If you all as a council or as members of the Council  
11 identify the needs, it's about communication.  
12 Whether this is done one on one or done as a  
13 structure with Eric and I briefly talked about  
14 (inaudible). It would be nice to have a formal  
15 representative from this council as part of our  
16 conversation because (inaudible) when we get these  
17 conversations going and get a coherent approach  
18 from the Council, we can develop a coherent  
19 approach backwards and respond to that.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Eric, if you don't mind, turning on one of those  
22 microphones, please, because we're on the record  
23 here. Thank you.

24 ERIC POWELL: Okay. Many NSF centers

1 have nonvoting members on the IAB. These are  
2 representatives that are asked or urged to attend  
3 so that their viewpoints are information to be put  
4 into the decision making process by the IAB about  
5 how the resource program is going to be designed.

6 So if you're a voting member, you put in  
7 25 or \$50,000, but a member of this council, for  
8 example, could be a nonvoting member on the IAB.  
9 And I think the industry partners that are involved  
10 in the process now would very much like as an  
11 outcome a council representative either as a  
12 voting member or a nonvoting member, and that way  
13 you would have direct input in the decision making  
14 process when it occurs. The IAB under NSF  
15 guidelines has to meet minimally and in person  
16 minimally twice a year. Our plan is to have  
17 conference calls at the quarter intervals between  
18 the two meetings. So the IAB will get together  
19 either in person or over WEBEX four times a year.  
20 If things go along the way we think they're going  
21 to go along, the first IAB meeting will be  
22 scheduled either in March or April.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thank you. Did you indicate that the Northeast

1 Fisheries Science Center is going to be a member  
2 or at least indicated an intent?

3 ROGER MANN: Yeah. The partners that  
4 are in as we speak are: (Inaudible) Seafood from  
5 Virginia, Lunn's, Atlantic (Inaudible), Sea  
6 Watch, Surfside Products, Lamonica, and GSSA.  
7 And if I sign a Monitoring Committee in the  
8 Northeast Fisheries Science Center. Right now  
9 there are nine partners.

10 I'm meeting with perspective partners  
11 actually tomorrow and Tuesday of next week. So  
12 there's an ongoing process of encouraging  
13 additional partners to join. Partners can join  
14 anytime.

15 When we had to meet minimum requirements  
16 to put the proposal in to NSF so that NSF, as Roger  
17 said, defines a minimal size for a center, but  
18 there's no maximal size. You can have as many as  
19 you want, and they can join whenever they want.  
20 And so we're still in the process of talking to  
21 people and encouraging other organizations to sign  
22 up.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thank you, Dr. Powell. Other questions for Eric

1 and Roger? Jim.

2 JAMES WEINBERG: Yeah. Hi, Roger. I  
3 guess my question is a follow-up to Rick's. In  
4 terms of the SAW/SARC and the TRAC process, there  
5 are a whole lot of parties already involved with  
6 trying to coordinate each other's schedules so  
7 that products come out at the right time from the  
8 Science Center so they can be used by the councils  
9 in their frameworks and amendments, and the NRCC  
10 oversees a lot of this scheduling.

11 And it's worked out one, two and three  
12 years ahead of time, and there are biannual  
13 meetings to change that assessment schedule and  
14 adjust it. So I just wanted to make the point that  
15 that's one group that when your work gets spun up  
16 and products are coming out, the timing of the use  
17 of those products has to be linked in with the  
18 scheduling that's done by these other groups. And  
19 the other point that I wanted to make has to do with  
20 the SAW working groups, which I know you and Eric  
21 have already had a lot of involvement with that.  
22 But it's important that right now they are the  
23 scientific experts who are doing the stock  
24 assessments, and it's important that you become a

1 member or at least actively work with them so that  
2 they can evaluate and take in that information  
3 product and use it in the assessment and that it's  
4 not something that gets delivered a week after  
5 their meeting was held. So those are just some  
6 concerns that I have.

7 But I'm all for additional research, and  
8 I'd be the first to admit that with a lot of the  
9 assessments we do need someone out there doing  
10 research and producing research that can be used  
11 in the assessments.

12 ROGER MANN: Thanks, Jim. All good  
13 comments.

14 COUNCIL CHAIRMAN RICHARD ROBINS:  
15 Other comments or questions? Dr. Boreman.

16 JOHN BOREMAN: Yeah. Just to follow up  
17 on Jim's comment. Right now the big bottleneck is  
18 the number of stock assessment scientists at the  
19 Northeast Fisheries Science Center, and I see no  
20 reason why this program can't expand stock  
21 assessment expertise outside the Science Center,  
22 have academics doing stock assessments as well and  
23 bringing them forward. Limiting it to the SARC  
24 schedule there's one way to do it, but then, again,

1 that creates a bottleneck because we have a lot of  
2 updates that need to be done every year and so on.

3 So, as long as there is a peer review  
4 process that's independent for these assessments,  
5 there's no reason why they can't go through that  
6 process before they're delivered to the SSC.

7 The South Atlantic SSC has endorsed a  
8 preparation of assessments by -- because they have  
9 like 90 or a hundred different species down there  
10 they're working on and a lot of them are unassessed  
11 stock, so they have employed Dr. Berkson -- he was  
12 at Virginia Tech; now he's at University of Florida  
13 -- to use students to work on assessments at some  
14 grade, and then they're elevated through their  
15 peer review process into the assessment picture.

16 But there's no reason why, I think, that  
17 we can't look to this program and others like it,  
18 these partnership programs, to bring in additional  
19 stock assessment expertise so we're not totally a  
20 hundred percent reliant on the number of folks on  
21 staff at Woods Hole, which for years we've known  
22 has been a bottleneck.

23 ERIC POWELL: We totally agree, and  
24 that's one of the reasons why we work very hard to



1 get the Northeast Center to join as a partner, and  
2 it's one of the reasons why we'd very much like  
3 someone from this council or an SSC rep or both to  
4 be involved as nonvoting members.

5 Because as we're designing the research  
6 program, we need to make sure that we're going to  
7 come out of it with products that are what is needed  
8 and the information comes out at the right time.

9 Since NSF makes a five-year commitment,  
10 and as Roger said, it's fairly routine for this  
11 commitment to be extended for a total of 15 years,  
12 you have the luxury of actually using a long-term  
13 planning horizon to bring things forward.

14 And that's, I think, one of the real  
15 selling points behind this program. It's not  
16 hurry up; let's get something done because we need  
17 it tomorrow. We actually can sit around the table  
18 and look at the time lines and work the science into  
19 the time lines.

20 So Roger and I will continue to be in  
21 contact with the Council and the SSC, and hopefully  
22 you can designate someone to attend the IAB  
23 meeting.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you. Other questions? Rich Seagraves.

2 RICHARD SEAGRAVES: Just a comment. I  
3 don't know if you're aware, but Magnuson requires  
4 each council to maintain a five-year research  
5 priority list, which we have a current version of.  
6 We're working with the SSC right now.

7 As you've already noted in your  
8 presentation, the shortage of research needs, so  
9 we've got many areas for all the different species  
10 that we manage and assess. And we're in the  
11 process of trying to prioritize that list and  
12 should have a product by early next year. I would  
13 just point to that five-year research plan as well  
14 as the research set-aside.

15 Now, the research plan typically is  
16 focused on research related to assessment and so  
17 forth, stock status. The research set-aside is a  
18 little bit more practical in looking at operation  
19 problems. So those two sources should give you a  
20 good idea of what our needs are.

21 ROGER MANN: Good comments. Thank  
22 you.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Rob  
24 O'Reilly.

1                   ROBERT O'REILLY: Yeah. We had a lot  
2 of items there, but one that jumped out at me a  
3 little more grass roots is the effectiveness of  
4 regulations. And that is I think a very important  
5 just to single out one item is something that the  
6 chairman promoted in Virginia for blue crab, and  
7 we did have a very adept scientific review  
8 involving scientists from South Carolina to  
9 Maryland in every state.

10                   The problem, if there was one, is that  
11 industry didn't feel that they really had a voice,  
12 I think, is what we heard after the fact. And so  
13 this type of a process that's being promoted would  
14 be a step above, I think, because that was a  
15 scientific review, and it's incredibly difficult  
16 to assess the effectiveness of regulations after  
17 the fact to begin with, but I think what was  
18 lacking in that review is the economic and social  
19 impacts and implications from a regulatory review.

20                   So just to look at one item that you had,  
21 I think that was very encouraging to even see that  
22 on the list. And right now in Virginia, there is  
23 a regulatory reform in process. I'm sure other  
24 states have had similar types of initiatives. And

1 so it's certainly important to inside but outside  
2 the scientific realm to look at those type of  
3 situations.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Jim  
5 Weinberg.

6 JAMES WEINBERG: One question looking  
7 forward: What would happen if -- like you  
8 emphasized stock assessment a lot, what would  
9 happen if your group did a stock assessment on  
10 Species X and the Science Center did one on that  
11 same stock, which assessment would the Council  
12 use?

13 ROGER MANN: This is not meant to be a  
14 competition. It's mean to be symbioses. If you  
15 get to the point of our competing assessments, with  
16 that sort of scenario you have a flaw at the  
17 beginning and a conversation that was important  
18 didn't take place. The reason why we're here is  
19 to ensure that those conversations always take  
20 place.

21 ERIC POWELL: Frankly, Jim, I can't  
22 imagine that ever happening. I just don't. I  
23 can't imagine the circumstances whereby that would  
24 occur.

1 COUNCIL CHAIRMAN RICHARD ROBINS: And  
2 yet, Eric, the question of coordination is  
3 obviously one that's very important, and I think  
4 both Jim Weinberg and Dr. Boreman raised important  
5 points here. But we'll count on you all to keep  
6 us updated about your progress and status of the  
7 center as it comes together. Obviously, the first  
8 quarter of next year will be important for that  
9 development. But please keep us informed.

10 Obviously, there will need to be  
11 considerable discussion about how those work  
12 products would be coordinated into the management  
13 system, whether it's feeding into a SAW/SARC  
14 process or through some parallel mechanism.

15 But at the end of the day, we need to make  
16 sure that the Council, that the products that come  
17 to us are consistent with the legal requirements  
18 for consideration, etcetera.

19 ROGER MANN: That, again, is why it's so  
20 important to have your right in the mix all the  
21 time.

22 COUNCIL CHAIRMAN RICHARD ROBINS: And I  
23 appreciate that. So we look forward to those  
24 updates and additional conversations on this.

1 But thank you very much for your presentations  
2 today.

3 ROGER MANN: Thank you.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Our  
5 first business item is approval of the August 2012  
6 minutes.

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7  
8 APPROVE AUGUST 2012 MINUTES

9 COUNCIL CHAIRMAN RICHARD ROBINS: Are  
10 there any proposed changes to the 2012 August  
11 meeting minutes?

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:  
14 Seeing none, those are approved by consent. The  
15 next item is liaison reports. Is there any report  
16 from the South Atlantic? Pres, do you have any  
17 information from the South Atlantic? That's  
18 fine. We'll look forward to a report at the next  
19 meeting. Thank you, Pres. Fair enough.

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20  
21 NEW ENGLAND COUNCIL LIAISON REPORT

22 COUNCIL CHAIRMAN RICHARD ROBINS: I had  
23 the opportunity to attend the New England Council  
24 meeting. I'll just share with you briefly the

1 scallop FMP faces some significant challenges over  
2 the next two years. That's probably an  
3 understatement.

4 The framework that will establish  
5 specifications for Fishing Year 2013 faces some  
6 unique challenges because of the timing of  
7 recruitment, and the way the fishery's been  
8 prosecuted in recent years, the fishery's going to  
9 have to be cut significantly in 2013.

10 I think it will be on the order of about  
11 29 and 30 percent compared to this year.

12 Coastwide that will have about a  
13 150-million-dollar impact on the landings alone, to put  
14 it in perspective. So the Committee is scheduled  
15 to meet in November. The Council will meet after  
16 that and take final action on Framework 24.  
17 There's also a problem with yellowtail. The  
18 yellowtail quota is being cut significantly for  
19 next year. That's managed on the transboundary  
20 basis between the U.S. and Canada. The total  
21 quota will be on the order probably of 500 metric  
22 tons. And that has to be shared, so.

23 It's going to be a significant challenge  
24 for not only the groundfish fishery that the

1 scallop fishery to operate with such a reduced  
2 quota. So those are all significant factors  
3 bearing on that fishery.

4 The joint TAC of yellowtail is going to  
5 be the subject of further discussion with the  
6 Canadians, but that is in a sharing agreement  
7 that's fairly rigid, so I don't know if there's  
8 much potential to see any change in that.

9 They also had discussions on the herring  
10 specifications, and they're considering changes  
11 in accountability measures among other things.  
12 And they also took action on the Dogfish Amendment  
13 3 that we voted on yesterday and took similar  
14 action. So those recommendations should be  
15 consistent between both of the councils. George,  
16 are there any other items that are worth  
17 highlighting from your recollection?

18 GEORGE DARCY: I think those are the big  
19 ones. I have a couple specific things here in my  
20 report that I'll mention that will kind of  
21 supplement that. I think you've hit the big ones.

22 COUNCIL CHAIRMAN RICHARD ROBINS: I  
23 think it's also worth noting there was a motion  
24 made at the New England Council to request joint



1 management of scup, and that motion was tabled  
2 until the next council meeting. Are there any  
3 questions regarding New England? Erling.

4 ERLING BERG: No. I just have a report  
5 from the groundfish meeting Howard and I attended.  
6 So whenever you're ready for that. I have a short.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Why  
8 don't you go ahead and do that now, Erling.

9 ERLING BERG: Well, the issue in New  
10 England is the windowpane flounder. Some of you  
11 may not be familiar with this animal. It's a very  
12 small flounder at one time we used to call  
13 daylights. You need a lot of them if you want to  
14 try to get a meal out of them. They're kind of thin  
15 and small. But they are one of the trawl species.  
16 And the New England Council are contemplating a sub  
17 ACL for these animals. And, George, you can  
18 correct me if I'm -- am I doing good so far? And  
19 we were asked to bring this to the attention of our  
20 council. The summer flounder fishery apparently  
21 catches quite a few of these.

22 And I have a sheet here by mesh size.  
23 And right now 5 1/2 inch mesh catch quite a few of  
24 these. If you went to 6 inch you cut it down by

1 almost a third. But anyway, they just asked us to  
2 bring it to the attention of this council.

3 There is a meeting on the 5th I think of  
4 next month. I won't be there. I'm scheduled for  
5 surgery next week. But I think Howard is going to  
6 be there. So I think we need more information  
7 where are they catching these.

8 Maybe by 10-minute squares 'cause I  
9 don't think it's everywhere in Southern New  
10 England or Mid-Atlantic. I don't think they're  
11 caught on the south side, what we call the Mud Hole,  
12 or Hudson Canyon.

13 So we could use a little more  
14 information. But I just wanted to bring it to  
15 Council's attention that this is ongoing. If you  
16 have any questions, I'll be happy to answer them.

17 COUNCIL CHAIRMAN RICHARD ROBIN:  
18 Erling, just in general terms, what are the  
19 potential regulatory implications of that? Could  
20 it be that we would have to have a sub ACL or a  
21 specific regulation on mesh sizes?

22 ERLING BERG: My understanding Tom  
23 Niece is the one that does the groundfish up there,  
24 and I think what they're looking at -- and, again,

1 George, you're maybe more familiar than I am -- but  
2 I think the mesh is what they're looking at. It's  
3 regulated by mesh size. Have a sub ACL by  
4 different size of mesh. The scup fishery also  
5 catch quite a few of these. So, George, you can  
6 --

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 George.

9 GEORGE DARCY: Yeah. The  
10 implications for this council would be that if they  
11 go forward with the sub ACL for mesh, it looks like  
12 right now they're favoring a cut off between mesh  
13 smaller than 5 inches and mesh larger than 5  
14 inches. And they would monitor the windowpane  
15 catch in those two gear types.

16 They're not allowed to be retained by  
17 groundfish vessels now. They're a non-allocated  
18 species. They're managed; there is an ACL, but  
19 they're not allowed to be retained. But if the  
20 overall ACL were exceeded and if the sub ACL were  
21 also exceeded, they're looking at accountability  
22 measures that would probably put in a gear  
23 restricted area, and I'm not exactly sure the area  
24 they're looking at. I think it's primarily south

1 of Rhode Island. I think that's kind of a focal  
2 point.

3 So there would be implications  
4 primarily to large mesh, scup, and summer flounder  
5 fisheries. This is something that will be done to  
6 the groundfish FMP. I don't think they're asking  
7 this council to take any regulatory action, but it  
8 could impact your fisheries if the ACLs were  
9 exceeded, if that's what they decide to go forward  
10 with in Framework 48.

11 COUNCIL CHAIRMAN RICHARD ROBINS: It  
12 sounds like at a minimum we need to know where these  
13 interactions are happening. And it sounds like  
14 the committee is already working with the PDT to  
15 identify that information. Is that right,  
16 Erling?

17 ERLING BERG: That's my impression.  
18 But I just feel we need more information. There  
19 is no direct fishery on these. There was at one  
20 time. There was a directed fishery. But there  
21 isn't now. I guess it will be one of these  
22 (inaudible) species that New England sees quite a  
23 few of now and they have to deal with. I just want  
24 to bring it to the attention of Council.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Erling. One other item that came out  
3 of the New England meeting was a decision to  
4 essentially put the habitat omnibus amendment on  
5 a faster time line, and there was also some  
6 discussion about making sure that when that is done  
7 if it results in modifications to existing habitat  
8 closed areas that they consider developing a  
9 scallop access area in the area, for example, of  
10 the northern edge. That would be done in a  
11 following framework.

12 But just to ensure the orderly access to  
13 that resource when in fact these habitat  
14 designations are modified. But that amendment's  
15 been eight years in the making, so. It's been on  
16 a relatively slow track. It's a complex  
17 amendment. But hopefully that will begin to move  
18 along at a faster clip. Are there any questions  
19 about the New England Council meeting or the  
20 Committee? Tony.

21 ANTHONY DILERNIA: Thank you,  
22 Mr. Chairman. Mr. Chairman, the New England region is  
23 facing significant cuts to their groundfish  
24 fishery starting May 1st, 2013. Has there been

1 any discussion about how those cuts will create  
2 perhaps a displaced effort, how that may affect us  
3 in the Mid-Atlantic region?

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Tony, there hasn't been a lot of discussion about  
6 that. One of the concerns that we've had at the  
7 NRCC level is about what sort of implications there  
8 are related to some of these fisheries that are  
9 essentially in crisis mode to the allocation of  
10 resources at the center level to ensure that we're  
11 able to have the adequate assessments that we need  
12 to maintain our stock. But there hasn't been a lot  
13 of discussion yet about what effort might be  
14 displaced from the New England fishery. Rich.

15 RICHARD SEAGRAVES: Yeah. To that  
16 point, Mr. Chairman, last year we worked with Marty  
17 Smith, one of our SSC members, and economist at  
18 Duke University. One of his graduate students,  
19 Sam Cunningham, came to us and was interested in  
20 pursuing -- it originally started out looking at  
21 what happened with effort as we restricted the  
22 fishing and rebuilding our stocks. And that was  
23 the original research topic. We kind of steered  
24 him towards reductions in groundfish effort and

1 what might happen to that effort. So there was a  
2 model that was developed, and he actually defended  
3 his master's thesis. I haven't yet seen it. But  
4 it may have been he went to work for the North  
5 Pacific Council unfortunately. We did interview  
6 him.

7 But there is an existing model that we  
8 could probably talk to Marty, if you're interested  
9 in pursuing it, that could address that issue.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Tony.

12 ANTHONY DILERNIA: If the paper has  
13 been peer reviewed and approved, I'd like to see  
14 it perhaps in our next briefing book.

15 COUNCIL CHAIRMAN RICHARD ROBINS: I  
16 think it's worth discussion about what fisheries  
17 might shift around in response to those changes.  
18 Because if you think about what's going on in the  
19 Gulf of Maine and some of the other groundfish  
20 stocks, obviously there's significant problems.  
21 Tony.

22 ANTHONY DILERNIA: I'm just reminded  
23 what happened to summer flounder in 1988 -- '87/'88  
24 once yellowtail got closed in Southern New

1 England, all that effort really displaced into the  
2 Mid.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Fair  
4 enough. Any other questions or comments about New  
5 England? All right. We'll go on to the Regional  
6 Administrator Report. Or actually, we'll wait,  
7 if you don't mind, until John comes back. John  
8 Boreman will be back with us shortly, and when he's  
9 here we can get to your report. I'd also like to  
10 talk about black sea bass when we do that. Science  
11 Center Report. Jim.

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12  
13 NMFS NEFSC DIRECTOR REPORT

14 JAMES WEINBERG: Thank you, Mr.  
15 Chairman. I'll review some survey activities and  
16 then talk about stock assessment and then finally  
17 about a national bycatch report. The 2012 trawl  
18 survey was conducted this summer from July the 1st  
19 to August the 18th.

20 There was in 2012 an industry  
21 cooperative clam survey for surfclams and ocean  
22 quahogs, and this was conducted between August the  
23 3rd and August the 18th aboard a commercial vessel,  
24 *ESS Pursuit* out of Atlantic City.



1           The autumn multi-species bottom trawl  
2 survey began on September the 5th and that was the  
3 first leg. The second leg started on September  
4 the 24th. The herring acoustic survey took place  
5 this year. It began September the 3rd aboard the  
6 *FSV Pices*. And for those of you who have been  
7 following the herring assessment, there was just  
8 a benchmark review, and the peer review panel was  
9 asked to evaluate whether the acoustic data that  
10 were being collected were useful as an index of  
11 abundance for herring.

12           And the peer review panel looked the  
13 data pretty closely, and they did not feel once  
14 again that the acoustic data were useful in the  
15 stock assessment as an index of abundance. This  
16 left a lot of people scratching their heads because  
17 acoustic data are used in other parts of the world  
18 but don't seem to be useful in our Northeast  
19 assessments.

20           So, as a result of that, I think the plan  
21 is to not do the survey as usual as it would have  
22 been done, to take a year off and to re-evaluate  
23 what's going on in the survey. So I think that  
24 there will be some basically reconsideration of

1           how to improve it spatially or temporally.

2                   I'm not exactly sure how that will play  
3           out. But just wanted to give you a heads-up there  
4           about the linkage between the peer reviewed stock  
5           assessment and the reaction that we're having in  
6           terms of our survey.

7                   Then moving on to stock assessments.  
8           We're as we speak having -- we're up to our ears  
9           in cod meetings at the Science Center preparing for  
10          the SARC 55, which will have Gulf of Maine cod and  
11          George's Bank cod evaluated.

12                   There are two benchmark stock  
13          assessments. And the dates for that peer review  
14          will be December the 3rd through the 7th of 2012.  
15          Then there's another SARC that is planned this year  
16          in February.

17                   It's unusual, but an extra SARC is being  
18          slipped into the schedule for white hake and  
19          Atlantic surfclam, and the dates for that peer  
20          review will be February the 19th through the 22nd.

21                   And then another SARC is planned for  
22          either June or July. The dates have not been  
23          determined yet. But the species that are on for  
24          that SARC, which will be SARC 57, are striped bass

1 and summer flounder.

2 There will also be an Eastern George's  
3 Bank cod benchmark assessment as part of the TRAC  
4 probably in February. And there will be TRAC  
5 meetings for the shared stocks with Canada, the  
6 Eastern George's Bank cod, Eastern George's Bank  
7 haddock, and George's Bank yellowtail flounder  
8 probably in June. And then the Science Center  
9 will also be doing updates this spring, summer and  
10 fall on bluefish, black sea bass, scup, dogfish,  
11 skates, monkfish; and the dates for these various  
12 updates are kind of scattered throughout between  
13 June and September depending on which stock we're  
14 talking about.

15 And then for the latter half of 2013,  
16 currently for SARC 58 we have scheduled northern  
17 shrimp, tilefish, and butterfish. And then I  
18 would like to give a very short report on the  
19 National Bycatch Report.

20 NMFS is beginning the process of  
21 updating the first edition of the National Bycatch  
22 Report, which was published in September of 2011.  
23 The National Bycatch Report steering committee has  
24 been appointed to provide overall guidance on the

1 development of the second edition, and Dr. Paul  
2 Rago is the steering committee member for the  
3 northeast.

4 The National Bycatch Report First  
5 Edition contains information on 152 federally  
6 managed commercial fisheries and fisheries with  
7 federal data collection programs.

8 It contains bycatch estimates for 81  
9 fisheries, 480 fish stocks, and 94 protected  
10 species. And it has comprehensive documentation  
11 of bycatch data sources and analytical estimation  
12 methods. So the plan that NMFS has is to provide  
13 biannual updates beginning in 2013 and a  
14 comprehensive report every six years beginning in  
15 2017. So the first update will be on line in 2013,  
16 and then there will be another update in '15  
17 followed by a comprehensive report in 2017.

18 So that's a future meeting as this gets  
19 a little further along. I think someone from the  
20 Science Center will be prepared to give you details  
21 about this report, this update that is in  
22 preparation. And I'd be happy to answer any  
23 questions. Thank you.

24 COUNCIL CHAIRMAN RICHARD ROBIN: Thank

1 you. Are there any questions for Jim? Rob.

2 ROBERT O'REILLY: Not a question so  
3 much but concerning bluefish, until recently until  
4 probably this year, I was involved in the  
5 assessment updates in terms of being one of the  
6 recipients of all the information and going  
7 through it, as were the other states involved.

8 Bluefish is using the same model as  
9 summer flounder, so there's a statistical or I  
10 guess an aspect is used or statistical catch at age  
11 approach. Statistical catch at age approach.  
12 Right. It is much different than summer flounder  
13 in terms of where the weighing goes, catch versus  
14 indices. But what I am really wondering about and  
15 maybe just not an issue it's really become just  
16 sort of a process where the assessment is provided,  
17 and in the last couple years have been changes at  
18 the last minute. I mean literally right before  
19 the conference calls.

20 And I don't think the states -- just my  
21 observation -- I don't think the states on the  
22 ASMFC part where there is a Technical Committee are  
23 really involved, and I just would want to see that  
24 they are involved because there's still some

1 outstanding issues about bluefish. And I would  
2 leave it at that.

3 It's just sort of an observation,  
4 first-hand observation over the course of a few  
5 years. Of course Jim Armstrong is involved for  
6 the Council, Gary Shepherd for the Center. And I  
7 think Gary has also been I'll use the word training  
8 but passing on the methodology so someone else can  
9 also do it. But there seems to be perhaps a need  
10 for a little more involvement with bluefish. And  
11 I'll leave it like that.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

13 JAMES ARMSTRONG: Yeah. Okay. I'll  
14 pass the message along. I think I'd need more  
15 details which we could have maybe an off line  
16 conversation. And I have in updates no  
17 significant changes that are supposed to be made.  
18 So it's in the benchmark, of course, when  
19 everything is on the table. But anyway I'd be  
20 happy to talk with you or try to talk more with  
21 people at the Center to work on that.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Rob,  
23 go ahead.

24 ROBERT O'REILLY: And I'd have this

1 conversation with Toni Kerns or Bob Beal, and I  
2 will do that as well because it's really maybe the  
3 impetus is on that end of things.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
5 other questions or comments for the Center? John  
6 McMurray.

7 JOHN MCMURRAY: Thank you, Mr.  
8 Chairman. Jim, I have a question about the  
9 acoustic surveys. How are they done, and how are  
10 they able to determine species?

11 JAMES WEINBERG: Well, the acoustic  
12 survey I'm not an expert on this at all. But the  
13 acoustic surveys are done by doing transits. It's  
14 mostly done over George's Bank. I think when they  
15 started the herring survey that was where the bulk  
16 of the stock was located. And so they do these  
17 transits, and it doesn't cover the entire range of  
18 herring, which goes into the Gulf of Maine and  
19 elsewhere. So the stock assessment is done for  
20 the unit stock over this large area, and the  
21 acoustic survey is a smaller area.

22 And for it to be a useful survey, just  
23 like any survey that's in a very small subset of  
24 the total area, it somehow has to be reflecting

1 what the -- representative of what the entire stock  
2 is doing.

3 So one reason why it isn't matching up  
4 could be the trends in the overall stock is not --  
5 you know, being represented by what's being  
6 surveyed in that smaller area. But it can also  
7 reflect changes in the distribution of herring  
8 relative to the timing of the survey.

9 I can't really explain the nuts and  
10 bolts and the physics of how it does it. But I  
11 think they're pretty good at identifying herring  
12 in their (inaudible).

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 John.

15 JOHN MCMURRAY: One more question if I  
16 may. I heard some rumblings last night about a  
17 recent mackerel stock assessment, which I believe  
18 was conducted in Canada. I'm wondering if the  
19 Science Center has any plans to take a look at that.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

21 JAMES WEINBERG: Yeah. I'm really not  
22 prepared to comment on that.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
24 other questions or comments for the Center?



1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: All  
3 right. Seeing none, I'll move on to the General  
4 Counsel Report. Denise Desautels.

5  
6 NOAA OFFICE OF GENERAL COUNSEL

7 DENISE DESAUTELS: Thank you, Chair.  
8 Very quickly, I'll give you an update on the  
9 Flaherty remedy order provisions. NMFS has to  
10 respond to Judge Kessler's decision on remedy.

11 The court remanded Amendment 4 to the  
12 Agency and vacated Amendment 4 stating the vacatur  
13 for one year, meaning that the provisions of  
14 Amendment 4, such as the ABC control rules for  
15 Atlantic Herring, are in place until August 3rd,  
16 2013.

17 The actions that the Agency must  
18 complete over the year include, first, within 30  
19 days of the court's order NMFS was ordered to  
20 consider whether Amendment 4's determination of  
21 the stocks in the Atlantic herring fishery  
22 complies with NSA and to file a supplemental  
23 explanation setting forth its considerations.  
24 That it did in August. The required supplemental

1 explanation, the document, concluded that based on  
2 the best available science at the time on the  
3 Council's decision on Amendment 4, the decision to  
4 exclude those stocks from the definition of  
5 Atlantic herring fishery was consistent with the  
6 NSA.

7 The judge's order also required that  
8 NMFS send a letter to the New England Council  
9 explaining applicable law in the National Standard  
10 One Guideline and recommending that the Council  
11 consider in an amendment to the Atlantic herring  
12 FMP, whether river herring should be designated as  
13 a stock in the fishery.

14 The letter also was required to describe  
15 Amendment 4's other inconsistencies with  
16 applicable law and recommend that the New England  
17 Council as part of the 2013 to 2015 herring  
18 specifications or other appropriate action  
19 consider a range of alternatives for minimizing  
20 bycatch to the extent practicable, to the current  
21 AM through the fishery including monitoring  
22 alternatives and to the interim ABC control rule,  
23 at least one of which shall be based on the most  
24 recent best available science for setting ABC

1 control rules for herring and forage fish. And  
2 that was also done in August.

3 The court also requires that within one year  
4 of the court's August 3rd, 2012 order, which will  
5 be August 3, 2013, NMFS must consider whether the  
6 Atlantic herring FMP minimizes bycatch to the  
7 extent practicable and file a supplemental  
8 explanation setting forth considerations of those  
9 issues. Thank you.

10 COUNCIL CHAIRMAN RICHARD ROBINS: So,  
11 Denise, with respect to the stock in the fishery  
12 question, which action would consider that again  
13 with respect to the herring FMP?

14 DENISE DESAUTELES: The court order  
15 required NMFS to send a letter to the New England  
16 Council explaining the law and asking the Council  
17 to consider an amendment to the Atlantic herring  
18 FMP, whether river herring shall be designated as  
19 a stock in the fishery. He didn't designate it  
20 beyond that.

21 COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Thank you. Questions for Denise?

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you. The Federal Enforcement Reports.  
2 Logan, do you want to go first? Logan Gregory.

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3  
4 NMFS ENFORCEMENT

5 LOGAN GREGORY: Thank you, Mr.  
6 Chairman. The Northeast Enforcement Division  
7 continues to work with industry as we emphasize  
8 compliance assistance, outreach patrols and  
9 investigations in order to ensure a level playing  
10 field for the many hard-working fishermen and  
11 other members of the fishing industry.

12 Since our last quarterly report, we have  
13 documented approximately 35 instances of outreach  
14 and compliance assistance to industry, which  
15 includes things like mediating gear conflicts,  
16 contacting dealers, vessel owners and operators  
17 and reporting issues, creating new laminated guide  
18 for Mid-Atlantic recreational and charter party  
19 fishers and others.

20 These 35 instances don't include the  
21 numerous instances where we have compliance  
22 assistance through our VMS team, those particular.  
23 Since they're on a daily basis, they're not pretty  
24 much recorded in our records management system

1 since there's just so many of them.

2 In addition to that, our officers on the  
3 docks have significant interaction with the  
4 fishermen along with the Coast Guard working with  
5 our Coast Guard and state partners. I'll mention  
6 a couple of the investigations that have  
7 concluded. There was a seven-day trial in Camden,  
8 New Jersey which resulted in conviction of several  
9 individuals regarding obstructing justice,  
10 obstructing the Food and Drug Administration's  
11 regulation of public health and safety,  
12 trafficking in illegally processed possessed  
13 oysters, and creating false records. That  
14 conviction was pretty significant for the state.  
15 And we are very happy to be able to help them out  
16 with that investigation.

17 Richard Wetherall was convicted  
18 recently on two counts of assault and harassment  
19 of observers. That case took quite a bit of time  
20 to complete and come to prosecution. Mr.  
21 Wetherall had changed his plea several times. But  
22 we're happy with the results.

23 And I'd also like to mention that I think  
24 we're seeing some improvement in that regard with

1 regards to observers and interactions with the  
2 fishermen during the first six months of calendar  
3 year 2012.

4 Approximately 99 percent of all  
5 selected observer trips were completed without any  
6 incident reported to enforcement. So we think  
7 that's very good, and we'd like to see that  
8 continue. We'd like that to be a hundred percent  
9 for obvious reasons.

10 Although we're seeing a few statistics  
11 in comparisons from 2011 to 2012, the number of  
12 incidents we've had have broken down into  
13 complaints, inspections, investigations and  
14 other.

15 Our complaints went down from 2011 to  
16 2012. Our inspections increased significantly  
17 mainly do to the implementation of our officer  
18 program. Our investigations went up and other was  
19 pretty much the same. Our incident dispositions.  
20 We completed a significant number of incidents,  
21 2011 incidents. In 2012 we have several ongoing,  
22 but a number of them were completed. Incidents in  
23 these reports basically involve all complaints,  
24 all inspections, all investigations, and other

1 types of enforcement activity.

2 They're not all cases. They don't all  
3 require some sort of enforcement action. They're  
4 just basic interactions, any boarding even whether  
5 or not a violation is found. So those are the ones  
6 that close pretty rapidly. They're opened and  
7 closed immediately.

8 On the prosecution side, we have three  
9 enforcement attorneys in Silver Spring that are  
10 prosecuting our cases. In the very near future,  
11 I've been told that they are going to be hiring two  
12 new enforcement attorneys.

13 Those attorneys will be in Gloucester,  
14 Massachusetts. There is no time line for that.  
15 So those two new attorneys will be prosecutors for  
16 the northeast division. And that concludes my  
17 report.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you, Logan. So how many prosecuting  
20 attorneys right now are handling the northeast  
21 case load?

22 LOGAN GREGORY: Three.

23 COUNCIL CHAIRMAN RICHARD ROBINS: And  
24 in the future, are there going to be like three in

1 Silver Spring plus the two in Gloucester or just  
2 the two in Gloucester?

3 LOGAN GREGORY: It will be the two in  
4 Gloucester.

5 COUNCIL CHAIRMAN RICHARD ROBINS: I  
6 believe several months ago we had transmitted a  
7 letter expressing concern about those capacities.  
8 And so it sounds like they will actually be  
9 decreasing.

10 LOGAN GREGORY: Well, I don't think it  
11 will be decreasing because the three enforcement  
12 attorneys -- and, Bob, if you want to correct me  
13 if I'm wrong -- they are doing double-duty right  
14 now. They have their own jobs to do that they  
15 handle plus on top of that the enforcement of our  
16 cases.

17 So we will have two dedicated, full-time  
18 enforcement attorneys. While priority for those  
19 three right now is to work on our cases, they do  
20 have other priorities that they do have to work on.  
21 So I don't think it would decrease as much as it  
22 would be more -- I think it would be very much the  
23 same.

24 ROBERT HOGAN: (No microphone)



1           Probably go another half a body. Right now we're  
2           probably dedicating half of our job to (inaudible)  
3           and half of our job to (inaudible) the three of us.  
4           So I imagine --

5                           (Inaudible.)

6                           COUNCIL CHAIRMAN RICHARD ROBINS:

7           Well, thank you for the update. And I hope that  
8           we get another update as soon as those positions  
9           are established.

10                          ROBERT HOGAN: My understanding is that  
11           the advertisement --

12                          COUNCIL CHAIRMAN RICHARD ROBINS: Do  
13           you mind coming up to the microphone?

14                          ROBERT HOGAN: My understanding is that  
15           the advertisement should go out in the next couple  
16           of weeks for the two positions. Then that leaves  
17           us open for a month.

18                          They'll be open to the outside initially  
19           and anyone internally within NOAA that would like  
20           to apply for them. And then the plan will be to  
21           bring them to Silver Spring for some term, maybe  
22           a month, two months, something like that, for some  
23           training and then send them up to Gloucester to the  
24           headquarters office or to the regional office up

1           there.

2                   COUNCIL CHAIRMAN RICHARD ROBINS:

3           Thank you. Any other questions for Logan  
4           regarding the report?

5                   (No response.)

6                   COUNCIL CHAIRMAN RICHARD ROBINS:

7           Logan, again, thank you for that report. In light  
8           of the letter that we sent, if we could continue  
9           to get an update on that, that would be helpful.  
10          Kevin Saunders, Coast Guard.

11                   \_\_\_\_\_

12                   U.S. COAST GUARD REPORT

13                   KEVIN SAUNDERS: Thank you, Mr.  
14           Chairman. So we completed 828 boardings for  
15           fiscal year '12, a 20 percent increase from fiscal  
16           year 2011. During the last two months we had three  
17           significant violations, and I want to draw your  
18           attention to two of the main ones that I thought  
19           were interesting.

20                   Number one, this isn't a significant  
21           violation, but we had a fishing vessel that refused  
22           to provide a boarding ladder for our team to get  
23           on board.

24                   We got on board anyway, but it took

1 significant more time, and we endangered our crew  
2 in the process. So there's a violation as well  
3 with that.

4 To be fair, I haven't seen  
5 this -- in 11 years I haven't seen this actually come  
6 to fruition where a violation was handed out for  
7 not providing a boarding ladder or mechanism for  
8 us to get on board. But it is something to point  
9 out, that we're out there trying to do our jobs,  
10 and you're not going to deter us from doing our jobs  
11 by not making it convenient for us to do our jobs.  
12 So it's something worth noting. The second thing  
13 I want to point out was we did a small enforcement  
14 for the longline production plan.

15 This was focused on the Cape Hatteras  
16 special research area. These boardings take an  
17 extreme amount of time, and I put the SOP together  
18 hoping that it would prove that the bang for the  
19 buck just wasn't there.

20 And we're talking about like an  
21 eight-hour boarding. We're not talking about  
22 much time on board, but we're watching the entire  
23 whole back of a 20-mile longline.

24 And what we found was is there is a few

1 vessels out there that weren't transmitting the  
2 message that should have been. And there's no  
3 particular vessel.

4 When you're inside the Cape Hatteras  
5 special research area, you're required to call  
6 into the Observer Program and at least let them  
7 know the area you're in there, if you don't have  
8 an observer on board before you go fishing. And  
9 we found a vessel in there that claimed to have  
10 called in, didn't have any documentation saying  
11 that he did call in; and when we verified that, we  
12 found out that not only had he not called in for  
13 that trip, but he hadn't called in for the three  
14 months prior he had been operating out there. So  
15 we're expecting a case pushed forward on that.

16 But it's just another gap in our  
17 enforcement. We're going to refocus our  
18 attention on that in the future. Our big push  
19 right now is what we're calling Operation Safe  
20 Catch.

21 And Operation Safe Catch is geared  
22 towards getting out public awareness about this  
23 October 16th, yesterday, tradition we had from a  
24 voluntary commercial vessel safety examination

1 program to a mandatory one.

2 So this primarily affects vessels  
3 operating outside three nautical miles, it became  
4 mandatory for them. Inside three nautical miles,  
5 if you do your business, you're still eligible for  
6 the voluntary examination, but it's not mandatory  
7 for you.

8 The stickers they look the same as they  
9 have in the past, but now their extended, their  
10 validity goes for two years now instead of to one.  
11 That's really just to help with the work load. So  
12 the goal is -- this came out of the Coast Guard  
13 Authorization Act of 2010 -- to get everybody a  
14 safety examination that operates outside three  
15 nautical miles. One thing I would like to point  
16 out is that if you are an HMS -- typically, an HMS  
17 recreational guy that just happens to have that  
18 general category permit in case you catch the big  
19 ones, you fall under the category of a commercial  
20 fishing vessel, and you're expected to have the  
21 commercial fishing vessel safety gear on board,  
22 get the decal, and be in compliance for that.

23 And that's kind of a little bit of a  
24 change. So I'll just push that out to fishermen.

1 But I'd also like to have a quick apology to Erling.  
2 I was hopeful that I would have the case for the  
3 Lady Mary wrapped up and delivered in gold to him  
4 today.

5 Unfortunately, I don't have that. And  
6 I'm not going to make any projections about the  
7 next season now, but I hope to get that to you soon.  
8 Thank you, Mr. Chairman.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
10 you, Kevin. Have all the permit holders been  
11 notified of that change in the requirement on the  
12 HMS general category permit?

13 KEVIN SAUNDERS: We've done extensive  
14 outreach, and that's specifically mentioned in our  
15 outreach materials. This outreach has taken  
16 place through letters sent to all the permit  
17 holders we could get a hold of. Yeah, we've just  
18 done extensive outreach. I can't guarantee that  
19 everybody that has this permit has been notified  
20 because there's people in Kentucky that have this  
21 permit probably but are never going to go fishing  
22 on it. Thank you.

23 COUNCIL CHAIRMAN RICHARD ROBINS:  
24 Thank you. Questions for Kevin? John McMurray.

1 JOHN MCMURRAY: Thank you, Mr.  
2 Chairman. Kevin, I was just looking at the  
3 boarding target sheet. You usually see striped  
4 bass on there. Is there a reason why it's not on  
5 there this time?

6 COUNCIL CHAIRMAN RICHARD ROBINS:  
7 Kevin.

8 KEVIN SAUNDERS: That's a great  
9 question. So actually I had to answer this to my  
10 boss. Really, in an ideal world, I don't have a  
11 striped bass target, because I don't want to board  
12 the guys that are in state waters conducting a  
13 legal state fishery.

14 I want to focus my attention on other  
15 more critical species. So I can't come up with a  
16 target number for guys that I think are illegal  
17 fishing in order to put it under my HPS and LPSs.  
18 Granted on a year-to-year basis, it's definitely  
19 a high priority for us to make sure that nobody is  
20 illegally fishing. In an ideal world nobody will  
21 be illegally fishing, so. And this is -- you know,  
22 based on projections of vessels we know are in a  
23 high priority fishery, meaning there is either a  
24 fishery that's being overfished or a high value

1 fishery or a fishery with a history of violations.

2 So I can't count numbers that aren't  
3 supposed to be there. Does that make sense? And  
4 that's why it's not there. But it's still a  
5 priority for us. We still plan on conducting  
6 Operation Striper Swipe like we have in the past  
7 several years.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thanks, John. Any other questions on these  
10 reports?

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Let's go ahead and take a 10-minute break, and  
14 we'll come back and take up the executive  
15 directors's report, the science report, and the  
16 regional administrator report. Thank you.

17 (Break: 10:37 a.m. to 10:55 a.m.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Let's

19 go ahead and take our seats, please, so we can come  
20 to order. The next item is the executive  
21 director's report. And for that I look to Chris  
22 Moore.

23 \_\_\_\_\_  
24 EXECUTIVE DIRECTOR'S REPORT



1 CHRISTOPHER MOORE: Thank you, Mr.  
2 Chairman. There's a number of items behind Tab 10  
3 that I would like to talk to the Council about.  
4 First, behind Tab 10 is our typical planned council  
5 meeting topics. So we just concluded, almost  
6 completed the October council meeting.

7 The list of issues that we see for the  
8 December council meeting which begins on December  
9 11th is pretty extensive. The other thing to  
10 consider about the December council meeting is the  
11 fact that we are being responsive to a request by  
12 the ASMFC to basically extend our meeting into  
13 Thursday to allow for their board members to meet  
14 on Friday of that week to deal with amended.

15 So, unlike today, we're likely to get  
16 out by noon, plan on sticking around until at least  
17 three or four that day or that week. So it's a big  
18 thing to think about.

19 At that particular meeting, we'll be  
20 looking at summer flounder, scup, black sea bass  
21 recreational specifications. We'll be talking  
22 about that in a little bit with the regional  
23 administrator. We'll also be looking at the  
24 five-year research priority recommendations that

1 Rich is going to provide to us when we look at a  
2 report on ecosystems approach to fisheries  
3 management. Amendment 17, some other things are  
4 listed there as well. The next item behind the tab  
5 is a schedule of events. You can take a look at  
6 that when you get a chance.

7 The notable thing for the near term is  
8 that we have the NRCC meeting scheduled for  
9 November 1st and 2nd in Baltimore. As indicated,  
10 at that meeting we talk about things related to  
11 stock assessments and other issues to coordinate  
12 our activities in the Northeast Region.

13 The next couple items are typical,  
14 tables detailing specifications that have been  
15 submitted. We are working on the bluefish  
16 package, and that should be submitted relatively  
17 soon, George.

18 Next item in case you've forgotten, are  
19 all the amendments that we've started or are in  
20 process of completing as well as the issues that  
21 are just in these particular amendments.

22 You can see the schedule of those  
23 particular amendments and frameworks on the next  
24 page. The next item I'd like to spend a little bit

1 of time on, not more than 10 minutes or so. But  
2 this is basically the list of the 2012 priorities  
3 that we agreed on last December. December of this  
4 year we'll be working on the priorities for 2013.  
5 The 2013 priorities will be discussed at the  
6 Executive Committee and then presented to the  
7 Council for discussion.

8 This is the way that we've been doing it  
9 for the last couple years. It seems to work out  
10 pretty well. This is a pretty extensive list.  
11 And what I'd like to do is just go quickly through  
12 it and then stop and ask if there's any questions  
13 just to update you folks because there's some folks  
14 that are new to the Council, have not been around,  
15 and may not understand exactly what these mean.

16 So we finished up Amendment 3 to spiny  
17 dogfish. Amendment 14 to squid, mackerel,  
18 butterfish is done as well. Amendment 15 to  
19 surfclams and ocean quahogs is something that  
20 we've talked about for a while. That's on hold as  
21 we work on the PSP issues and the data collections  
22 issues, that we started in 2011.

23 We also have Amendment 17 to summer  
24 flounder, scup, and black sea bass. This is

1 something we talked about at the last council  
2 meeting. We'll be talking about it again at the  
3 December council meeting. Amendment 6 to  
4 monkfish we continue to work with the New England  
5 Council on that particular amendment. One thing  
6 that relates to

7 Amendment 6 are workshops. We talked about several  
8 times the workshops associated with our Monkfish  
9 Committee. We continue to plan for those  
10 workshops.

11 The next item is annual specifications.  
12 These are the things that we do every year for all  
13 of our species. This year was a little different.  
14 We attempted to introduce the concept of  
15 multi-year specifications for a number of these  
16 species.

17 We did that to increase efficiency so  
18 that we could do all this other stuff you see on  
19 the sheet. So we hope that that's going to work  
20 out. Some species we have one-year  
21 specifications still, others two, others three.

22 Remember we just did spiny dogfish. We  
23 had a three-year specification. So then hope that  
24 that's going to work out, and that's going to

1 introduce some efficiency to the system and allow  
2 us to do some other things that we want to do.

3 One thing that we started actually the  
4 year before but we did for all our species this year  
5 are the fishery performance reports. We're  
6 working with our AP panels to get those done, and  
7 that worked out well. We continue to make  
8 progress on SMZs for Delaware reefs. This has  
9 taken us longer than we thought.

10 We continue to make progress on that,  
11 though, and we hope to have that wrapped up by early  
12 2013. The RSA program review completion and  
13 implementation is something we've talked about for  
14 a while. That's pretty much done.

15 We have some letters that we submitted  
16 to the Service requesting some additional  
17 information as part of that review. We're waiting  
18 for a response. Denise has indicated that they're  
19 working on that. We should see that soon.

20 And certainly, we'll be talking about  
21 that at the December council meeting as well. The  
22 scup allocation analysis review and  
23 consideration. So we had the presentation at the  
24 last council meeting on that particular analysis.

1 It was presented by Brad Getner, incorporated work  
2 from the Science Center on the recreational  
3 component of it as well as work that Brad did with  
4 some other contractors on the commercial component  
5 of that particular model. The recreational part  
6 of it was reviewed as part of a cod exercise by the  
7 Northeast Fishery Science Center, and the New  
8 England Fishery Management Council.

9 That review is available in case anyone  
10 is interested in that. That review went well.  
11 Now we have to decide how to handle the commercial  
12 part of that particular model.

13 And at this point, we're thinking that  
14 in fact there's some additional work that needs to  
15 be done, that we'll get that additional work done  
16 either through the Science Center or through a  
17 contractor.

18 Once that happens, then we'll take it  
19 through a review and look at the complete model.  
20 The utility of this particular project in this  
21 particular model is that it gives us a tool to  
22 evaluate allocations for scup and potentially  
23 other species.

24 So, as we get into these discussions

1 that we've started for a number of our species  
2 regarding allocations and historic allocations,  
3 having that sort of tool, having that sort of model  
4 is going to be important for us. I'll stop there  
5 with that part of it in case there's any questions.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Well,  
7 Chris, the additional work that you're talking  
8 about having done if that's going to be done  
9 through the Science Center, we're not going to  
10 re-engage the contractor that developed the model.  
11 Is that correct?

12 CHRISTOPHER MOORE: Yeah. There's no  
13 plans to engage the contractor that we involved  
14 before.

15 COUNCIL CHAIRMAN RICHARD ROBINS:  
16 Thank you. Rob.

17 ROBERT O'REILLY: It just seemed to me  
18 after that presentation that there were a lot of  
19 comments from council members as to what wasn't  
20 done and the time frame of the data, how it was cut  
21 short into the past.

22 But it sounds as if you still see that  
23 that's a pretty good approach, and I guess those  
24 are the types of things that the Science Center

1 would be working with.

2 CHRISTOPHER MOORE: Exactly. So we  
3 started initial discussions with some folks at the  
4 Science Center regarding that particular project  
5 and some of the shortcomings.

6 They've indicated to us informally that  
7 the commercial part of that was done well. And I  
8 think that was lost in the presentation that we  
9 heard at the council meeting. There was a lot of  
10 folks involved in that particular project. They  
11 spent a lot of time on it. There's a lot of data,  
12 a lot of new techniques that were used. So the  
13 bottom line is it was a good project.

14 The problem is that there's some things  
15 that we need to address so that we can use it for  
16 actual questions regarding allocations of scup.

17 So, if you remember, the bottom line was  
18 that they said that given the levels of scup that  
19 we're now allocating to the commercial and  
20 recreational fisheries, there really is no reason  
21 to even consider any transfer between recreational  
22 to commercial or commercial to commercial at this  
23 time.

24 So what we're asking is: Well, let's



1 take a look at what the scenario would look like  
2 if in fact we were looking at reduced levels of  
3 allocations to commercial and recreational  
4 fisheries and look at it that way.

5 So, again, that will be part of the  
6 discussion we have as we get involved in Amendment  
7 18 for summer flounder, scup, and black sea bass  
8 and consider scup allocations. And that's only  
9 one part of it. There's the biology, the social  
10 component and economic component all are going to  
11 be considered by the Council. So, continuing on,  
12 we spent a couple days this week talking about  
13 strategic plans or strategic planning for the  
14 Council. We had the visioning report. That's  
15 done. It's been posted. That's been well  
16 received.

17 Rich continues to work with the SSC on  
18 ecosystem-based fishery management approach that  
19 the Council's contemplating. Jessica took care  
20 of our Advisory Panel governance work group. That  
21 was completed earlier this year.

22 We reformed the advisor groups as a  
23 result of that particular activity, and that went  
24 well. Rich is working on a comprehensive research

1 priority plan to integrate the five-year research  
2 plan as well as our RSA priorities that we look at  
3 every year.

4 The communications part of the  
5 operation has been ongoing. We talked about  
6 earlier this week a comprehensive communications  
7 plan and continue to work on that. We have a  
8 framework for that.

9 The Web redesign is ongoing. We've had  
10 some technical issues there. We hope to have  
11 those resolved and have that available for the  
12 Council to look at by the end of October or early  
13 November. We do have a Twitter account that is  
14 actively used. In fact, we got a tweet from a  
15 congressman from New England after he attended the  
16 council meeting the other day. So you should take  
17 a look at that.

18 If you're not a -- how do they put that  
19 -- if you're not a member of our Twitter account,  
20 if you're not a follower of our Twitter account,  
21 then you should be a follower. Check it out.

22 Because of efforts related to staff as  
23 well as John McMurray we continue to build our  
24 photo library and use those photos not only in the

1 office as display, but also in some of the  
2 materials that we've started to develop for  
3 outreach. And those have been well received.

4 Mary has explored the possibility of an  
5 on-line newsletter. We've looked at a couple  
6 different formats, and we'll be working on that as  
7 well. The Ecosystem and Ocean Planning Committee  
8 work as detailed there, one of the things that we  
9 didn't anticipate that we're doing now is an  
10 amendment to the squid, mackerel, butterflyfish plan  
11 that deals with deep sea corals. So Kylie is  
12 working actively with Warren to get that together.  
13 We expect action on that in December, at least  
14 looking at alternatives relative to that  
15 amendment. The FH updates have been up and down.  
16 We've gotten the information from the Center for  
17 dogfish. We're still waiting on the FH material  
18 on some of the other species so we can complete  
19 those updates.

20 We've had discussions, Jim, with some of  
21 the Center folks as well, some of the regional  
22 folks related to how best to incorporate those EFH  
23 updates, and I think that's still somewhat  
24 undecided.

1           The next page. We've had a number of  
2           SSC meetings. We haven't had a lot of activity on  
3           the vessel baseline regulations, and I think we'll  
4           probably be discussing that at the NRCC meeting in  
5           terms of what's going on there.

6           This Voices of the Fisheries project on  
7           page two is something that was identified from a  
8           habitat workshop that we held in the summer of  
9           2010. We continue to work on that to try to get  
10          that done.

11          There's a number of other things  
12          identified under the other category that staff are  
13          involved with including MREP, ACCSP, MRIP, PMAFS  
14          and the other ones that are listed there as well.  
15          So those have gone well including I think just to  
16          highlight one this voluntary angler survey  
17          workshop. That was well received. It was  
18          something that Jason was involved with. And that  
19          went well. So with that I'll stop, take any  
20          questions that you might have on the rest of this  
21          stuff before I move on through the rest of the  
22          material.

23                           COUNCIL CHAIRMAN RICHARD ROBINS:

24           Howard.

1                   HOWARD KING: I may have missed  
2 something, but where are we on the Web site redo?

3                   CHRISTOPHER MOORE: Yeah. I went  
4 through that quickly. It's almost done. It's  
5 like 90 percent done. We've had some technical  
6 issues with the contractors. We hope to have  
7 those resolved.

8                   Again, we looked at the front page or the  
9 home page at the last council meeting. So we're  
10 almost there. It's been somewhat frustrating,  
11 but we're getting there.

12                  COUNCIL CHAIRMAN RICHARD ROBINS: And,  
13 Howard, as you know, we've had a lot of suggestions  
14 about how we could do a better job of explaining  
15 to the public. We're trying to simplify and  
16 explain the differences in jurisdictions and what  
17 the Council does and the Council decision making  
18 process. So that will provide a platform for  
19 addressing a lot of those issues as it goes  
20 forward. Peter.

21                  PETER HIMCHAK: Yes. Thank you, Mr.  
22 Chairman. I had a question on the time line. I  
23 guess we see under the 2013 priorities how  
24 Amendment 18 will be rescheduled is a pretty

1 important issue for many of us.

2 CHRISTOPHER MOORE: Peter, one of the  
3 reasons that we have these discussions regarding  
4 priorities is exactly that, for the Council to look  
5 at all the things that we have on the list and  
6 decide what they want to do first.

7 So right now we know that we're going to  
8 be developing Amendment 18 to summer flounder,  
9 scup, and black sea bass to deal with a singular  
10 issue in that scup fishery.

11 Since we've had the discussions that are  
12 on this council meeting, folks have come up to me  
13 or sent me e-mails regarding additional issues  
14 that might need to be addressed in that particular  
15 fishery.

16 And we'll be talking about that, as to  
17 how the Council wants to handle that. Right now  
18 it's that single issue. It's on the list. And  
19 when we get to December, sit down with the  
20 Executive Committee and the Council, we'll be  
21 talking about where we're going to put it on the  
22 list.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Chris, that was going to be my question. So just

1 from a process standpoint, these are the 2012  
2 priorities; you've run through what we've done to  
3 address them, but in December when we go to  
4 Executive Committee, we'll have the opportunity to  
5 review draft 2013 priorities building obviously on  
6 the outstanding work that remains from this list  
7 and go on from there.

8 CHRISTOPHER MOORE: Yeah. Exactly.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

10 JAMES WEINBERG: Chris, you had  
11 mentioned some follow-up work that was being done.  
12 You mentioned the Science Center related to Brad  
13 Getner's work. I'm unclear about -- could you  
14 direct me a little bit what part of the Center is  
15 involved with that?

16 CHRISTOPHER MOORE: Sure. I didn't  
17 want you to get too excited, so I kept saying  
18 informal and calls. But Scott. At some point,  
19 Jim, we'll have a formal request, but at this point  
20 we're just exploring our options.

21 JAMES WEINBERG: Okay. Thank you.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
23 other questions for Chris?

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Chris,  
2 are there any other elements to the report?

3 CHRISTOPHER MOORE: Yes. Just  
4 quickly, Mr. Chairman, the next item behind that  
5 list of 2012 priorities is a draft action plan for  
6 the deep sea coral amendment. This basically  
7 identifies who, what, when, where, why in that  
8 particular amendment.

9 This is something that we always do when  
10 we start considering an amendment. This is  
11 something that you'll see, Peter, for Amendment 18  
12 to summer flounder, scup, and black sea bass at the  
13 next council meeting.

14 After that this is something that  
15 Jessica brought to my attention. It's basically  
16 an e-mail to me regarding DRP framework. So we  
17 have these reference points that exist for all of  
18 our species, and there are things that we could fix  
19 in our FMPs that would allow us to change those  
20 relatively easily if in fact the Science Center  
21 indicates that we should. So that's something  
22 that will be on our list of possible priorities for  
23 2013 for the Council to consider. The next item  
24 is something that I think you've all seen. This



1 is our MREP, Mid-Atlantic invitation. MREP is  
2 coming to the Mid-Atlantic. Hopefully, everyone  
3 here got a copy of this.

4 The science module is scheduled for  
5 November 27th through the 29th. They have a  
6 management module that's scheduled for January  
7 22nd through the 24th. And we have MREP in the  
8 Mid-Atlantic because of the hard work of John  
9 Williamson and Mary Beth Tooley and others.

10 So it's quite an accomplishment to have  
11 this particular program moved down into the  
12 Mid-Atlantic. So that's a welcome thing. The  
13 next item is a letter from Paul Howard to me.

14 The New England Council and the  
15 community attempts to help us out. They've  
16 identified something that needs to be fixed  
17 regarding gear storage requirements for nets.

18 This is something that I received as I  
19 was putting the package together for the Council,  
20 so I thought I would include it. I think at this  
21 point, Mr. Chairman, I'd like to have the  
22 Enforcement Committee take a look at this and see  
23 whether or not it's appropriate for Mid-Atlantic  
24 fisheries before we respond to Paul. But if you

1 haven't had a chance, take a look at that letter  
2 and some of the accompanying material.

3 I did bring this up with Kevin earlier.  
4 Kevin had to leave, unfortunately. But Kevin  
5 thought that was something we should talk to our  
6 committee about.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Chris,  
8 that's fine. We can refer it to the committee for  
9 review. John's here. We'll look forward to  
10 doing that with the Law Enforcement Committee.

11 CHRISTOPHER MOORE: The next item  
12 behind the tab is an e-mail to Rick and me and  
13 others from Hank Lackner regarding some issues of  
14 non-federally permitted vessels engaging in  
15 longfin squid and butterfish fisheries. That's  
16 in there for the Council's attention.

17 Also, you have a handout that's on the  
18 table that has several e-mails that were comments  
19 that Jessica received on summer flounder, scup,  
20 black sea bass after the August council meeting;  
21 and we thought we'd put those out for you guys to  
22 look at as well. So there's three including some  
23 additional e-mails from Hank Lackner as well as one  
24 from Lenny Hawkins and others.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Peter.

3 PETER HIMCHAK: Yes. Thank you, Mr.  
4 Chairman. I have a comment and a request for the  
5 executive director. Mr. Lackner's e-mail  
6 regarding the state harvesting of loligo and  
7 butterfish is one issue that he highlights as being  
8 problematic.

9 And I would like to highlight one as  
10 well: the ability of non-federally permitted  
11 monkfish and skate fishermen to harvest monkfish  
12 and skate fish in New Jersey state waters without  
13 any trip limits or we have a minimum size.

14 We recognized this problem several  
15 months ago. We brought it to the attention of our  
16 marine fisheries council. And what compounds the  
17 problem is that we don't have a landing license for  
18 the monkfish.

19 And from what I understand from some of  
20 the other fishermen, yes, they can be successful  
21 for short periods of time during the year in  
22 catching significant poundage of monkfish. So  
23 this is going under reported, and this of course  
24 leads to management uncertainty. So, in line with

1 Mr. Lackner's pointing out one problem where  
2 there's actually accountability for the landings,  
3 our problem is even worse. So did he not ask that  
4 the Council query the states as to potential  
5 loopholes in landings?

6 If I got such a letter from the Council  
7 to New Jersey, it may prompt our marine fisheries  
8 council -- we've met on this a number of times.  
9 This is for skates and monkfish primarily.

10 And we have drafted regulations to close  
11 this loophole, but we need some kick in the pants  
12 here to get the establishment and get our  
13 regulations published and adopted. We have a real  
14 problem here, management uncertainty. So I'd  
15 just like to bring it up.

16 And some federally permitted monkfish  
17 fishermen will just get a second vessel. They  
18 have gear, and they'll fish exclusively in state  
19 waters, and they can be very successful. So I just  
20 want to point that out because there is a problem  
21 there.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Peter, I think we can review that question and  
24 consider drafting a letter as it relates perhaps

1 to monkfish. New England manages skates, and so  
2 I'm not sure that that shouldn't come from either  
3 the regional office or New England. But we can  
4 certainly raise questions about council managed  
5 species as it relates to their accounting in state  
6 waters. Other questions for Chris? Laurie.

7 LAURIE NOLAN: Thank you, Mr. Chairman.  
8 Hank wrote on some other issues on the handout.  
9 And when we're talking -- I don't know if now is  
10 the time or under new business; I hate to backtrack  
11 -- but we've touched on Amendment 18 and the idea  
12 that the only cap it possibly could end up being  
13 analysis of reallocation.

14 And there are other scup issues. We  
15 have the other black sea bass issues. Will there  
16 be an opportunity to add to the list, and maybe  
17 perhaps could we bring the AP in prior to scoping  
18 to know what some other issues may be?

19 There may be low hanging fruit that  
20 could be picked off through specs or framework.  
21 But will there be an opportunity for some other  
22 huge issues to be discussed?

23 COUNCIL CHAIRMAN RICHARD ROBINS: Chris.

24 CHRISTOPHER MOORE: The short answer is

1 yes. And we will have more discussions about this  
2 in December. The trade-off is as you add more  
3 things to an amendment the longer it takes to get  
4 it done. So there are folks that are very anxious  
5 to have this addressed, this allocation issue, and  
6 very anxious to have some resolution to that  
7 particular question.

8 And so as a council, we'll have to  
9 coordinate with our Commission partners and talk  
10 about some of the issues that related to them as  
11 well and then identify all of the issues that we  
12 want to include in the amendment.

13 One of the things, Laurie, that happened  
14 a number of years ago when I was on the Council the  
15 first time is that we had an amendment to the summer  
16 flounder, scup, and black sea bass plan that  
17 started out as a simple issue related to summer  
18 flounder allocation.

19 By the time we got done, I think there  
20 was probably 20 separate issues in that particular  
21 document, and it never got done. So we have to be  
22 very careful of that. And certainly I think,  
23 though, that there are some low-hanging fruits  
24 that we can talk about.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Laurie.

3 LAURIE NOLAN: Well, to that because  
4 it's so focused on allocation, perhaps  
5 reallocating some of the issues that industry can  
6 easily raise with plenty of justification need to  
7 be expressed, I think, so that when we're  
8 discussing reallocation to know what's been going  
9 on and what the problems that's caused perhaps as  
10 far as harvesting and allocation.

11 There's so many things that need to be  
12 discussed in lieu of allocations that I hope we'll  
13 broaden it a little more than just simply  
14 allocations.

15 CHRISTOPHER MOORE: I agree.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Peter.

18 PETER HIMCHAK: Yes. And to that  
19 point, the issue of the gear restricted areas was  
20 brought up a couple of years ago in the first round  
21 of nomination for marine protected areas, and it  
22 was pointed out at that time that the gear  
23 restricted areas for scup were way outdated, and  
24 it was almost was recommended as a marine protected

1 area.

2 So that issue predates by a considerable  
3 period of time the allocation issue that's driving  
4 the amendment. So I hope that that would be  
5 addressed in this amendment. It certainly has an  
6 administrative record as being an issue of concern  
7 for the last couple of years.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thanks, Peter. Laurie.

10 LAURIE NOLAN: Not to belabor anything,  
11 but hearing earlier that at the New England meeting  
12 there's a request for joint management of scup, we  
13 have issues of we're managing scup in a  
14 three-period method, but yet the summer period has  
15 six months to it, Winter 2 has two months to it.

16 But, you know, there's a lot of issues  
17 with the scup, and it's extremely important for the  
18 Mid-Atlantic industry to try to bring all these  
19 issues to the table.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Thanks, Laurie. We can have a broader  
22 conversation about that as we go forward. Other  
23 questions? Chris, go ahead.

24 CHRISTOPHER MOORE: So in our



1 increasing effort to improve our customer service  
2 to the Council, you'll be getting a survey probably  
3 tomorrow related to the briefing books.

4 And the survey basically will ask  
5 questions like: What do you like about the  
6 briefing books; what don't you like about the  
7 briefing books; do you want to see more pictures;  
8 what do you want to see? So the survey actually  
9 shouldn't take you that long. It's something that  
10 Mary put together for me. So you should be  
11 receiving that tomorrow. So please just respond  
12 to that survey and get us that back. Thank you,  
13 Mr. Chairman.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Thank you, Chris. Any other questions for Chris?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: All  
18 right. Seeing none, we'll go ahead and go to Rich  
19 Seagraves. Rich.

---

20  
21 SCIENCE REPORT

22 RICHARD SEAGRAVES: Thank you, Mr.  
23 Chairman. The information I'll be referencing is  
24 behind Tab 11. And I'll be talking about mainly

1 an update on activities related to ecosystems  
2 management.

3 But I'll start with the back of that tab  
4 is a NOAA press release. It's an FYI for the  
5 Council about the action taken by the regional  
6 administrator to shift the fishery closure for  
7 harbor porpoises as a consequence of the Harbor  
8 Porpoise Take Protection Plan scheduled for this  
9 fall and shifting that to February. There is some  
10 concern amongst the industry, the Mid-Atlantic,  
11 and I've talked to members of the Harbor Porpoise  
12 Take Protection team. A little backdrop here.  
13 The plan was put in a number of years ago for both  
14 PBR and harbor porpoise. There were a suite of  
15 measures that were implemented.

16 The plan seemed to be working very well.  
17 Harbor porpoise takes were reduced well below PBR  
18 initially, and then as time went on they started  
19 to increase and finally went beyond PBR which  
20 triggered action to revisit the plan.

21 As a consequence of that, it looked like  
22 compliance was an issue, that people just weren't  
23 using the pingers or they weren't operative. And  
24 so the first response was, oh, let's give them a

1 chance for a year or two and we'll have this trigger  
2 mechanism put into place; if the takes of harbor  
3 porpoise does not reduce, then the consequences  
4 were these closed areas.

5 And so there is a Harbor Porpoise Take  
6 Reduction team meeting being scheduled at the end  
7 of the month, which I'll be attending. I'm sure  
8 we'll take this up. But just for an FYI, I just  
9 want to keep this on the radar screen. You may  
10 have some constituents that have concern about  
11 this. And, again, just an FYI for the Council.  
12 Are there any questions on that? Then I'll shift  
13 into my ecosystems stuff.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
15 questions?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: All  
18 right, Rich.

19 RICHARD SEAGRAVES: Okay. So recall  
20 at the August meeting I gave you an update on the  
21 progress under ecosystem approach to management  
22 working with the SSC.

23 We met, the SSC met, on  
24 September 26th and 27th, and we put three hours on the

1 agenda at the beginning of the meeting to discuss  
2 ecosystem approaches to management, involvement  
3 of the SSC.

4 So I'm going to report a little bit about  
5 that. Now, I don't have any pretty pictures, but  
6 I do have this great matrix that you have in front  
7 of you.

8 You should have -- and this was in your  
9 briefing book, and I apologize it was unreadable,  
10 but that's the best we could do. So my plan was  
11 to give you something, and there will be a quiz on  
12 that. Moving forward here. So, as we've moved  
13 into this process -- and I'll just give a little  
14 bit of recap of where we were in August was that  
15 we've had some major concerns that if we develop  
16 this ecosystem approach the fisheries management  
17 guide and documents that will just become this  
18 collecting tool that is of no utility of the  
19 Council.

20 And so there's an expressed desire to  
21 create a document that's manageable in size,  
22 that's readable, and obviously useful to the  
23 Council. And so we've developed the concept of an  
24 operational guide which will then be accompanied

1 by a source document that backs it up with the facts  
2 and figures and the background information.

3 But we really want to move towards some  
4 sort of policy guide that will guide the Council  
5 in its decision making relative to ecosystem  
6 considerations.

7 So we're suggesting a two-pronged  
8 approach, which I talked about last time, this  
9 operational guide supported by the source  
10 documents.

11 So then we come up with the idea in  
12 discussions with Chris and staff was, well, is  
13 there a way that we can come up with an ABC OY  
14 control framework, kind of lay out a process, where  
15 in this process would each of the ecosystem factors  
16 be considered and evaluated. And there's a list  
17 of ecosystem consideration examples there that  
18 I'll be getting into. But the job at hand was to  
19 determine how and at what step in the council  
20 decision making process -- and, again, that would  
21 be broader than that really.

22 It's from start to finish in terms of  
23 when you assess the stock. We receive the  
24 information from the stock assessment. It goes to

1 the SSC. It goes to the Council and then  
2 ultimately results in specifications and  
3 management measures.

4 So the question is: Where do we  
5 consider these things, or how do they fit into the  
6 current process? Sorry about that one. You  
7 can't read it too well. But the simplest flow  
8 chart we have for a process is surfclams.

9 So, this again, we start out with an OFL,  
10 and then that's reduced due to scientific  
11 uncertainty to come up with an ABC. And there are  
12 a suite of different ways that we handle the ABC  
13 relative to the ACL and ACT, but this is a fairly  
14 simple one.

15 So we set an ABC, and that becomes in  
16 most cases the ACL. And that is further reduced  
17 for management uncertainty. Now, the current  
18 definitions in the Magnuson Act speak to OY being  
19 based on your catch of ABC as reduced by an OFL,  
20 an ABC; and then that's reduced by social,  
21 economic, and ecological considerations.

22 So, from that perspective, ecosystem  
23 considerations as it's currently defined,  
24 relative -- it would really only mean reduction in

1 the amount of catch that you can take.

2 And what we're more interested in really  
3 these things need to be weaved into various  
4 levels and considered at various levels of the  
5 process. So we met with the ecosystems  
6 subcommittee in September, and we were trying to  
7 come up with some sort of framework for  
8 incorporation of this into our process, and,  
9 again, the question of how, when, and where should  
10 each consideration be incorporated.

11 And from that, the hope was to determine  
12 and identify the elements of the source document  
13 and the scope of that background information that  
14 would be necessary to inform that framework.

15 And, unfortunately, it's pretty  
16 complicated. I don't think there's a simple ABC  
17 OY framework or control rule that you're going to  
18 be able to develop. I think it's just a general  
19 approach. But nonetheless we did get into looking  
20 at -- and that's what this matrix is all about.  
21 And Jason Link and I worked together on this. And  
22 the idea was to lay out what are all the various  
23 considerations for ecosystem approaches to  
24 management that you might consider, and then where

1 do they fit into the process.

2 And I'll draw your attention to the  
3 matrix now. And, again, I'm not going to belabor  
4 this. This is a lot of information in this matrix.  
5 It was a first cut at fitting where the SSC saw the  
6 various considerations being put into play.

7 And so we start out, if you look at the  
8 matrix, you've got columns. And the rows are the  
9 issues, and they span the gamut from the current  
10 single species source considerations, stock  
11 assessments, reference points, setting up catch  
12 limits, identification of cross conflicts within  
13 our plans and across management authorities with  
14 other councils, with the National Marine Fisheries  
15 Service in terms of HMS.

16 And of course we also have international  
17 issues with certain species, principally Atlantic  
18 mackerel. And then down from there we have  
19 protective species issues. We get into  
20 predator/prey and forage issues, habitat. And  
21 the list goes on and on and on. You flip in the  
22 back. The SSC did then act. There's quite a bit  
23 of information at the bottom of the matrix relative  
24 to the social and economic considerations.



1                   There was quite a bit of discussion at  
2                   the SSC meeting about expanding that because  
3                   really we had at the meeting -- you have an  
4                   ecosystem subcommittee, but basically all the SSC  
5                   members showed up for the three-hour session in the  
6                   morning before the actual SSC meeting. So we got  
7                   a lot of input from the social scientists.

8                   So I'm not going to go through the whole  
9                   thing, but the idea was to then take each one of  
10                  these considerations and then determine whether or  
11                  not this is a short meeting long-term issue, where  
12                  and how quickly we thought it could be addressed.  
13                  We didn't get to do the priority part of it, and  
14                  about 5 columns you see level, and that is okay.  
15                  Is that a single species issue; is it incorporated  
16                  in the extended stock assessment model? And,  
17                  again, accompanying the matrix is a little acronym  
18                  guide. I apologize to folks that are not pleased  
19                  with acronyms, it's not going to get any better in  
20                  ecosystems management because there's a lot of new  
21                  ones here. So basically what we're talking about  
22                  is we're operating in a single-species mode at this  
23                  junction, and certainly the desire around this  
24                  table, at the assessment level, the industry, if

1 you look at the visioning comments that we got,  
2 just about everybody recognized that there's a  
3 desire to go beyond that.

4 And so there are several steps to that.  
5 The first is obviously the starting single  
6 species. Some of this would occur at the  
7 assessment level by introducing terms of reference  
8 into the stock assessments. Some of it will  
9 require additional research. Some of it may  
10 require a different structure the way you do  
11 business.

12 So this was the first cut at laying  
13 everything out in a comprehensive fashion, trying  
14 to figure out at which stage of the game that it  
15 should be addressed. But in that discussion, it  
16 becomes obvious that there are a number of issues  
17 that are of high priority, and that also can be  
18 addressed in a short to medium term.

19 So the sense of staff and my conclusion  
20 coming out of that meeting was that I think it's  
21 really where we started with the ecosystem sub  
22 committee was trying to focus on the short-term,  
23 high-priority issues. We've already had quite a  
24 bit of discussion about forage and so forth, but

1 there are other things that we haven't talked about  
2 that I'm going to move on to here.

3 Other discussions at the SSC meeting  
4 revolved around the challenge of defining the  
5 scope of ecosystem management. And we had Tom  
6 Miller, Ed Hood, others who have been intimately  
7 involved in the Chesapeake Bay ecosystem plan  
8 development, and they identified the issue of  
9 scope and defining your ecosystems is a major  
10 challenge.

11 And I think our take on that is that it's  
12 going to depend on the species and the issue at hand  
13 what you define as your scope. Now, obviously the  
14 whole idea of ecosystem based management is to go  
15 beyond our normal boundaries and look at the  
16 ecosystem.

17 And probably the broadest one would be  
18 if we're dealing with, say, protective resources  
19 in terms of sea turtles. Their life cycle  
20 basically begins in the Florida current actually  
21 on the west coast of Florida, and then they're  
22 entrained by the Gulf Stream up into the North  
23 Atlantic Ocean, and they basically utilize the  
24 whole North Atlantic basin. So if you were to tie

1 or scope for that particular problem, you're  
2 talking about basically the North Atlantic Ocean,  
3 parts of the Caribbean. Large whales and other  
4 species also traverse.

5 I think you can use the equator as your  
6 demarcation line. There doesn't seem to be a lot  
7 of cross-over. But a fairly broad geographic  
8 scope required depending on the issue.

9 But as we discussed that, then it really  
10 came down to realization that let's face it, we're  
11 in a current single species mode, and so we need  
12 to develop a transition plan to move toward  
13 ecosystem-based management. We can't just make a  
14 sudden leap.

15 The other focus of discussion was we do  
16 have this long list, and obviously there's going  
17 to be some need for some sort of either qualitative  
18 or quantitative risk analysis that the Council,  
19 the SSC and stakeholders are going to need to  
20 engage in.

21 This is kind of the focus of the  
22 Australian experience is laying out what are  
23 really the big issues and what are the other things  
24 that are of concern but of lesser concern. So I'll

1 be talking about that in a minute. But my  
2 take-home is we need to focus on important areas  
3 where either immediate or  
4 mid-term progress is feasible and achievable. So what  
5 I'm proposing is that we form a working group  
6 drawing on expertise from the SSC, some folks from  
7 the Science Center -- we have Jason Link who's  
8 already chair of our Ecosystems Sub Committee.

9 But there are some others within the  
10 Center that have quite a bit of expertise in this  
11 area, the regional office, council staff. And I  
12 have other because we may draw -- we haven't quite  
13 figured out what the makeup of the group will be,  
14 but we may be drawing in from academia, etcetera.

15 And in the process, we develop the  
16 background information necessary to assist the  
17 Council in the formulation of ecosystem policy and  
18 managed approaches in this operational guide which  
19 addresses the issues identified in this matrix  
20 which is is basically going to be the table of  
21 contents for this source document.

22 However, what I'm proposing is that we  
23 focus on a number of key issues and that we focus  
24 on them for a series of workshops that would start

1 in February of 2013. And we'd like to focus on  
2 these high priority topics. And the ones that  
3 I've identified -- and this is my proposal. This  
4 comes out of extensive discussions with the SSC,  
5 reading through the visioning materials and so on  
6 and so forth.

7 And so the key issues that I think we  
8 need to address are forage low trophic level  
9 species consideration and any special  
10 considerations for their management. We've  
11 already had quite a bit of discussion about that,  
12 but we need more.

13 The next issue is species interactions,  
14 which would include competition, predation, and  
15 other factors relative. So essentially we have  
16 single species assessments, and one of the big  
17 knocks on the current system is that you're not  
18 taking into account species interactions.

19 Now, that normally would have to occur  
20 at the assessment level. So the point is:  
21 Workshops are going to look at the problem, have  
22 some scientific and other type presentations made  
23 on the issue, but really come up with terms of  
24 reference for each one of these where we say, okay,

1 here's the issue; how do we address it; do we know  
2 enough now to implement this into our policy; and  
3 then outline strategies to then implement it in  
4 this operational guide. Now, the third issue is  
5 a major one is the incorporation of socioeconomic  
6 considerations analysis in our OY determinations.

7 And this has been discussed at a number  
8 of different levels. It was discussed at the  
9 National SSC workshop. And basically a systemic  
10 national problem that most of the plans that the  
11 councils promulgate and develop and put into play  
12 have not done a good enough job looking at the  
13 social and economic impacts in the actual OY  
14 determination decision making process.

15 Now, the other major issue is the  
16 effects of systematic changes and oceanographic  
17 conditions on abundance and distribution of fish  
18 stocks and ramifications for certainly their  
19 assessment, productivity, and then ultimately  
20 their management.

21 So that's a fancy way of saying we've  
22 probably got climate change effects, systematic  
23 changes that may be occurring or we think are  
24 occurring likely to continue that are really going

1 to alter perhaps the distribution of stocks, the  
2 productivity of those stocks, and ultimately we'll  
3 change our perception or at least it will most  
4 likely change our productivity, which has many  
5 ramifications for what's a sustainable harvest  
6 going to be. And obviously, coordination amongst  
7 other councils and entities international what  
8 they may be because things are going to be shifting  
9 on us, and we're going to have to come up with ways  
10 to deal with it.

11 We certainly can't control the climate,  
12 but we can anticipate what those changes might be  
13 and have some sort of planning mechanism in place  
14 to deal with that change.

15 And the final major topic is habitat  
16 conservation and management. John Boreman and I  
17 were both on a panel at the national AFS meeting  
18 recently, and we've been working with Karen Abrams  
19 from the headquarters and also habitat  
20 conservation, and they're very interested in  
21 trying to make habitat more operational within  
22 their FMPs having habitat conservation objectives  
23 and so forth.

24 And so we hope to have them involved.



1 We do plan on having them involved. So, again, the  
2 purpose of the workshops, they bring together  
3 technical experts, managers, and stakeholders to  
4 evaluate the science and policy aspects of each  
5 issue and then to develop recommendations on best  
6 practices to be incorporated into our operational  
7 guide. So our schedule is we're forming a working  
8 group the end of November. It's pretty  
9 aggressive. I've laid it out.

10 The first workshop would be in February.  
11 It would deal with forage and species  
12 interactions. Maybe a little bit too aggressive.  
13 These are pretty big topic items. I'm not sure we  
14 can do them all in one workshop. In the interest  
15 of moving things along, we've right now got them  
16 as such as I indicate here.

17 In April the second workshop would deal  
18 with habitat and climate drivers. And in June we  
19 would look at social and economic dimensions and  
20 aspects of the problem and also at that point  
21 hopefully have some risk analysis available to  
22 determine a prioritization of how we move forward  
23 with these things.

24 Meanwhile, based on the output of these

1 workshops, the idea the working group would put  
2 together the information that would support each  
3 workshop, draw up the issues of the outline, get  
4 the speakers, whoever we invite, and basically  
5 give them pretty good terms of reference about what  
6 questions we want to address and have products  
7 coming out of each workshop that would be useful  
8 to us in the development of a guide. And so we'd  
9 wrap up with a draft document, guidance document,  
10 in August for the Council to look at. And based  
11 on comment work on that over the next two months  
12 for council approval in October.

13 And following that the Council could  
14 once we've got a policy guide together, the Council  
15 could start to decide how they're going to initiate  
16 implementation of this policy. And that's my  
17 presentation.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Rich, the one module you have about incorporating  
20 economic and social considerations in the OY, is  
21 that a module that we could use to explore issues  
22 like regulatory stability? I mean regulatory  
23 stability is something that we've heard a lot  
24 about.

1 RICHARD SEAGRAVES: Yeah.

2 COUNCIL CHAIRMAN RICHARD ROBINS: It  
3 seems to me that you'd need a fairly thoughtful  
4 approach to that. It's got a lot of implications.  
5 It's not as simple as just going to multi-year  
6 specs. I mean there are other elements to it.

7 But is that a module that will allow us  
8 to dig into that? Because a lot of our experience  
9 in this region, I think, has been frankly setting  
10 quotas typically fairly close to an ABC or ACL  
11 level and now with some new acronyms. But in some  
12 other regions they're much more detailed  
13 considerations that go into the economics that  
14 would indicate or dictate setting quotas that are  
15 at a lower level.

16 We don't have that luxury frankly.  
17 Most of our fisheries are pretty well utilized.  
18 But it seems like that question of regulatory  
19 stability is a pervasive question. I just wonder  
20 if that would allow us to take that issue up in that  
21 setting.

22 RICHARD SEAGRAVES: Yeah. I think  
23 that would be the perfect place for it. You know,  
24 I think the big concern amongst industry folks and

1 the public is that there hasn't been enough focus  
2 on social and economic impact analysis.

3 And when you get into multi-year  
4 specifications, you have the stability aspect that  
5 everybody wants, but then there may be some  
6 tradeoffs in terms of you may give up some yield.

7 In the setting of actually looking at  
8 what's the economic impact of that when you make  
9 that decision, are you giving anything up  
10 cumulatively. Or maybe cumulatively there's a  
11 gain. I don't know. But certainly that would be  
12 the place to do those analyses and consider those  
13 questions.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Thank you, Rich. And I don't want to get too much  
16 into details, but the first workshop you proposed  
17 would be on species interactions and foraged type  
18 species.

19 Is that something that we could also  
20 look at issues like how natural mortality is  
21 incorporated into stock assessments? Because it  
22 seems to me that every time we've come to that  
23 discussion at the table, there's also a lot of  
24 discussion about exactly what's being accounted

1 for.

2 I think when we get to the end of this  
3 discussion, we need to have a clear understanding  
4 of where we're accounting for these specific  
5 considerations. Are they being accounted for in  
6 the stock assessment?

7 Do they need to be accounted for  
8 otherwise in the specification process as a matter  
9 of OY? Being clear about how we're accounting for  
10 that is obviously something that we want to achieve  
11 at the end of the process.

12 RICHARD SEAGRAVES: That first  
13 workshop that is one that's probably going to bust  
14 the seams of whether we can do it in one or two days.  
15 But certainly, forage species consideration if you  
16 look at the matrix, that is a major element of that  
17 consideration is how much natural mortality is  
18 being dealt with. Is it being modeled in the  
19 assessment?

20 Because the issue is you've got under  
21 Magnuson a required rebuilding of all stocks.  
22 Some predator stocks are increasing, and so if you  
23 assume a constant  $F$  in mortality in the assessment,  
24 you're not accounting for the dynamics of

1 predation which may be occurring. And so that  
2 will certainly be a key element of that discussion.

3 And then the flip side is, okay, when you  
4 have species interactions, a lot of discussion and  
5 debate yesterday about spiny dogfish. I would  
6 think that will be a key discussion element.

7 We may actually focus on spiny dogfish  
8 since it's everybody's, one of their primary  
9 concerns at this table and out within the  
10 fisheries. So that one, again, I'm more concerned  
11 about just having one day but maybe taking two days  
12 to do that. But the M issue will definitely be  
13 taken up.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Thanks, Rich. Other questions for Rich regarding  
16 this report?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Rich,  
19 were you looking for any specific council action  
20 today, or are we simply reviewing the proposed --

21 RICHARD SEAGRAVES: I don't think  
22 there's any specific action. I just wanted to  
23 brief the Council if there's any input or any  
24 concern, if we've missed something. I don't think

1 we've missed anything in the matrix.

2 If you come up with something, we have  
3 lollipops over here. Jason is pretty  
4 comprehensive in that matrix. And, again, it's  
5 not as bad as it looks. If you go through it, the  
6 vast majority of issues there's a large majority  
7 of those issues falling under the  
8 two-page category.

9 We will look at those, frame the issue,  
10 describe the problem, and some potential  
11 solutions; but the focus is going to be at the  
12 workshops on the 4, 5, 6 issues that I've laid out.  
13 So if there are any suggestions or concerns with  
14 that core element that would be part of this, then  
15 we'd look for some feedback.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Thank you, Rich. To that point, are there any  
18 specific concerns about the priorities that Rich  
19 has identified and the way that's framed up? Jim.

20 JAMES WEINBERG: Yeah. A comment in  
21 general for Rich about the Center's participation  
22 in these workshops. I've recently seen the  
23 schedule that's coming out of the population  
24 dynamics branch, and they're tied up almost

1 committed to delivering some product almost every  
2 two weeks from now until June.

3 It's going to be most of these people,  
4 as I said, are in the pop dy group, but a goal here,  
5 I think, is not to keep bringing in just the  
6 ecosystem people but to involve the people that are  
7 doing single species assessments, into the  
8 discussion.

9 So it will be a bit challenging to get  
10 the right people attending these workshops just  
11 because they're committed to doing other things.  
12 But in principal it's all fine. Just a matter of  
13 allocation of people.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,  
15 I appreciate that. I would think, too, that we'd  
16 be looking for some outside sources of expertise  
17 on some of these workshops. But obviously bring  
18 in some of the population dynamics people from  
19 Woods Hole is going to be an important part of it,  
20 too. And I think we need to have their involvement  
21 as we discuss some of the current approaches to  
22 assessments and how these issues relate to that.  
23 Bill Karp.

24 WILLIAM KARP: Thank you,



1 Mr. Chairman. Just to follow up, I'm wondering whether  
2 we should actually put this item on the agenda for  
3 NRCC because it's clearly a priority, and we need  
4 to make sure it's programmed in. That may be in  
5 the context of the other demands on these same  
6 staff.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Rich, to that point.

9 RICHARD SEAGRAVES: Yeah. I'm putting  
10 together the matrix for George Darcy on council  
11 activities for next year, and this will be included  
12 in there. We definitely would benefit from  
13 discussion focused on these fishery workshops, and  
14 we need to support those.

15 And then just as a follow-up, certainly,  
16 it's really important that we do involve the  
17 current pop dy folks in some fashion because that's  
18 really one of the hurdles that we're having a  
19 problem with is that we got in this mode of doing  
20 things, and we're starting to gradually feed in  
21 modeling in fleets and predator fleets and so  
22 forth. But we really need to work with the current  
23 system to get it to transform and transition into  
24 something that gives us assessment products that

1 we can use to address the ecosystem concerns. So  
2 we really need to work with the current players,  
3 and we were hoping that Paul Rago would be one of  
4 those folks.

5 COUNCIL CHAIRMAN RICHARD ROBIN: Bill  
6 Karp.

7 WILLIAM KARP: Well, perhaps another  
8 reason for having this discussion at the NRCC is  
9 that these are goals that are shared with the New  
10 England Council. And so there may be some benefit  
11 to bringing the thinking together on how to proceed  
12 here.

13 COUNCIL CHAIRMAN RICHARD ROBINS:  
14 Bill, I appreciate that. And we can certainly  
15 recommend adding that to the NRCC discussion.  
16 John Boreman.

17 JOHN BOREMAN: Yeah. This is the first  
18 time I've seen this proposal. But these workshops  
19 you probably should put a lot of thought in because  
20 it looks like if you're going to try to bring a  
21 group together and within one or two days take all  
22 information on forage and species interactions and  
23 develop some recommendations to guide fishery  
24 management plans, probably a lot of spade work has

1 to be done ahead of time in terms of assessing the  
2 literature, seeing what's out there, and coming in  
3 to react to something, rather than just go in with  
4 a blank slate and come up with something that may  
5 have already been invented elsewhere.

6 So I think a lot of prep work needs to  
7 be done for each of these workshops to make sure  
8 that the time spent in the workshop is used most  
9 efficiently and have very clear terms of reference  
10 in terms of what's coming out the other end and how  
11 it's going to be used.

12 So I can work with Rich and the sub  
13 committee on this. But I think a lot of planning  
14 ahead of time needs to be done to make sure these  
15 things are going to actually work.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Rich.

18 RICHARD SEAGRAVES: Yeah. I  
19 appreciate that, John. And, again, this is a  
20 draft proposal. It may be way too aggressive.  
21 And to address John's concerns, obviously the  
22 success of each workshop will largely depend on the  
23 amount of planning that goes in and how it's  
24 structured. Again, the terms of reference from my

1 experience has been critical that we have good  
2 terms of reference and they are addressing the  
3 issues that we need so that we get products that  
4 are useful. So don't be surprised if after we get  
5 into this we may need more time. But I chose to  
6 be aggressive rather than not to keep the process  
7 moving.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Frankly, I think whatever you prioritize as the top  
10 priority among the items, we should try to do that  
11 in the first half of the year so that we can put  
12 ourselves in a position to make progress on it.

13 But obviously, there needs to be some  
14 more discussion about what resources would be  
15 needed to make sure that this is planned  
16 successfully.

17 I think it's a great opportunity to  
18 advance the discussion on these issues, but we need  
19 to put a lot of work into it. Other questions for  
20 Rich at this point or comments? Rob.

21 ROBERT O'REILLY: Just for Rich. Just  
22 wondering on the sequence here is that pretty much  
23 the -- was that a consensus item to go that  
24 sequence? In other words, listening to Dr.

1 Boreman, February is right around the Council --  
2 right around the corner I should say. It seems  
3 that first item is a pretty large item as you've  
4 identified. So any of these three workshops is  
5 there any flexibility there where you would see,  
6 based on the timing of what it might take for  
7 background information and getting prepared for  
8 the workshop, which does seem pretty critical,  
9 could there be movement of any of those workshops  
10 or interchange the second and third, anything like  
11 that?

12 RICHARD SEAGRAVES: Yeah. Certainly,  
13 I think a lot of the work -- I mean we've already  
14 done significant analysis and work on the forage  
15 issue.

16 Had Jason working on that and the  
17 ecosystem sub committee and actually developed a  
18 protocol for implementation setting precautionary  
19 ABCs based on if a species is a foraged stock.

20 The problem is we don't have  
21 quantitative framework to put it into because we  
22 don't have assessments that are producing the  
23 information necessary to use this forage protocol  
24 that we've already tentatively adopted.

1                   So part of that one concerns species  
2                   interaction part. It's a big issue. It's a broad  
3                   field topic. So I think most of the challenge  
4                   there. There is some room for -- we could shuffle  
5                   these around if we have some discussions with John  
6                   and staff. It's not set in stone. In fact, we've  
7                   already enlisted Ed Hood to be the special SARC  
8                   chair for the surfclam assessment, and I met with  
9                   Ed to come up with this a week ago, and we committed  
10                  him to be the SARC chair, and he really wants to  
11                  be involved in forage, so he's interested in  
12                  switching around. So there's a potential that we  
13                  could.

14                   COUNCIL CHAIRMAN RICHARD ROBINS: Chris.

15                   CHRISTOPHER MOORE: So one of the  
16                   things to keep in mind is that this is a preliminary  
17                   proposal that Rich has put out on the table based  
18                   on discussions with SSC members and others.

19                   They haven't had a chance to see how this  
20                   fits into the priorities that the Council has for  
21                   2013. If we just did these three workshops,  
22                   that's a lot of work in and of itself.

23                   We committed to a forage fish workshop  
24                   as part of our earlier discussion, so it's

1 scheduled for the February council meeting. And  
2 generally that's a light council meeting, so we  
3 expect that we'd have time and that would be a good  
4 topic for discussion at that particular meeting.  
5 But some of these other workshops might take a lot  
6 of planning, and we need to talk internally about  
7 how to proceed with the EBFM approach that's been  
8 detailed by the SSC committee.

9 And Rick and I have had this discussion  
10 several times. But there continues to be a lack  
11 of clarity as to exactly how the EBFM approach is  
12 going to be integrated into an ABC or OY  
13 consideration.

14 So there's a continued discussion about  
15 we need additional information and we need to reach  
16 out and have workshops, and I agree with that. We  
17 also need to talk about the operational part.

18 And Rich and I have had many discussions  
19 about that: Exactly how is the Council going to  
20 take an EBFM consideration and incorporate that  
21 into an OY consideration? That's really the  
22 question that I need answered before we really move  
23 forward with lots of workshops.

24 So the SSC has identified this with Rich

1 as a good approach, and I agree with it. Again,  
2 the Council really needs to think about it in terms  
3 of its priorities for 2013. So this is  
4 preliminary, and we'll get back to you in December  
5 with some additional information.

6 COUNCIL CHAIRMAN RICHARD ROBINS: John  
7 Bullard.

8 JOHN BULLARD: Chris anticipated my  
9 question. And I'm sure I don't understand this  
10 one-eighth as well as everyone else in the room,  
11 but the way I'm looking at it as still the new kid  
12 on the block is that Rich is describing possibly  
13 a new and probably a better way of managing  
14 resources, ecosystem-based management; but to get  
15 there we're going to have to set up a system.

16 The complexity is daunting, and for a  
17 while we're going to have to run two parallel  
18 systems, and that's going to be incredibly costly.  
19 And when we're sure that we've got the new system  
20 running very well, then we're going to be able to  
21 get rid of the old system.

22 And so how we fund two systems at the  
23 same time for a while is going to be a funding  
24 challenge because we can't run the one system right



1 now. So how we fund the ramp-up of  
2 ecosystem-based management with declining  
3 revenues that can't support, as Chris said, the OY  
4 system, the funding strategy has to be an integral  
5 part. So I think that the intellectual  
6 development of how we move in the direction of  
7 ecosystem-based management is very important.

8 And as you laid that out, Rich, I think  
9 it's really very good work, but we're talking about  
10 developing two systems that are going to have to  
11 run in parallel until we're absolutely sure that  
12 the first stage rocket can be jettisoned.

13 And so how we fund two stages at the same  
14 time with money that right now that doesn't even  
15 adequately support one stage -- that's a very  
16 practical challenge.

17 It takes as much planning as how we  
18 develop the work that you've laid out. And I think  
19 we're moving in the right direction, but the  
20 resources to do that are -- wow, where are they  
21 going to come from?

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 John, that's a very fair concern. As I've looked  
24 at ecosystems management, I think it's a

1 continuum, and we are certainly not proposing to  
2 go to the far end of that by any means in a short  
3 period of time. We've had these discussions about  
4 area-based management. I think to transition to  
5 that would require really a massive amount of  
6 resources. It would require an overhaul of the  
7 management system as we know it today. It would  
8 be extraordinarily complicated. And that's not  
9 what we're proposing here.

10 What Rich is focused on initially at  
11 least is some of the issues associated with optimum  
12 yield where those are ecological; they're social;  
13 they're economic.

14 And these steps would allow us to more  
15 systematically and hopefully better incorporate  
16 those factors into our decision making in an  
17 incremental way, as opposed to a complete  
18 revamping of the system.

19 But obviously, we can't take on more  
20 than we can support in terms of resources, so we're  
21 not looking at a radical departure from our current  
22 way of doing business, but rather try to lay out  
23 a more incremental strategy for making progress on  
24 these issues.

1                   But it's a point well made and well  
2 taken. Other comments or questions for Rich on  
3 this issue? As Chris points out, we will need to  
4 discuss it in context of priorities, but I think  
5 this is a good starting point that the committee  
6 and Rich have brought to us, so we'll have that  
7 discussion again in December. With that I'll go  
8 to George Darcy for the report from the regional  
9 office.

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11  
12                   NMFS REGIONAL ADMINISTRATOR REPORT

13                   GEORGE DARCY: Thank you, Mr.  
14 Chairman. I have a number of things. I'll try to  
15 be brief, though. On August 27th we published a  
16 final rule implementing the Council's Framework  
17 Adjustment 6 to squid, mackerel, butterfish.

18                   That was the framework that modified  
19 your risk policy regarding stocks without an  
20 overfishing limit. And on the same date and as a  
21 result of the approval of Framework 6, we also  
22 published the final 2012 butterfish  
23 specifications and management measures that  
24 increase the butterfish ABC and the other -- the

1           butterfish cap and other specs that fall out of  
2           that consistent with the SSC's original  
3           recommendation and as allowed by the new risk  
4           policy.

5                       The Council also has asked us based on  
6           recent advice from the SSC that the 2012 butterfish  
7           specifications can be increased further.

8                       We're working on an interim final rule  
9           that is under final review hoped to be published  
10          soon that would then make that increase for the  
11          remainder of this fishing year to help ensure the  
12          loligo or the longfin squid fishery isn't  
13          constrained by hitting the butterfish cap  
14          unnecessarily. We have received your  
15          specifications for mackerel, squid, butterfish,  
16          2013 specifications and are preparing final rule  
17          for those. Should be published soon.

18                      We also have published a proposed rule  
19          for your Framework Adjustment 5 to the mackerel,  
20          squid, butterfish FMP. Published that on  
21          September 21st. The comment period closes  
22          October 22nd.

23                      And this is the framework that proposes  
24          to broaden the scope of entities that can provide

1 hold certifications as required by Amendment 11.

2 I can point out that based on general  
3 counsel advice what is in the proposal is more  
4 restrictive than what I think the Council had  
5 originally intended; however, it's less  
6 restrictive than what is currently on the books.

7 For tilefish we published a notice in  
8 the Federal Register on October 15th announcing  
9 that the overall annual tilefish quota for the 2013  
10 fishing year will remain the same as it was in  
11 Fishing Year 2012. Regarding surfclam and ocean  
12 quahog re-opening on George's Bank for the PSP  
13 closed area, on August 31st, we published the  
14 proposed rule to re-open a portion of the George's  
15 Bank PSP closure area to surfclam and ocean quahog  
16 vessels.

17 Now that we have the PSP testing  
18 protocol in place, comment period on that ended  
19 October 1. We did get comment from the New England  
20 Council asking that we keep that comment period  
21 open an additional 60 days because they have some  
22 concerns that a potential impacts of that large  
23 re-opening area that was proposed to impact some  
24 of the potential habitat closures that are under

1 consideration in their omnibus amendment.

2 Rather than delaying this rule, we have  
3 decided to go forward with an interim final rule  
4 so we can get additional comments from the New  
5 England Council and others, but it would implement  
6 at least the majority of the area hopefully in time  
7 for again 1/1 opening of the majority of the area  
8 the industry is interested in pursuing, and then  
9 we will see how the omnibus amendment develops and  
10 what other areas could be re-opened as a result.

11 One thing, just, you know, because  
12 we do manage spiny dogfish, we had a request for  
13 a spiny dogfish exempted fishery in the Gulf of  
14 Maine around Cape Cod. This would allow primarily  
15 groundfish vessels are affected to not use a day  
16 at sea and to be able to fish using gear at certain  
17 times in areas where groundfish are unlikely to be  
18 caught.

19 We will be publishing a proposed rule  
20 that would establish that exempted fishery  
21 tomorrow, October 19th. So you might want to look  
22 for that.

23 It doesn't increase the quotas or  
24 anything for spiny dogfish, but it would allow more

1 targeting of them at certain times in areas.

2 And multi-species the 2013 sector rule  
3 we have a total of 18 sectors who have submitted  
4 operations plans and contracts for 2013 and sector  
5 rosters are due to us by December 3rd, 2012.

6 One final thing, we have published an  
7 emergency proposed rule that would partially  
8 exempt the scallop fishery from fishing in 2012  
9 George's Bank yellowtail flounder accountability  
10 measures. Published that on October 1st, 2012.  
11 Comment period closed October 31st. This is as a  
12 result of the very low George's Bank yellowtail  
13 flounder quota that we have this year and trying  
14 to optimize how both the scallop fishery and the  
15 groundfish fishery can use that quota to pursue  
16 their interests as long and as clearly possible.  
17 So that concludes my report. John may have things  
18 to add.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Thank  
20 you, George. John, would you like to add anything  
21 at this point? Are there questions for George?  
22 George, can we talk about the black sea bass  
23 situation at this point?

24 GEORGE DARCY: I want to leave the room.

1 I think it's probably no surprise to most people  
2 in the room now because it's been talked about for  
3 several days that we just got the Wave 4 MRIP and  
4 MRFS data for the recreational black sea bass  
5 fishery, and it's very high.

6 As a result, we are compelled under the  
7 regulations to pursue a closure in the EEZ of the  
8 recreational black sea bass fishery for the  
9 remainder of this calendar year, and the numbers  
10 are so high.

11 People are still looking at them and  
12 looking at I'm not sure whether the discards are  
13 in there or out there. There are certain aspects  
14 of the data that still need to be looked at. We  
15 were talking to Toni Kerns about this yesterday,  
16 and my staff they're all working on it. But there  
17 is the potential for a considerable impact on next  
18 year's fishery, too, as a result of if we go over  
19 the ACL, which is looks likely if we haven't  
20 already we will. So that will have impact on next  
21 year's fishery that we're going to have to look at  
22 carefully.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 George, in response to this, I think we very



1 clearly need an appropriately scaled solution.  
2 The management of this species has been confounded  
3 by the availability and quality of data.

4 If you reflect on really the recent  
5 series of decision making over the last few years  
6 as it's gone through SSC review, and we've been  
7 through assessment updates. We've been through a  
8 benchmark assessment.

9 We had hoped to resolve some of the key  
10 questions that were outstanding that were  
11 essentially penalizing the quota setting process  
12 as went through the last benchmark assessment, but  
13 some of those questions were left essentially  
14 unresolved.

15 Some of them are just inherent to the  
16 biology of the species, the fact that it's a  
17 protogynous species. And there are also  
18 complexities regarding this potential for spacial  
19 structure within the stock that contribute to the  
20 uncertainty. So, on the one hand, there's a gap  
21 between the OFL and the current quota that reflects  
22 some of that uncertainty.

23 That's an issue that I've had some  
24 heartburn over and that we've all wrestled with,

1 I think, but the problem is bigger than that. And  
2 I think we need a very strong review of the  
3 scientific aspects of this stock, and I think to  
4 do that we're going to have to work between the  
5 Council and the Science Center and the SSC, the  
6 regional office to come up with a hard look at this  
7 question because potential implications of this  
8 overage are extreme.

9 And under the new accountability  
10 requirements, when we considered accountability,  
11 we had built-in, multi-year averaging to try to  
12 smooth the effects of that; but if you have an  
13 overage in either one, then you're not really able  
14 to benefit from that.

15 So the potential consequences of this  
16 are quite extreme, and I think we're going to have  
17 to work with the Science Center and all put our  
18 heads together to figure out how to make progress  
19 on this. We recently had a workshop on  
20 protogynous species that we sponsored as a  
21 council. There were a lot of great expertise  
22 assembled for that. But there aren't any silver  
23 bullets to addressing that biological question.

24 So I think we're going to have to step

1 back and reflect on where we are with this  
2 assessment and the decision making process. But  
3 obviously, it's not something we can do overnight,  
4 but we're going to have to come up with something  
5 on this because the consequences of it are so great  
6 for the region. Tony.

7 ANTHONY DILERNIA: Thank you,  
8 Mr. Chairman. George, do we know when the closure is  
9 going to take effect? And I have a follow-up to  
10 that.

11 GEORGE DARCY: Well, the EEZ is due to  
12 re-open November 1st for the remainder of the year,  
13 so we're pursuing it as soon as possible. That's  
14 what the regulations require.

15 It won't be within the next few days, but  
16 it wouldn't have an effect in the EEZ until  
17 November 1st anyway. It will probably be prior to  
18 then.

19 ANTHONY DILERNIA: Okay. This problem  
20 comes as no surprise. The reason this is  
21 occurring is because there's black sea bass all  
22 over the place. Our science -- and I'm been  
23 trained as a biologist. I mean I have just utmost  
24 respect for our scientists. Our science is

1 probably two to three years behind what's actually  
2 occurring. We don't see what's occurring in our  
3 scientific reports until two to three years later.

4 I'm catching sea bass in the middle of  
5 the East River. I've been fishing there since  
6 1968. I've never seen black sea bass there.  
7 They're just all over the place, and so that's why  
8 we've exceeded this quota.

9 It's going to be very interesting.  
10 Someone earlier today in a sidebar conversation  
11 mentioned to me and I think it's interesting to put  
12 it on the record what we'll be saying to the public  
13 if we have a closure next year is there are so many  
14 black sea bass we have to close the fishery for the  
15 year. That's going to be interesting. Thank  
16 you.

17 GEORGE DARCY: Like I said, we need a  
18 solution.

19 COUNCIL CHAIRMAN RICHARD ROBINS: All  
20 right. Peter.

21 PETER HIMCHAK: Yes. A question for  
22 George. The suspension of the 2012 recreational  
23 measures does that not in effect close the  
24 January-February 2013 EEZ season?

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 George.

3 GEORGE DARCY: Well, that's a different  
4 fishing year, but we're looking at that. I don't  
5 know exactly how it will impact that, but the  
6 overages or at least what we see now -- and we  
7 haven't got -- this is only through Wave 4.

8 There's at least another six weeks of  
9 EEZ fishing that we haven't accounted for and the  
10 state waters fishing that is continuing. So I'm  
11 not sure how we're going to handle that, but we're  
12 looking at it.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Peter.

15 PETER HIMCHAK: This is a difficult  
16 situation to explain, and the way I understand it  
17 is that we passed 2012 recreational black sea bass  
18 management measures that included a  
19 January-February season. The implementation of  
20 the measures occurred in May.

21 So I was often asked, well, what happens  
22 then January/February? I says, well, the  
23 regulations would remain in effect until the 2012  
24 measures were changed, which we would do at the

1 December meeting. Now I don't think we can wait  
2 until the December meeting to decide what to do on  
3 January or February of 2013. So it's my  
4 understanding that if 2012 recreational measures  
5 are suspended, then it continues in that mode until  
6 we develop 2013 measures.

7 This is a hard one to explain -- you  
8 know. The way it's described in the Federal  
9 Register and in all the announcements, this is the  
10 way I understand it. We're going to want to know  
11 about January and February like real soon.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 George.

14 GEORGE DARCY: I know. And we talked  
15 to Toni Kerns about this yesterday. These data  
16 just basically came out yesterday or the night  
17 before, and we're all I think taken by surprise by  
18 how large they are.

19 I don't think we're surprised that  
20 they're large, but I don't think we expected them  
21 to be this big. So we're looking at what this  
22 means. And I don't have an answer for you right  
23 now. I hope by next week at the ASMFC meeting we  
24 will.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 George, is it necessary to consider an emergency  
3 action regarding January and February?

4 GEORGE DARCY: I wouldn't address that  
5 right now. I don't know. Until we know what  
6 existing regs actually make happen or don't make  
7 happen and what we're going to have to do under  
8 existing regulations, I don't want to go there.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you. Other comments or questions? Bill  
11 Karp.

12 WILLIAM KARP: Thank you,  
13 Mr. Chairman. Obviously, there are some outstanding  
14 questions about the science here which we need to  
15 deliberate over, so to speak.

16 Regardless of the crisis which is  
17 certainly here, I don't think that there's  
18 anything that we can do in the short term relative  
19 to relieving the management problem, but we  
20 certainly need to get our heads together to think  
21 about how to address the assessment problem and the  
22 gaps in our understanding of the science which have  
23 helped to get us to this point.

24 It's my understanding that the last time

1           there was a benchmark assessment that that  
2           assessment was rejected because this considerable  
3           again gaps of knowledge and limits to our  
4           understanding of the biology of the species and the  
5           feedback that we got from the review was a  
6           considerable amount of work needed to be done  
7           before we could come back -- we could revisit the  
8           benchmark. So I wanted to sit down with staff and  
9           better understand exactly what did happen, what  
10          kind of progress we've made, and what the next  
11          steps might be for us; and we will certainly do that  
12          in the (inaudible).

13                           COUNCIL CHAIRMAN RICHARD ROBINS:

14          Thank you, Dr. Karp. And I would suggest that we  
15          put this on the NRCC agenda for further discussion.  
16          Regrettably, I'll be overseas that week. I cannot  
17          attend an NRCC, but obviously Chris Moore will be  
18          there, and Lee Anderson will be there.

19                           So I would suggest that we put that on  
20          the NRCC agenda. And I appreciate your comments  
21          about the status of the benchmark and why it was  
22          rejected.

23                           I will point out that in the past even  
24          in the midst of some significant data poor



1 situations we have been able to work with the  
2 Science Center, and the Science Center has done  
3 some excellent work to try to resolve some of the  
4 uncertainties associated with assessments.

5 So, just for example, in the last year,  
6 some of the work that Paul Rago and Tim Miller did  
7 to address the issues surrounding the butterfish  
8 assessment put us in a much better position at the  
9 SSC level and at the council level to understand  
10 the dynamics and really the uncertainties in the  
11 management of that stock.

12 So, short of a full benchmark, we still  
13 may be able to address some things in the interim  
14 to try to improve our understanding of what's going  
15 on with the stock. And as Tony points out, the  
16 performance of the fishery fortunately is very  
17 good.

18 And -- you know, I think it points to the  
19 fact that the stock is in good condition, but we  
20 have to resolve some of these uncertainties before  
21 we can take action from a management perspective.  
22 Other comments? Jim Weinberg.

23 JAMES WEINBERG: Yeah. I would just  
24 add that this is one where like some of the stocks

1 haven't been assessed for some time, but black sea  
2 bass is actually one that is looked at annually.

3 And Gary Shepard just delivered an  
4 assessment update that included estimates of  
5 fishing mortality and so forth through 2011. And  
6 the assessment also is consistent with what you're  
7 saying, that the stock is currently near its  
8 biomass target. So we're doing an update  
9 annually. That's about as current as we can do.  
10 And, I mean, we agree that the stock is at a high  
11 level. So the problem seems to be not knowing if  
12 the stock made a big change in the last year, which  
13 wouldn't have been incorporated into that update  
14 and the projection that was made to estimate the  
15 total allowable catch. So I think it's the  
16 uncertainty in projections -- you know, that these  
17 --

18 COUNCIL CHAIRMAN RICHARD ROBINS: Fair  
19 enough. It's not simply a question of stale  
20 information. It's bigger than that. Right.  
21 These are the things that need to be addressed.  
22 Other comments on this?

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you. We'll look forward to following up on  
2 this at and beyond the NRCC. Other items under new  
3 business for the Council's consideration? John.

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4  
5 NEW BUSINESS

6 JOHN MCMURRAY: Thank you, Mr.  
7 Chairman. We're under new business right now.  
8 Correct?

9 COUNCIL CHAIRMAN RICHARD ROBINS: Yes,  
10 sir.

11 JOHN MCMURRAY: As I'm sure you recall,  
12 we received a presentation from Clean Ocean Action  
13 on the Clean Action Zone on Tuesday night during  
14 the listening session, and they've asked for our  
15 support under that plan, and I'm hoping that we can  
16 offer our support and have a motion to that effect.  
17 Jan, if you would put it up, please.

18 I'll go ahead and read it into the  
19 record: Move that the Council support the New  
20 York-New Jersey Clean Ocean Zone as presented by  
21 Clean Ocean Action. Clean Ocean Zone is defined  
22 as that area from Cape May, New Jersey to Montauk,  
23 New York, out to one thousand fathoms.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you, John. Is there a second to that motion?  
2 Second by Laurie Nolan. Discussion on the motion?  
3 Peter.

4 PETER HIMCHAK: Yes. Thank you, Mr.  
5 Chairman. Recognizing that one must realize what  
6 their status is in life and your limitations, I  
7 cannot give you the official position of the State  
8 of New Jersey on the motion. Okay.

9 So I'm here as a proxy to the director,  
10 and not having had the discussion with the  
11 director, the commissioner and the governor, I  
12 will have to abstain on the motion.

13 COUNCIL CHAIRMAN RICHARD ROBINS: So  
14 noted, Peter. Thank you. Steve.

15 STEVEN HEINS: I'm tempted to just say  
16 ditto. But I'm in exactly the same position that  
17 Peter's in. The scope of the bill is well beyond  
18 my agency, and I just can't take a position on this.  
19 So I'll have to abstain.

20 COUNCIL CHAIRMAN RICHARD ROBINS:  
21 Understand. There's sensitivities entirely.  
22 Other comments on the motion? Jeff Deem.

23 JEFFREY DEEM: It's my understanding  
24 that this Clean Ocean Zone excludes all types of

1 drilling for fossil  
2 fuels. Is that correct? Prohibits it actually.

3 JOHN MCMURRAY: That's my  
4 understanding also. Cindy is actually in the  
5 audience, if she'd like to clarify, Mr. Chairman.

6 JEFFREY DEEM: I think she's cleared.  
7 As long as I know I'm correct. With the state of  
8 the economy in America right now and potential for  
9 jobs, reducing our money that's going overseas or  
10 even going to Canada with the new pipeline and  
11 keeping in mind that there have been some  
12 improvements made in offshore rig safety and  
13 cleanliness and that kind of thing and that there  
14 may be even greater improvements in the future, I'm  
15 afraid I can't support anything that just flatly  
16 prohibits that kind of activity.

17 COUNCIL CHAIRMAN RICHARD ROBINS: So  
18 noted. Other comments on the motion? Tony.

19 ANTHONY DILERNIA: Mr. Chairman, I'd  
20 like to explain my abstention. I was not here for  
21 Tuesday evening's presentation, so I would not  
22 feel qualified to vote on it, and I will be  
23 abstaining. Thank you.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Thank

1           you, Tony. John Bullard.

2                   JOHN BULLARD: I would very much like to  
3           support Clean Oceans because it seems like the  
4           alternative is supporting dirty oceans, but  
5           because the bill is a big part of this, I think  
6           we're not allowed to support federal legislation,  
7           so we're going to abstain.

8                   COUNCIL CHAIRMAN RICHARD ROBINS: Fair  
9           enough. And, John, as I understand the motion,  
10          it's not specific to the legislation, or it doesn't  
11          support the bill specifically, but supports the  
12          establishment of a clean ocean zone. Is that a  
13          fair distinction?

14                   JOHN MCMURRAY: That's correct.

15                   COUNCIL CHAIRMAN RICHARD ROBINS:  
16          Thank you. Jeff.

17                   JEFFREY DEEM: I would like to add that  
18          I truly appreciate the work that this group has  
19          done. I had the opportunity in the late '60s to  
20          fish in what they called the Acid Zone off New  
21          Jersey's coast, which these people have been  
22          instrumental in cleaning up.

23                   And I can't go into how disgusted I was  
24          at what I saw when I was out there even at that age.

1 So I don't mean to diminish what they're doing. I  
2 just don't think it's the right step for America  
3 at the moment.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Other discussion on the motion? Mike.

6 MICHAEL LUISI: Similarly to the other  
7 state directors around the table and given the  
8 scope of this, I just would like to extend that's  
9 going to be my reason for abstaining from the vote  
10 as well.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Thank you. John, any further comment?

13 (No response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
15 the Council ready for the question?

16 (Motion as voted.)

17 {Move that the Council support the NY/NJ Clean  
18 Ocean Zone as presented by Clean Ocean Action. Clean  
19 Ocean Zone is defined as that area from Cape  
20 May, NJ to Montauk, NY out to 1,000  
21 fathoms.}

22 COUNCIL CHAIR RICK ROBINS:

23 COUNCIL CHAIRMAN RICHARD ROBINS: All  
24 those in favor please raise your hands.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Four. Opposed like sign.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: One.

6 Abstentions like sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Eleven. The motion carries. Thank you. Is  
10 there any other business to come before us under  
11 new business?

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: And

14 before we move on, I do want to thank Cindy before  
15 she goes for her presentation to the Council this  
16 week. Cindy, would you like to address the  
17 Council? Go ahead.

18 CYNTHIA ZIPF: Mr. Chairman, thank you  
19 very much for the opportunity to present it to the  
20 Committee. And, John, thank you for making the  
21 motion.

22 We are very appreciative of the support  
23 of the Council for this initiative. It's  
24 something that we've been working on for a long



1 time.

2 And the voice of this council expressing  
3 that -- you know, we want to move forward with a  
4 clean ocean economy and support all those  
5 industries that benefit from a clean ocean economy  
6 is very gratefully appreciated.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you, Cindy. And I'm sure you can appreciate  
9 the position individual members may be in with  
10 respect to needing to recuse themselves.

11 Obviously, the Council is, and I think  
12 we're all very concerned about water quality and  
13 applaud your efforts to improve that in the region.  
14 So thank you.

15 CYNTHIA ZIPF: Thank you. In  
16 listening to the discussion about  
17 ecosystem-based management, all the habitat issues that  
18 you need to deal with, I mean absolutely.

19 So we will look forward to working with  
20 all of the individual states to get them from the  
21 abstention to the supporting the clean ocean zone.  
22 We have some work to do. Thank you.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thanks again, Cindy. Dewey Hemilright.

1 DEWEY HEMILRIGHT: I would like the  
2 Council to consider a motion -- I haven't crafted  
3 it yet -- but in support of Atlantic States Marine  
4 Fishery Commission in their endeavor to have the  
5 sturgeon delisted or down graded. It would be  
6 more of just a motion for support in what their  
7 endeavor is to delist the sturgeon or down grade  
8 the status from endangered species.

9 It does have a great effect on fishers  
10 up and down the coast in some species that are  
11 managed by this council. So I would just like to  
12 ask the chairman on what way to proceed with this  
13 and the thoughts on the language that we could give  
14 that would support the Atlantic States Marine  
15 Fisheries Commission on that.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Dewey, I appreciate that. And I think before we  
18 make a motion, it would be helpful to have at least  
19 a brief update essentially on the status of the  
20 scientific work regarding the listing.

21 The Agency went through a listing  
22 process, but I'd like to know as well what the  
23 status of that is and if a delisting were to occur  
24 exactly what would have to be available to the

1 Agency in order for that to happen because there's  
2 certain sequence I think to some of these things  
3 that would have to play out.

4 But I'd just like to see if we can get  
5 an update on that and then consider what motion  
6 might be most appropriate. And to that point,  
7 George can you give us an update on where the Agency  
8 is and what work would need to be done? Because  
9 as I've understood it, the Agency would have to  
10 have some analysis or assessment in order to take  
11 action on delisting. But I just want to make sure  
12 we all understand what would have to happen.

13 GEORGE DARCY: Okay. This isn't my  
14 area of expertise, but I'll tell you what I know.  
15 The Science Center is working on a population  
16 estimate, and that's something that our Protected  
17 Resources Division needs in order to go forward  
18 with the biological opinions that they're working  
19 on for all the fisheries for both of our councils  
20 that would be potentially impacted by this  
21 listing.

22 That's still internal is my  
23 understanding. And if I'm wrong, Bill, you can  
24 correct me. But I think the Center's still

1 working on an internal review of those numbers.

2 Following that internal review and when  
3 they're satisfied with that analysis, I believe  
4 there's an external review process that's going to  
5 occur, and I don't know the details of that. Once  
6 we have that, then we will have a much better idea  
7 of what the potential impacts of the fishery might  
8 or might not be and whether there would be jeopardy  
9 or non jeopardy based on the listing. The listing  
10 is in place, so it's there until something else is  
11 done to remove it.

12 So I think Rick is right. We need to  
13 wait until we get that final scientific advice.  
14 At that point, if it looks like there is reason to  
15 revisit the listing either to delist or to down  
16 list, in other words, going from endangered to  
17 threatened, either through a petition from an  
18 outside source like ASMFC or just on the Agency's  
19 own initiation, there would be a re-analysis of  
20 whether or not the listings are still appropriate.

21 And pending the determination that  
22 would come out of that, there would be action taken  
23 or not. Denise, did I mess up anything there?

24 DENISE DESAUTELES: You did a nice job.

1 GEORGE DARCY: Okay.

2 COUNCIL CHAIRMAN RICHARD ROBINS: So,  
3 George, just considering Dewey's request, if we  
4 were to reshape that request perhaps relative to  
5 the process that laid out, it would be to consider  
6 or review the listing determination based on the  
7 updated population estimate as soon as that's  
8 available. Bill Karp.

9 WILLIAM KARP: Thank you,  
10 Mr. Chairman. As George mentioned, we are in the final  
11 stages of completing a population estimate, and we  
12 are looking at the best way to expedite the review  
13 process, and there are still some details to  
14 resolve. But that is in process right now and  
15 hopefully will not be delayed very much.

16 I think the point obviously initially is  
17 to be able to provide this information to support  
18 the biological opinion because it's the outcome  
19 from that that's going to have a direct consequence  
20 on the fishery. And then the next stage, of  
21 course, would be to consider in some way, shape,  
22 or form how to proceed with addressing the listing  
23 status relative to ESA.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Bill, I'm not going to hold you to a specific date,  
2 but would the review do you think be done within  
3 the first quarter of next year?

4 WILLIAM KARP: Well, certainly, yes.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you. Dewey.

7 DEWEY HEMILRIGHT: Ask one question on  
8 this. It's kind of puzzling. If you're in the  
9 middle right now of the final stages if something's  
10 coming out the first quarter, what was that you're  
11 in the final stages of doing?

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Bill.

14 WILLIAM KARP: Excuse me, Mr. Chairman.  
15 We've completed the analysis internally, but data  
16 quality requirements and just normal scientific  
17 practice require that we have a complete review of  
18 the work that's been done.

19 So we're sending it out. And we've  
20 actually made a determination at this point that  
21 that review will be carried out internally. It's  
22 not going to be carried out by scientists within  
23 the Northeast Science Center but by other  
24 scientists within the Agency.

1                   And once that review has been completed,  
2                   provided that they support our findings, which my  
3                   expectation is that they will, but there's some  
4                   possibility that they won't; but provided that  
5                   they do support our findings, then that  
6                   information will be made available to the ESA  
7                   process.

8                   COUNCIL CHAIRMAN RICHARD ROBINS: Rob  
9                   O'Reilly.

10                  ROBERT O'REILLY: Well, I fully support  
11                  the intent of what Dewey wants to make as a motion,  
12                  and I'm not sure that the timing is necessarily  
13                  right now that that's critical, but I would hope  
14                  that by the December meeting everyone can hear the  
15                  ASMFC position.

16                  And I wouldn't want to -- and Peter may  
17                  have information as well anyone else who was at the  
18                  ASMFC meeting -- so I wouldn't want to try and talk  
19                  about that exactly, but I do know that there were  
20                  two components, and one was the delisting or down  
21                  listing.

22                  There has been a technical committee  
23                  meeting of the Sturgeon Technical Committee at the  
24                  ASMFC since a few months ago, and there's sort of

1 a parallel track where there's going to be not only  
2 a review of -- what's not what's felt that is not  
3 part of the data set that was reviewed and looked  
4 at and the endangered listing was based on, but  
5 there also will be additional sort of tandem work  
6 being done to have a better basis for the ASMFC for  
7 the down listing or delisting.

8 And regardless of that, I think it's a  
9 situation where even with a delisting or a down  
10 listing -- I hope I have this right -- that there's  
11 about a six-month process where that -- or 90-day  
12 process -- pardon me -- a

13 90-day process where that would be under consideration.

14 So it would seem important to support  
15 the ASMFC from my point of view as well, but it may  
16 be that we can have more information from the ASMFC  
17 for the December meeting.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 George.

20 GEORGE DARCY: I just want everybody to  
21 understand we're very well aware of the concerns  
22 not only of this council but of the ASMFC and the  
23 New England Council and states that this is a big  
24 deal.



1                   And we are doing everything we can to  
2                   make sure that the numbers are right and they  
3                   incorporate all the best available information and  
4                   that we'll consider that and then do what we think  
5                   is right. But it's not lost on us that this is an  
6                   important thing to a lot of people.

7                   COUNCIL CHAIRMAN RICHARD ROBINS:  
8                   Further discussion on this? John.

9                   JOHN BULLARD: Let me also add that  
10                  you're aware of legal vulnerabilities on  
11                  incidental take, and many states are working with  
12                  us on Section 10 permits. And that's another  
13                  aspect of this, and we're working hard, as you  
14                  know, with states on that and with other federal  
15                  agencies on Section 7. So that aspect is underway  
16                  as well.

17                  COUNCIL CHAIRMAN RICHARD ROBINS:  
18                  Thank you. Further discussion?

19                  (No response.)

20                  COUNCIL CHAIRMAN RICHARD ROBINS: I  
21                  guess I would suggest that we try to have an update  
22                  on this on the December agenda so that we can have  
23                  further discussion about it and understand what  
24                  the status of the work that's being done by the

1 Science Center in that review process is.

2 Also have perhaps in the briefing book  
3 some description of the work product or output from  
4 the ASMFC Technical Committee process. Peter.

5 PETER HIMCHAK: Yes. I'd just like to  
6 comment that it would behoove each state to work  
7 with NMFS very closely on these Section 10 permits  
8 and make some serious in-roads in developing the  
9 documents.

10 They've been very helpful to New Jersey  
11 in getting -- you know this is a massive  
12 undertaking, and you're not going to get it right  
13 the first time. So you'll go through several  
14 iterations and improvements of your Section 10  
15 permit application. We did get a Section 6 permit  
16 in a very timely manner to continue our field  
17 projects. So, I mean, work with NMFS and keep  
18 developing the permit application.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Thank you. Is there anything else to come before  
21 us under new business?

22 (No response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: Seeing  
24 none, thank you all very much. We're adjourned.

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We'll see you in December in Baltimore.

WHEREUPON:

THE MEETING WAS CONCLUDE AT 12:40 P.M.

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

I, PAUL T. WALLACE, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of the audiographic tape taken in the

above entitled matter to the best of my knowledge, skill and ability.

In witness whereof, I have set my hand and Notary Seal this 30th, day of December, 2012.

\_\_\_\_\_  
PAUL T. WALLACE. Notary Public  
My Commission Expires

October 8, 2015

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