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MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
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COUNCIL MEETING

17-19 AUGUST 2010

at

Holiday Inn, Historic District
400 Arch Street
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1 (8:07 a.m.)

2
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS: Good
5 morning and welcome to the August meeting of the
6 Mid-Atlantic Fishery Management Council. Today's main
7 order of business is going to be final action on the
8 Omnibus Amendment that we've been working on now for
9 a couple of years.

10 And before we get into that though, I
11 do have a number of introductions and announcements.

12 First, I'd like to congratulate Erling Berg and Dr.
13 Lee Anderson on their reappointment to the Council.

14 I'd also like to welcome and
15 congratulate Stephen Lindhard, our newest appointee.

16 Stephen serves as the Treasurer of Maryland's
17 Legislative Sportsmen's Foundation, has been highly
18 active in fisheries issues in the State of Maryland.
19 And we're pleased to welcome Stephen onboard the Council
20 today.

21 Additionally, for those of you who
22 weren't at the June meeting of the Council, Mike Luisi
23 has succeeded Harley Spear on behalf of Maryland DNR
24 and we're pleased to welcome Mike as well. Many of you

1 have worked with him at the ASMFC level as well, so I
2 know you're familiar with him already. But we're
3 pleased to have him.

4 And we have Kevin Saunders representing
5 the U.S. Coast Guard now having succeeded Tim Brown.

6 And I'm also pleased to welcome in his
7 new capacity as the Council's Executive Director, Dr.
8 Chris Moore. Dr. Chris Moore formerly served as the
9 Deputy Executive Director of the Council. He served
10 on the Council staff from 1988 to 2006. He was formerly
11 Chief of the Communications and Partnerships Division
12 at NOAA Fisheries. He has also served on our Monitoring
13 Committee at SSC. And he is no stranger to the region's
14 fishery management community, but we are very please
15 Dr. Chris Moore onboard as our new Executive Director.
16 Chris.

17 CHRIS MOORE: Thank you.

18 COUNCIL CHAIRMAN RICHARD ROBINS: I'd
19 also like to take this opportunity to thank Rich
20 Seagraves for his service as the Acting Executive
21 Director. He handled some very significant challenges
22 very admirably and I've grateful for his leadership that
23 he provided to staff during the transitional period.

24 So, Rich, thank you very much.

1 Now that you've been introduced as new
2 council members and reappointed members, Pat Kurkul
3 would like to swear you in.

4
5 SWEARING IN OF NEW/REAPPOINTED COUNCIL MEMBERS

6 PATRICIA KURKUL: Thank you, Mr. Chair.
7 Excuse me. Can I ask all the reappointed members and
8 our new Council member to stand please and raise your
9 right hand. I've given each of you a copy of the oath.
10 What I'm going to do is read it slowly for Lee's benefit.
11 Just a little bit at a time. And then ask you please
12 to repeat after me.

13 So, I -- as a duly appointed member of
14 a Regional Fishery Management Council established under
15 the Magnuson-Stevens Fishery Conservation and
16 Management Act, hereby promise to conserve and manage
17 the living marine resources of the United States of
18 America by carrying out the business of the Council for
19 the greatest overall benefit of the Nation. I recognize
20 my responsibility to serve as a knowledgeable and
21 experienced trustee of the Nation's marine fisheries
22 resources, being careful to balance competing private
23 or regional interests, and always aware and protective
24 of the public interest in those resources. I commit

1 myself to uphold the provisions, standards, and
2 requirements of the Magnuson-Stevens Fishery
3 Conservation and Management Act and other applicable
4 law, and shall conduct myself at all times according
5 to the rules of conduct prescribed by the Secretary of
6 Commerce. This oath is freely given and without mental
7 reservation or purpose of evasion.

8 Congratulations, gentlemen. Thank
9 you.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
11 you, Pat. And with that, I'll turn to Jessica. And
12 as we get ready to go into the Omnibus, I've reviewed
13 this with staff over the last couple of weeks, and by
14 my calc, there are about 39 action items that we have
15 to act on today. And that means approximately that many
16 motions. So, I've asked staff if they would draft
17 boilerplate motions for each potential action item.

18 So, by doing that, the idea is to simply
19 make the process more efficient and allow us to get
20 through that many motions in a single day. it will not
21 at all preclude you from offering different motions or
22 substitute motions or amending the motions as you choose
23 to do so.

24 But before we do that, we do have the

1 matter of elections. And so, I'll turn to Joel
2 MacDonald.

3
4 ELECTIONS

5 JOEL MACDONALD: Thank you, Mr.
6 Chairman. First off, I'll ask Rick Cole, who is
7 responsible for soliciting nominations for positions
8 of Chairman and Vice-Chairman for the nominations for
9 both of those positions. Rick.

10 RICK COLE: We have one candidate for
11 Chair and that's Mr. Robins. And we have one candidate
12 for Vice-Chair and that's Mr. Anderson.

13 JOEL MACDONALD: Thanks, Rick. At this
14 point, I will call for additional nominations from the
15 floor. Are there any additional nominations for the
16 position of Chairman?

17 (No response.)

18 JOEL MACDONALD: Are there any other
19 nominations for the position of Chairman?

20 (No response.)

21 JOEL MACDONALD: Seeing none, I declare
22 the nominations for the position of Chairman closed;
23 and Mr. Robins is elected by acclaim. Congratulations.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Thank

1 copy of the Omnibus document and hopefully gotten
2 through all 2080-some-odd pages of that. There's also
3 several supplementary examples behind Tab 5 in the
4 briefing book and hopefully you've all found that as
5 well. Those examples wouldn't be submitted as a part
6 of the Omnibus document submission. They're just meant
7 to provide a little bit more information.

8 So, I'm going to start out on time line.

9 Today, the Council may consider submission of the
10 document. But before you can do that, you'll need to
11 go through and identify the preferred alternatives
12 throughout the document prior to submission. And the
13 bulk of the motions today are going to be to identify
14 preferreds. And at the very end, you'll have the option
15 to vote to submit if you decide to submit that document.

16 Once that happens, there would be
17 revisions to this final document and then staff would
18 hopefully submit that in October of this year.

19 In addition, there's a secondary issue
20 of spiny dogfish. The New England Fishery Management
21 Council would need to look at the alternatives in the
22 document, the preferred alternatives the Council has
23 identified, and could take similar action at their
24 meeting in September. So, they've got it on their

1 September schedule. There will be a block of time for
2 the New England Council to discuss that.

3 After that, the document could go to
4 proposed rule. There will be another opportunity to
5 comment through the service processes. And then a final
6 rule sometime around March 2011. That's not a hard
7 date. It could be a little earlier, could be a little
8 later than that.

9 So, you're all familiar with the new
10 terms and requirements. We've seen these many, many
11 times. The overfishing limit, acceptable biological
12 catch, annual catch limit, and an annual catch target.

13 The general Council approach that's been
14 developed throughout this document was using the
15 overfishing limit, having that offset from ABC based
16 on the amount of scientific uncertainty, setting ACL
17 equal to ABC, and then using an annual catch target to
18 address management uncertainty, and an annual catch
19 target would essentially be a soft target. So, if the
20 ACT is exceeded, many of those accountability measures
21 described in the document wouldn't be triggered unless
22 the ACL was actually exceeded.

23 This system as a whole, which really is
24 going to include a combination of status quo measures

1 that are already contained within the FMP along with
2 these new measures, in conjunction, is really designed
3 to address these requirements. So, it's just not the
4 addition of these new measures alone that addresses it.

5 It's really the whole package to have that catch limit
6 system and that comprehensive system of accountability
7 and that really is the goal of this Omnibus Amendment.

8 In terms of the presentation structure,
9 it's going to mirror the amendment structure in the
10 document. So, I'm going to start out with the sections
11 that deal with specifying acceptable biological catch.

12 The first section will be the ABC control rule methods,
13 then the Council risk policy. Then we'll move through
14 each of the sections that address ACL's and AM's for
15 each of the resources. And then the future review and
16 modification of actions at the end. So, you'll be able
17 to follow along.

18 Section 5, which contains all the
19 alternatives is on Page 40 in the amendment. You'll
20 be able to follow along as I move through the slides,
21 the content in the document as well.

22 We're time limited. So, this is going
23 to focus on the action alternatives. There are detailed
24 descriptions of the status quo, no action alternatives

1 in the document. I'm not going to focus on redescrining
2 those. And as described in Section 5.1 of the document,
3 for this amendment, the status quo and the no action
4 are really one and the same; those are the measures that
5 already exist in the FMP and that would continue
6 unchanged if those options are actually selected as the
7 preferred alternatives.

8 So, for specifying the ABC, that will
9 start on Page 40 of the document. There's two options.

10 ABC-A is the no-action alternative and ABC is the action
11 that's proposed at this point.

12 The SSC took the lead in development for
13 Alternative ABC-B in terms of developing it for the
14 Council. It's a four-level tier-based approach and
15 essentially describes the methods that are going to be
16 used to derive ABC based on four assessment levels.
17 The SSC will determine to which level a stock belongs,
18 depending on the assessment information available, with
19 1 being the highest level, the most ideal information
20 for assessing the stock, and Level 4 being the lowest
21 level, the least amount of information, that would
22 essentially be the data poor stock category.

23 So, for those upper three levels, this
24 approach would utilize a combination of a distribution

1 of the overfishing limit, OFL distribution, and a
2 probability of overfishing that would come from the
3 Council risk policy. So, for specifying ABC, there's
4 really two essential parts to this. The first is that
5 ABC method and then applying the Council risk policy.

6 For OFL on this graph, the red line is
7 the point estimate of the overfishing limit. As you
8 know, there's a distribution about it. There's some
9 level of uncertainty that relates to our estimates of
10 F, our estimates of biomass, and the width of that
11 distribution, the wider that distribution is, the more
12 uncertain we are about that information.

13 So, in this example, a 25 percent
14 probability of overfishing, if that was what was taken
15 from the risk policy, applied to this distribution which
16 has a CV of 35 percent, would result in an ABC of about
17 71 million pounds.

18 In this next example, this is the same
19 point estimate for the overfishing limit. This is also
20 a hundred million pounds. However, there's more
21 certainty around that estimate. It's more precise.
22 The distribution is tighter around that. So, taking
23 that same probability of overfishing that could
24 potentially come from the risk policy of 25 percent,

1 you would have an ABC of 92 million pounds by applying
2 this process. So, the more certain you are about that
3 distribution, the closer you can fish to that
4 overfishing limit of a hundred million pounds. In this
5 case, it was 92. That was an 8 million pound difference.

6 In this case, it was 29 million pound difference between
7 the two because you're less certain. For the upper
8 three levels, this is the general approach that would
9 be applied.

10 For the Level 4 category, there is less
11 information available. There's substantial gaps in
12 information about the stock. So, ad hoc types of
13 approaches would need to be applied. And that would
14 mean looking at what sources of information might be
15 reliable. It may be survey indices that are deemed
16 reliable. It may be -- maybe the survey indices aren't
17 considered reliable but the catch history is considered
18 reliable, so, for those stocks, different types of rules
19 would need to be developed.

20 So, going through the four levels
21 quickly. The upper three all applied probabilistic
22 approaches. But in the Level 1 case, all -- it's the
23 ideal situation -- all sources of uncertainty are fully
24 characterized in the model and that distribution of the

1 OFL, which is an output of the model, could be used
2 exactly as is in conjunction with the Council risk
3 policy.

4 None of our stocks would fall in that
5 category at this point and it would probably take quite
6 some time to get it -- our stocks into that category.

7 A lot of information is needed for that.

8 For both Level 2 and Level 3, the
9 information is still -- we've got a reasonably good
10 analytical assessment. Some of the sources of
11 uncertainty have been characterized, not all. But the
12 working groups are able to adjust the distribution so
13 the overfishing limits the SSC can use those in
14 conjunction with the Council risk policy. So, those
15 would be the Level 2 and the Level 3 categories.

16 In the Level 3 category, in addition in
17 this framework, there is a default in the event that
18 the -- that that method of applying the risk policy in
19 OFL can't be directly applied; that a default of 75
20 percent of FMSY may be used in those cases.

21 And again, the Level 4 is the data poor
22 category.

23 We've gone through the SSC review of
24 several of our stocks right now and many of them are

1 falling out in the Level 3 and Level 4 category at this
2 point. As we move forward and more information, the
3 terms of reference are being modified for the stock
4 assessment process to try to get more information.
5 Something like summer flounder may move up into that
6 category 2. I can't say that definitively. But that's
7 one of our better assessed stocks. But that's where
8 are stocks are falling right now in terms of this
9 framework.

10 To these alternatives, the status quo
11 and the action alternative, there's some language that's
12 been added to enable three-year specification of ABC
13 for bluefish. Under the status quo, it's mentioned that
14 it's annual at this point. And under the action
15 alternative, it would be a three-year ABC setting. We
16 have there-year specifications for all of our resources
17 except for spiny dogfish which has five-year
18 specifications. Bluefish was the only one that had one
19 year. And really, we hadn't moved in
20 -- the Council hadn't moved in that direction because
21 there hasn't been an amendment for bluefish for a very
22 long time.

23 So, this is an opportunity to do this.

24 This is something that the FMAT added after the June

1 meeting when we recognized it was an opportunity to
2 address this issue. So, bear in mind, if this something
3 that you do not want to do, you need to make that clear
4 to the staff and the FMAT. But if not, we can leave
5 this in and we'll move forward with that.

6 So, in terms of ABC motions, you've got
7 two choices: the ABC-A, which is the status quo, no
8 action, and the four-level framework action alternative
9 ABC-B.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
11 you, Jessica.

12 Are there any questions for Jessica on
13 this section before we have a motion to identify a
14 preferred alternative? Peter?

15 PETER DEFUR: Thank you, Mr. Chairman.

16 I guess there are two questions and the second one had
17 to do with the bluefish three-year and point out wherein
18 that is, where in the document that's found. It has
19 to do with the Level 3 determination going back to the
20 default 75 percent that we talked about from the last
21 meeting. Here it talks about a data control rule of
22 75 percent may be applied. Right? And our -- I'm
23 curious about why it's not will be applied. I was just
24 looking back over the brief notes that we had from the

1 last meeting and the motions that were made with regards
2 to that, being the maker of the motion.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Jessica.

5 JESSICA COAKLEY: Yeah. That was
6 actually something that the SSC had talked about at the
7 SSC meeting a few weeks ago, whether or not it should
8 be will or may. And the default was -- it was intended
9 as a default if there wasn't other information. But
10 for some of our stocks, summer flounder for example,
11 there's an F target of 40 percent that was part of the
12 assessment work group recommendations. And they didn't
13 think it was necessary if there were those other targets
14 already established that were working to necessarily
15 always apply that 75 percent rule. So, that's why in
16 the development of that language it says may. That
17 default is intended in cases where the OFL distribution
18 isn't available; and those are things that in future
19 assessments we're hoping that those pieces will become
20 available.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Peter, I think it would also apply if for any reason
23 the SSC couldn't reach a consensus on what coefficient
24 of variation would be an appropriate characterization

1 of uncertainty in the assessment so that they could
2 create the (inaudible). So, you know, I think that's
3 simply a fallback provision in case there's not an OFL
4 or if they're not able to agree on -- I mean, if there's
5 not a probability density function to go with the OFL,
6 apparently we would agree on what an appropriate one
7 would be, provides them with a fallback. And I think
8 they wanted to have some flexibility in it and that's
9 the point Jessica is getting at. They did discuss it
10 as an SSC.

11 PETER DEFUR: Yeah. And that's exactly
12 what I think was the intent of the motion. Under those
13 circumstances either you don't have the data that are
14 available to do the -- calculate the distribution or
15 the SSC isn't able to reach an agreement on what the
16 distribution is, then they will use a 75 percent. But
17 I would prefer to see the language say that than leave
18 it open-ended and say they may use the distribution --
19 they may use the 75 percent if they can't get to an OFL
20 distribution. I think it would be more precise and more
21 accurate to say they will use the 75 percent if the data
22 are not available or they can't reach agreement on an
23 OFL distribution. That would be my preference.

24 COUNCIL CHAIRMAN RICHARD ROBINS: All

1 right. I appreciate that. I think I would point out
2 too that when you consider the control rules that are
3 contemplated in here and the tiering, the SSC does have
4 the opportunity to depart from that if they're able to
5 justify it. So, they have a -- they have at least some
6 degree of flexibility I think built in throughout this
7 process. We could say -- I mean, if the -- if it's the
8 will of the Council to
9 say will use this default, we could do that, but we'd
10 have to recognize that they could still depart from that
11 default if they had a compelling reason to do so and
12 they were to document that in their report back to us.

13 So, that there is some degree of flexibility that's
14 persistent throughout this document that I think we need
15 to be aware of as well.

16 But again, if we chose to do that as a
17 Council, we could do that. But they do have some
18 flexibility throughout this.

19 Are there any other questions for
20 Jessica out of this section? Rick.

21 RICK COLE: In the case of bluefish, if
22 we decided to go with three-year level of ABC -- setting
23 ABC for three years, is the -- will the SSC still review
24 that annually? In other words, will they do an ABC

1 calculation and will they have to look at this
2 tier-setting process as part of their annual process
3 if we decide to set bluefish for a three-year period?

4 JESSICA COAKLEY: I think the answer is
5 yes for all of these. Even if -- through our current
6 processes for setting multi-year specifications,
7 there's typically a review of that information for the
8 years in between. And the SSC, if they sent multi-year
9 -- recommended multi-year ABC's to the Council, would
10 likely need to take a look at that information Year 2
11 and Year 3 to determine if they're -- if they still feel
12 that their ABC recommendations were inappropriate for
13 those years. That's the way we've applied this process
14 for all of our other multi-year specifications and this
15 should -- the intent was to have bluefish, if we extend
16 that to three years, to have that process be the same.

17 RICK COLE: So, obviously, the SSC is
18 going to be busy. Each year, they have to review all
19 the ABC recommendations for every species under our
20 management authority and also determine which level of
21 risk is involved here. So, that's how it
22 -- that's how you foresee the process will work into
23 the future; is that correct?

24 JESSICA COAKLEY: Well, in the in

1 between years, they would just be looking at pieces of
2 information to see if there's anything that indicates
3 they should depart from their prior recommendations.

4 So, I don't think in these off years it's not going
5 to be a full revisitation of all the core assessment
6 information and all of those other pieces of information
7 that were used when they made the initial
8 recommendation. It's going to be the question has
9 anything happened in Year 2 or Year 3 that would suggest
10 they should depart from those original recommendations.

11 So, it should be a scaled down review of that
12 information in the between years. And something that
13 staff would probably be the first to take a look at that
14 scientific information before it's passed on to
15 determine if anything has really changed.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Are
17 there any other questions in this section for Jessica?

18 Okay. Seeing none, what's the pleasure of the Council?

19 Peter?

20 PETER DEFUR: Actually, I do have one
21 other question. It's on the Level 3 on that bullet.

22 I know this might be just a semantic word issue. But
23 it's on -- the assessment does not contain estimates
24 on the probability distribution of the OFL or the

1 distribution provided is not considered best available
2 science by the SSC. It's the latter part of the sentence
3 that doesn't seem to have as much precision as it could.

4 Or is that a matter that we can take up later? The
5 SSC might be very comfortable about what that phrase
6 means, but I think it could be interpreted in about six
7 different ways in terms of not considered best available
8 science by the SSC.

9 You know, if the only data you've got
10 is both the best and the worst, it gets into this
11 conundrum about how you define that phrase.

12 JESSICA COAKLEY: Well, best available
13 science is defined through National Standard 2.
14 However, in this case, the intent is that that
15 probability distribution that's been provided from the
16 assessment is not of a high enough quality to be used
17 for management advice. I mean, that would be the way
18 I would interpret it. They're saying it's not best
19 available science. You need to use best available
20 science for all of your management decisions. So, that
21 means that you're not going to use that probability
22 distribution.

23 PETER DEFUR: That's exactly how I would
24 interpret it; that either the data aren't there or

1 they're of poor quality. But again, I'd rather we'd
2 say those -- use that phrase rather than -- or refer
3 back to NS2.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Nancy.

6 NANCY THOMPSON: Thank you. I'm glad
7 Peter brought that up, because I remember seeing that
8 as well and wondering exactly what that meant since the
9 processes that we have in place now are to provide as
10 a result science advice that is best available unless
11 a peer review panel determines that it is not the best
12 available information.

13 So, what that language that's included
14 for the SSC suggested to me is that there might be some
15 second guessing as far as some of those conclusions are
16 concerned. And I would guess that that's not the case,
17 that's not where they were going as far as making that
18 determination. But still, it does beg the question
19 about who's responsible for making that decision.

20 And, you know, again, in my view, we have
21 the SAW/SARC process which provides science advice
22 regardless of what the tier is. We're not at 1 and 2
23 here, but we have lots of stock species that are Tier
24 3. We have a number that are Tier 4. Who makes that

1 decision? And we do provide science advise, so-called
2 assessments. In my view, an assessment can be almost
3 anything. It can be a stream of data. If all you have
4 is catch data, that's all you've got and that is best
5 available.

6 So, I was curious about that statement
7 as well not having attended that meeting.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Nancy, I think just to clarify a little bit on that.

10 I've had the benefit of sitting through some of these
11 SSC discussions, and I think this reflects an
12 understanding that they may get a probability
13 distribution function that goes with the OFL estimate
14 that doesn't fully capture what they think is all the
15 uncertainty in the OFL estimate.

16 So, if for example, the PDF just
17 incorporates one variable, then it may not adequately
18 account for all of the uncertainty in the assessment.

19 And so, I think there's a sense that some of them may
20 be complete. In which case, would be operating at Level
21 2. But if that PDF does not fully account for all the
22 uncertainty, then they would be creating a PDF using
23 a coefficient of variation to more fully account for
24 uncertainty in this Tier 3 level.

1 So, perhaps that language could simply
2 reflect that rather than saying it's not considered best
3 available science does not adequately reflect the
4 uncertainty in the OFL estimate. If that clarifies
5 things. Jim.

6 JAMES WEINBERG: I think you've covered
7 it. Thanks.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Are
9 there any other questions on this section before we move
10 into the motion? Okay. What's the pleasure of the
11 Council? Jack.

12 JACK TRAVELSTEAD: I assume you need a
13 motion to move this forward. I would move adoption of
14 ABC-B as the preferred option.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 there a second to the motion? Second by Pat Augustine.

17
18 Can you blow that up for us, Jan, so that
19 we can see it a little bit. Okay. I would ask the maker
20 of the motion, if we reflect on the discussion we just
21 had about the language related to Level 3, Jack, would
22 your motion reflect the clarification that I offered
23 for Level 3; that is, that the -- if the assessment does
24 not contain estimates of the probability distribution

1 of the OFL or if the probability distribution does not
2 in the opinion of the SSC adequately reflect the
3 uncertainty in the OFL estimate?

4 JACK TRAVELSTEAD: That's what I meant
5 to say, yes.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Jan,
7 if you would add that clarification then to the motion.

8 For Level 3, just say -- I'm sorry -- after preferred
9 alternative say: comma with the clarification that in
10 Level 3 the probability distribution provided may not
11 adequately reflect the uncertainty in the OFL estimate
12 -- reflect the uncertainty in the OFL estimate.

13 Is that agreeable to the seconder of the
14 motion as well, Pat?

15 PAT AUGUSTINE: Yes.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.
17 Discussion on the motion? Comments on the motion?
18 Go ahead, Adam.

19 ADAM NOWALSKI: Thank you, Mr.
20 Chairman. Adam Nowalski, Recreational Fishing
21 Alliance. I appreciate the opportunity to make a couple
22 of comments today as we go through this process.

23 I've been attending the meetings. I've
24 been a part of the number of the conversations including

1 FMAT conference calls, SSC meetings on this issue. The
2 one thing I will want to bring up here -- I've brought
3 up many times before -- is if we went back and looked
4 at Council meeting minutes over the years, there's been
5 dozens, maybe a hundred or more instances where Council
6 members have often stipulated that our hands are tied
7 by the process. Okay. That concern specifically arose
8 with the black sea bass issue last year.

9 We now have another 274 pages before us
10 here today of hand-binding material for moving forward
11 with specifications, quotas in coming years. I
12 understand that the reauthorization of Magnuson-Stevens
13 requires changes to FMP's, and I can appreciate that,
14 but I think the Council members here today, I appreciate
15 your very careful consideration of each of these
16 elements that you do.

17 This Council has been extremely
18 successful, the most successful of all the councils in
19 terms of your track record of rebuilding fisheries and
20 we cannot lose sight of the personal interactions and
21 the ability of the people involved. When you look at
22 the people here in this room today, the SSC, the
23 Monitoring Committee, the Science Center, anybody else
24 that I've left out in that, okay, that are a part of

1 these conversations, we need to continue having them
2 be a part of it. And I think that's the most important
3 thing as we go through these. And as we assign these
4 tier levels, when we discuss the control rule coming
5 up and all the other components, I hope that the
6 decisions that are made here today reflect the fact that
7 the Council will be in a position they're going to be
8 in tomorrow to have discussion and make a decision
9 without feeling like their hands are further tied on
10 these issues.

11 Specifically with regards to these tier
12 levels, one of the concerns I have is with the
13 conversation -- you know, that was just had in the room
14 about Tier 3, Tier 4, what does this do down the road?

15 How are people going to look back on these in the future
16 and raise the question of well, was it really a Tier
17 3, was it really a Tier 4, could there have been a higher
18 quota set, should it have been a lower quota set? And
19 that's a very real concern we have with regards to the
20 implementation of the tiers in this section. And I
21 appreciate the Council's consideration on that and other
22 issues as we go through the day. Thank you.

23
24 COUNCIL CHAIRMAN RICHARD ROBINS: Thank

1 you, Adam. Are there any additional comments on the
2 motion? Peter.

3 PETER DEFUR: Yeah. Thank you, Mr.
4 Chairman. I apologize for raising this. This is over
5 on the other page which is why I missed it. I had a
6 side note that under Level 4 where it says -- right after
7 the sentence right after the bullet -- this level is
8 simple control rule will be used based on biomass and
9 catch history and the Council's risk policy. Because,
10 you know, Level 4, the most data poor and most uncertain,
11 it seemed to me that it would be appropriate to have
12 a statement there about -- a general guiding principle
13 and I would say about how they would go about setting
14 Level 4, such as they will be conservative or that they
15 will be precautionary in terms of their setting of the
16 standard. Does that make sense, Mr. Chairman?

17 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
18 Peter, I think just as a matter of practice, that's what
19 we've seen in the recent history of SSC's operation.

20 It's that when they are in a Tier 4 situation and they're
21 dealing with the data poor stock, they're offering us
22 the most conservative advice of any of their
23 recommendations. And I think as a matter of practice,
24 that's already reflected. And we're asking them in this

1 section to try to apply a risk policy recognizing that
2 there may not be a PDF to apply to it. I think at this
3 level, I think it's simply guidance.

4 PETER DEFUR: I know. And my thought
5 was to capture their past practice because they have
6 been -- they have taken that approach over the years
7 for such stocks.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Do
9 you have a specific recommendation? Because, again,
10 I think the guidance that we're providing them with here
11 is to apply -- to basically apply the risk policy, but
12 we recognize that they're going to have a fair amount
13 of latitude because they are operating in a data poor
14 situation and they will using a range of ad hoc methods.

15 I don't know if there's an overarching recommendation
16 that we have over and -- in addition to what we have
17 in here. Jessica, do you have a comment?

18 JESSICA COAKLEY: Having been to just
19 about all of the SSC meetings that have discussed this,
20 the SSC in general have made it clear that this four
21 level structure, it's intended to incentivize moving
22 from a four to a three and a three to a two in that you
23 would be more conservative in each of those levels.
24 So, maybe adding a sentence, a general sentence, that

1 addresses it for all four levels -- you know, something
2 along the line that the intent of these levels is to
3 move from more conservative approaches to less
4 conservative -- conservative is probably not the best
5 word -- but something along those lines that would
6 capture it for all four levels.

7 But I see John having just walked in,
8 maybe we can put him on the spot. We've talked about
9 this at the SSC meetings that's to general intent. So,
10 maybe you could shed some light?

11 COUNCIL CHAIRMAN RICHARD ROBINS: John.

12
13 JOHN BOREMAN: Thanks, Mr. Chair. I
14 think I get the gist of the question. The SSC is
15 concerned that for each level the lower you go from Level
16 1 to 4, the more conservative you should be in terms
17 of recommending an ABC, the bigger the buffer should
18 be. The problem is when you get to Level 4, usually
19 you don't have an overfishing level as a reference point.

20 So, we're using just catch history or stock biomass
21 history or some other indicator. But it's very
22 difficult to judge what that buffer level is going to
23 be.

24 This is one of the reasons why through

1 the SSC and through the Council funding, there's a
2 post-doc -- you know, working down at the University
3 of Maryland with our SSC people down there. And he's
4 going to be looking at taking a species like summer
5 flounder where we have a lot of information and assuming
6 that some of that information doesn't exist, applying
7 different levels in this four level ABC setting process
8 to see how sensitive the analysis is to recognizing that
9 the buffer for Level 4 should be a lot higher than buffer
10 for 1, 2 and 3. So, that's going to be an investigation
11 going on this year.

12 And after that, after that
13 investigation, we're going to have a lot more insight
14 into how we can make sure that when we're at a Level
15 4 we can have a buffer that's -- should be equivalent
16 -- larger than a buffer would be for a Level 3 species.
17 I don't know if that helps or not.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Peter.

20 PETER DEFUR: Yeah. Thank you, Mr.
21 Chairman. And a simple statement along those lines was
22 what I was thinking would be appropriate to insert either
23 at the beginning as Jessica suggested, it would be
24 applicable to all tiers. But I was thinking about it

1 with regards to the fourth tier specifically to capture
2 -- maybe a simple sentence what John just said.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Again, John, when you -- as you walked in, Peter had
5 raised the question about the buffer in between Tier
6 3 and Tier 4 and just wanting to make sure that the
7 Council's expectation was -- or that the Council had
8 an expectation that it was clear in Level 4 that the
9 ABC recommendation would be more conservative than in
10 Level 3. And my response was as a matter of recent
11 practice, that had been the case, that when the SSC was
12 operating with a data poor stock, you were using ad hoc
13 methods and providing us with the most conservative
14 advice of all of your ABC recommendations.

15 And I think what -- I think with respect
16 to buffering, the way it's set up now, if we have a number
17 of options before us that we'll select next for the risk
18 policy, but any of those, even if we used a single
19 function, would be applied to different types of
20 probability density functions in the different tiers.

21 And so, as you go from Tier 1 to Tier 2 to Tier 3, you're
22 automatically doing more buffering regardless of which
23 risk policy you choose because they're being applied
24 to wider PDF's as you down through the tiers. So, there

1 is going to be necessarily more buffering as we go
2 through this as the document is structured now.

3
4 I think what John has laid out there is
5 the fact that the Council has engaged in a major research
6 project with a post-doc to do a management strategy
7 evaluation of the control rules. And so, in another
8 year or year and-a-half, we'll have additional
9 information that will guide us. And I think this will
10 be an iterative process. We've set this up with some
11 flexibility in it. But as a starting point, I think
12 the tiers as they're laid out will necessarily result
13 in more buffering as you go through. But if the Council
14 wants to recommend an additional clarification or
15 discuss that, we can try to incorporate such a
16 clarification. Peter.

17 PETER DEFUR: Yeah. Thank you very
18 much. And I would suggest that just a simple statement
19 on that clarification along the lines of what John said
20 would be helpful, particularly as the SSC membership
21 and the Council membership changes in the future,
22 because we want them to appreciate what the current
23 practices and recent practice has been.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Do

1 you want to clarify that statement and offer that as
2 an amendment, a friendly amendment to the motion, is
3 that the ABC recommendations will be more precautionary
4 as we move from Tier 1 through Tier 4?

5 PETER DEFUR: Yes. And that would be
6 exactly the statement. And I would offer that as a
7 friendly amendment if the maker of the motion and
8 seconded agree.

9 COUNCIL CHAIRMAN RICHARD ROBINS: I'll
10 ask the maker and seconded. Jack?

11 JACK TRAVELSTEAD: I'll accept it.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

13
14 PAT AUGUSTINE: Accept.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
16 you, Pat.

17 PETER DEFUR: Thank you, Mr. Chairman.

18
19 COUNCIL CHAIRMAN RICHARD ROBINS: Jan,
20 can you reflect that in the motion? From Tier 1 through
21 Tier 4. John.

22 JOHN BOREMAN: Are we in the discussion
23 phase now of this motion. I just read the motion just
24 having walked into the room. I don't think it really

1 adequately characterizes Level 3. Level 3, what we have
2 is -- in that case, we do have an OFL estimate provided
3 in the stock assessment. And along with that estimate,
4 we are provided with a confidence bound around that
5 estimate.

6 However, for Level 3, that's when the
7 SSC feels that the confidence bounds put on the estimate
8 do not adequately reflect all the significant sources
9 of uncertainty for that estimate; and therefore, we
10 derive an alternative coefficient of variation for the
11 estimate based on our own expert knowledge of similar
12 species that we feel more adequately reflects the
13 confidence bounds on that species.

14 Level 2 on the other hand would be where
15 we agree with the estimate of the confidence interval
16 provided for the OFL in the assessment.

17 So, that's the basic difference between
18 Level 2 and Level 3.

19 COUNCIL CHAIRMAN RICHARD ROBINS: John,
20 the language that's in this motion reflects that point.

21 We had -- before you got here, we did have a discussion
22 and this reflects -- on Page 43 of the Omnibus document,
23 in Level 3, there's a bullet point, and that reads:
24 The assessment does not contain estimates of the

1 probability distribution of the OFL where the
2 probability distribution provided is not considered
3 best available science by the SSC.

4 And Council members raised this point
5 that the language where it says: is not considered best
6 available science by the SSC -- could benefit from some
7 additional clarification. And so, that language that's
8 in the motion is simply a clarification of that part
9 of that bullet on Page 43 to clarify that the probability
10 distribution provided may not adequately reflect the
11 uncertainty in the OFL estimate. So, I think we're
12 capturing your exact point --

13 JOHN BOREMAN: Thank you.

14 COUNCIL CHAIRMAN RICHARD ROBINS: --
15 so, this amendment was limited to that part of the
16 language in Page 43 and simply a clarification.

17 Other discussion on the motion as it has
18 been amended? Pat.

19 PAT AUGUSTINE: Yeah. Thank you, Mr.
20 Chairman. I approve that change. But now it leaves
21 the door open to what the word more means. Open for
22 interpretation could be 1 percent, 50 percent, 100
23 percent. Is that too general or do we need something
24 more specific? I thought the original motion clearly

1 defined what we wanted to do, and as Dr. Boreman
2 suggested and as you described, it's captured. The
3 language that we're trying to do and what we will
4 accomplish is captured in the document already. I don't
5 know if it adds anything to it. Do we play with it?
6 Or just leave it in?

7 COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
8 I think it's in there as a general principle. It doesn't
9 --

10 PAT AUGUSTINE: That's why I accepted
11 it, but I ask the question on the word more.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Any
13 other -- any other discussion on the motion as amended?
14 Jim.

15 JAMES WEINBERG: Yeah. There is just
16 one subtle point about the relationship between tiers
17 and uncertainty and whether to be precautionary or not
18 in the management. And the -- one might think of a case
19 where a stock assessment is data poor so you're in the
20 Tier 4. But the information that people have about the
21 stock indicates that it's in pretty good shape. It may
22 not be based on an analytical assessment and there's
23 no information on OFL or it's probability density
24 function. So, in that case, when you're thinking about

1 how to be more precautionary, you might just think about
2 this qualitative aspect of it.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
4 you, Jim. Gene.

5 EUGENE KRAY: Thank you, Mr. Chairman.
6 Just looking for words that might help Pat Augustine
7 out a little bit here. I think what we're trying to
8 do is to make -- there's a significant distinction
9 between 1 and 4 and of course between 1 and 2 et cetera.

10 Would it be -- would it be appropriate to after the
11 word precautionary add and discrete. We're trying to
12 make a discrete determination between 1, 2, 3 and 4.

13 Just a suggestion. We're trying to separate the four
14 tiers; and when you're discrete, you're making it more
15 precise.

16 CHRISTOPHER ZEMAN: It just seems that
17 the intent of this motion was originally just to describe
18 the four levels and now we're sort of going into
19 enlarging our discussion of the risk policy into this
20 motion. I think it would be clear if we just lay out
21 that we want an ABC process here with four levels.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Other
23 discussion? Adam.

24 ADAM NOWALSKI: Thank you, Mr.

1 Chairman. Adam Nowalski. On the revision to the
2 motion, I think this last sentence is really relevant
3 to the next section to be discussed with regards to how
4 the tiers are going to be utilized and whether or not
5 they're going to relate to a more or less precautionary
6 approach to ABC recommendations that come out of the
7 SSC. That's really what Section 5.2.2 of this document
8 is geared to, how you use the levels if you use them.

9 And to put it here, I think preempts the use of the
10 following section by having it in the motion here.

11 Thank you.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
13 you. As I understood this clarification, this was
14 simply a statement of a principle that Peter wanted to
15 clarify. And you know, I think it's -- I think the
16 document already reflects it, but it's simply a
17 reiteration of a principle. I don't know that it's
18 necessarily problematic from that perspective. I think
19 once we make the next decision, our expectations will
20 be much clearer in terms of how we expect ABC
21 recommendations to be made.

22 What's the pleasure of the Council? Are
23 we ready for the question? All right.

24 (Motion as voted.)

1 {Move to select alternative ABC-B as the Council
2 preferred alternative, with the clarification that
3 in level 3 the probability distribution provided
4 may not adequately reflect the uncertainty in the
5 OFL estimate. The ABC recommendation is to be more
6 precautionary as we move from tier 1 through tier
7 4.}

8 COUNCIL CHAIRMAN RICK ROBINS:

9 All those in favor, please raise your
10 hand.

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Seventeen. Opposed, like sign.

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Abstentions, like sign.

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: the
19 motion carries unanimously. Thank you.

20 Jessica. That's one down, and 38 to go.

21 JESSICA COAKLEY: Okay. The next thing
22 we're going to talk about is the Council risk policy,
23 the section in the document starts on Page 44. It's
24 Toni Kearns there having a good time fishing in case

1 nobody noticed.

2 So, there's quite a few risk policy
3 alternatives contained within the document. The status
4 quo is alternative risk A. And then we've got risk
5 alternatives B through G, which are slightly different
6 flavors on the policy. I bumped into a bunch of Council
7 members last night and this morning and the interesting
8 part is everyone has a different favorite. I didn't
9 catch any two Council members that said that they really
10 liked the same alternative. So, I think it's going to
11 be a really interesting discussion when it comes to
12 making motions.

13 But as we go through, I'm going to tell
14 you the things that I like about some of these options
15 and sort of what my favorite is and you can weigh that
16 in as you think about the things that you like about
17 these alternatives.

18 So, risk policy is an important part of
19 the ABC development process as you heard. I mean, it
20 really is an integral part of those upper three levels
21 for the ABC methods and it's something to inform the
22 SSC when they're dealing with Level 4, those data poor
23 stocks. It gives them more information about your
24 tolerance for overfishing.

1 The Council, over the last year
2 and-a-half, discussed this and chose to approach this
3 with a formal overarching policy that would apply to
4 all of the stocks.

5 In terms of risk, a 50 percent
6 probability of overfishing is equal to the point
7 estimate of the OFL. So, if you go with 50 percent,
8 that says you're comfortable with the overfishing limit.

9 And, you know, ABC 25 percent probability of
10 overfishing means that the catch level is 75 percent
11 successful at preventing overfishing.

12 Several elements contained within these
13 documents including a general cost of probability
14 approach; we've integrated stock status, assessment
15 level, stock history, and life history, and these could
16 be expressed either as continuous functions or
17 categorical options.

18 There are two general provisions that
19 are in the beginning section of this document that would
20 apply to whichever risk alternative you identify as your
21 preferred. For stocks under rebuilding plans, the
22 upper limit on the probability of exceeding the
23 rebuilding effort would be 50 percent unless modified
24 to a lesser value through a rebuilding plan amendment.

1 This is the precedent that's currently
2 applied, in place. So, it's not a departure from the
3 current approach. It's essentially a restatement of
4 the current approach that that would be the upper limit.

5 But you know, we've had the bluefish rebuilding plan.

6 It was you either fish at that 50 percent probability
7 of your rebuild F or the prior year F, whichever is less.

8 That was a departure from it. That was actually built
9 into the plan. So, you would still have the ability
10 to go with lesser values if you feel it's appropriate
11 in your rebuilding plans -- or lesser probabilities,
12 excuse me.

13 Another general provision that the
14 Council discussed -- I believe it was back in February
15 -- maybe it was December, December or April -- if no
16 overfishing limit is available from the assessment and
17 no OFL proxy is provided by the SSC at the time of ABC
18 recommendations, then catch levels would not be
19 increased until an OFL or an OFL proxy has been
20 identified.

21 This was added to intend -- added as a
22 backstop against not having any overfishing definition
23 from either the SARC or having a proxy provided by the
24 SSC and is essentially a statement of your tolerance

1 for risk in those situations that you wouldn't allow
2 the catch to be increased until that was addressed.
3 If you don't have an OFL or an OFL proxy, you're
4 essentially flying blind, don't know if overfishing
5 would be occurring or not depending on the levels of
6 catch you specify.

7 Based on discussions with the SSC, I
8 think they see it as part of their role if they don't
9 have information on FMSY to try to identify some sort
10 of proxy for OFL, to try to provide you with something
11 in those situations. But this is a backstop against
12 those data-limited situations.

13 Alternative risk B, the first action
14 alternative, would be a 25 percent probability of
15 overfishing that would be applied to all stocks under
16 all circumstances. It's essentially the one size fits
17 all alternative.

18 Alternative risk C includes stock
19 status, an inflection point at B-BMSY ratio of 1.0,
20 because that's when your biomass is exactly at BMSY.

21 Features of this, there is a stock replenishment
22 threshold at very low stock sizes. So, when you hit
23 10 percent of BMSY, the probability of overfishing would
24 go to zero. I want to emphasize that a probability of

1 overfishing of zero does not mean that your catch
2 necessarily equals zero. What it means, when you set
3 your ABC, if you apply the zero percent probability,
4 you're setting it at a level that's low enough that if
5 you fish at that level, the chances of you overfishing
6 would be zero. And those are for the extreme
7 circumstances where the stock size is very low. When
8 you hit B-BMSY ratio of 0.5, that's when a rebuilding
9 plan development should kick in. So, hopefully, the
10 stock wouldn't drop down to those extremely low levels
11 if your rebuilding plan goes into place.

12 Upper limit on this risk policy is a 40
13 percent probability of overfishing. So, it's a 60
14 percent probability of success of not overfishing when
15 you're out beyond BMSY in terms of stock size.

16 This is one of my favorite risk policies
17 in the suite that's available just because of the
18 simplicity of it. It's something that if you know what
19 your current stock size is, anyone can look at this
20 graphic, find where they are in terms of B-BMSY and then
21 have a feel for what the probability of overfishing --
22 the Council's tolerance for overfishing is. So, I do
23 like the simplicity of this one.

24 Alternative risk D, again, another

1 flavor. The inflection point where you go to the higher
2 probabilities of overfishing is shifted from 1 to 1 and
3 a half B-BMSY ratio here. It still has the stock
4 replenishment threshold at 10 percent of BMSY and it
5 incorporates the four different assessment levels.

6 I know we talked about this last June,
7 but we've also had -- I've talked to other people as
8 well. Some people think that incorporating the
9 assessment levels, those four levels, is essentially
10 double-dipping or double-whammy where you're applying
11 -- you're applying those four levels through the ABC
12 Framework and then you're also applying conservative
13 four different levels of probabilities of overfishing
14 that go from more conservative to less conservative.

15 I'm of the opinion that it isn't
16 necessarily a double-whammy because I think it's two
17 very distinct questions. Your tolerance for
18 overfishing when you have more or less information, I
19 think could be answered very distinctly with your risk
20 policy here if you have those four levels. And I then
21 I think the other question is, well, how much uncertainty
22 do you have about that information. So, I separate
23 those into two distinct compartments. And then in terms
24 of answering those questions, then you put those two

1 pieces together. But there are differences of opinion
2 on this.

3 I know, Rick, that does -- I think you
4 did think it was a double-whammy for other reasons.
5 So, when we come to this, maybe this is something the
6 Council wants to discuss if this is one of your
7 preferreds.

8 Stock status assessment level offset,
9 risk policy E, this actually is very similar to the
10 previous alternative but it has two inflection points.

11 One out of B-BMSY ratio of 1.0 and one when you're at
12 2.0. It still has the stock replenishment threshold
13 and four assessment levels. The range on the
14 probabilities of overfishing on this one do go up to
15 50 percent, but only in the most ideal situations where
16 you're at an assessment level of 3 and you're at very
17 large stock sizes out past two times BMSY. Oh, I'm
18 sorry. Wrong assessment. Assessment level 1. Mixing
19 my numbers here. When you're at assessment level 1 and
20 out past two times BMSY.

21 Alternative risk F, this is a
22 categorical approach, essentially you walk through a
23 series of questions. The first is stock history. Has
24 the stock been overfished or has it not been previously

1 overfished. And that might indicate the vulnerability
2 of that stock to being overfished again because of
3 interest in the species, because of the fishery.

4 Then you ask the question about life
5 history pattern. Is it typical or is atypical and which
6 assessment level you fall into based on the ABC
7 Framework. And based on those three criteria, there
8 are different probabilities of overfishing in each
9 category.

10 In this case, atypical -- atypical has
11 a very distinct definition. Atypical are the stocks
12 that are more vulnerable to -- vulnerable to higher
13 levels of overfishing and whose life history
14 characteristics have not been addressed through the
15 assessment or the biological reference point
16 development. So, if those characteristics are already
17 being addressed fully through the stock assessment and
18 the derivation of the biological reference points, then
19 you may not need to fall into that atypical category
20 necessarily.

21 But as you know, for many of our stock
22 assessments, we are missing some critical pieces of life
23 history information that aren't fully integrated and
24 propagated throughout the model. So, this is a

1 categorical approach. Whatever bin you're in, that is
2 the exact value you would end up with.

3 Last alternative, risk G, this
4 alternative is very similar to risk C. In fact, the
5 typical line is identical to that. You've got the stock
6 replenishment threshold, upper limit on the probability
7 of 40 percent. However, there's an atypical function
8 that would apply a lower probability of overfishing for
9 those atypical stocks, and it's defined just as
10 previously. There's the ones that are more vulnerable
11 and whose characteristics have not been addressed.

12 This is another one that I like because
13 of the simplicity of it and it's usually pretty clear
14 what's typical and what's atypical. That's something
15 that the SSC would need to provide advice to the Council
16 and make a determination on in terms of which categories
17 they fall into when the assessment information is
18 available.

19 So, the Council is going to need to
20 select between either that status quo no-action
21 alternative or one of the alternatives from risk B to
22 G.

23 COUNCIL CHAIRMAN RICHARD ROBINS: All
24 right. Let's start out with some questions for Jessica.

1 And I have one. In your general provisions that you
2 laid out, there were a couple and one related to the
3 probability of overfishing for stocks that were subject
4 to rebuilding, and you indicated that the maximum
5 probability of overfishing there would be 50 percent
6 based on F rebuild. And I just wanted to ask you to
7 kind of go back through that and if you could clarify.

8 I mean, typically, our rebuild F's are significantly
9 lower than FMSY. So, that would not be the same as
10 fishing at 50 percent probability of overfishing
11 relative to FMSY, but, relative to the F rebuild; right?

12 JESSICA COAKLEY: Yeah. It would be a
13 50 percent probability of not exceeding the rebuild F.

14 When you're under a rebuilding plan that essentially
15 becomes your functional limit in terms of what you cannot
16 exceed. So, it would be a 50 percent probability on
17 that. And you just need to be careful -- in some cases,
18 we have had situations where rebuild F's have been higher
19 than FMSY's -- to make sure that you go with whatever
20 is the lower value.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Thanks, Jessica. Pat.

23 PATRICIA KURKUL: Thanks. My question
24 is actually very related to that. It seems to me that

1 in each of these alternatives we need to address the
2 question of when you're in a rebuilding situation. And
3 if you look specifically at risk alternative B, it says,
4 it's 25 percent regardless of the rebuilding status,
5 but that 25 percent is related to the FMSY instead of
6 the F rebuild. And so, I think that the final document
7 maybe needs to have a little section that talks about
8 a situation under a rebuilding program. And that
9 specifically I assume anyway the situation is that the
10 Council will, when they develop the rebuilding program,
11 address the issue specifically of risk associated with
12 F rebuild at that point. And so, I just think that we
13 need maybe to add that discussion to the document at
14 some point.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Jessica.

17 JESSICA COAKLEY: Yeah. When we
18 presented those general provisions at the beginning of
19 the risk policy alternatives, there is -- there is a
20 paragraph that discusses rebuilding F and that it would
21 need to be -- but the probability of exceeding the
22 rebuilding F couldn't be higher than 50 percent. And
23 those provisions, if the Council for example selected
24 risk alternative B, that paragraph would also apply to

1 that alternative. And in that paragraph, it also states
2 that it could be modified to a lesser value through a
3 rebuilding plan amendment.

4 However, I do realize that for many of
5 these risk policy functions, they do go below .5 B-BMSY
6 ratio and the reason for that is the rebuilding plans
7 typically take a year to -- well, two years, typically,
8 to put into place. So, what do you do in the interim
9 until you have a rebuilding plan. If you're at .3 of
10 B-BMSY, you've got a general policy and a strategy that
11 will address that until that rebuilding plan is able
12 to kick in. So, that's why these policies do go below
13 .5 in terms of the B-BMSY ratio and that paragraph sits
14 in the beginning of the risk policy alternatives to apply
15 to all of those options if adopted.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

17 PATRICIA KURKUL: Yeah. I appreciate
18 that and I did see the paragraph at the beginning of
19 the risk policy alternative, but it still seems to me
20 that there's a potential for a conflict here. So, we
21 can work with Jessica and just making sure that it's
22 clear. Thanks.

23 COUNCIL CHAIRMAN RICHARD ROBINS: I
24 think you raise an important point. And after we have

1 selected a final risk policy and there is a document,
2 I think that that could be clarified. That is a question
3 that I think we've had throughout the development of
4 this, but we can work to clarify that.

5 Other questions for Jessica relative to
6 the risk policy options? Peter.

7 PETER DEFUR: Thank you, Mr. Chairman.

8 Jessica, I think as we've spoken in our past meeting,
9 a couple of these options are not identical but they're
10 variations on the same theme. For example, F and G,
11 one of them is a tabular representation and the other
12 one is a graphic representation, and they're largely
13 the same option; is that right? Aren't there two pair
14 of those?

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Jessica.

17 JESSICA COAKLEY: They're similar, but
18 there are some differences. In the case of policy F,
19 you've got assessment level incorporated and the history
20 of whether the stock was overfished. In terms of risk
21 policy G, it includes stock status. So, they're
22 different flavors of them, but the implications of what
23 they may mean for individual stocks in terms of the
24 probability of overfishing may be different.

1 For example, in risk policy G, you
2 incorporate stock status. So, we have stocks that are
3 data poor that may be fall in Level 4, but the stock
4 sizes are quite large and that may result in a different
5 impact than if you look at policy F, where if you're
6 at a Level 4, you've essentially got a single row of
7 options that range from 10 percent probability of
8 overfishing to 20 percent.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Pres.

10 PRESTON PATE: Jessica, when you were
11 discussing and describing alternative risk D, you
12 touched on the issue of some people's concern about the
13 double-dipping component that is in there and you
14 explained that adequately, I think. Is that not a
15 factor in the development of alternative risk F also?
16 To me, it appears to be even more significant in that
17 alternative than it is in the other two. Can you speak
18 to that?

19 JESSICA COAKLEY: Well, it is a
20 consideration in there as you said for D, E and F. I
21 think for policy F, without having stock status
22 incorporated in that, it has a big affect in terms of
23 the resulting -- in terms of limiting the number of
24 categories to which you have to work and the range of

1 probability that you have to work within. Whereas, with
2 the risk policy D and E, you do incorporate those four
3 levels. But because you're taking stock size into
4 account, it's essentially in each level you've got a
5 much broader range of probability options.

6 So, looking at D -- you know, you could
7 be anywhere from zero percent to 35 percent if you're
8 in a Level 4 category. If you look at risk policy F,
9 like I said, at a Level 4, your range is from 10 to 20.

10 At Level 3, your range is from 20 to 30. It's a much
11 narrower range. And it depends on where the Council's
12 preferences lie in terms of which ones you think are
13 going to better reflect your tolerance.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Other
15 questions on this section? Chris.

16 CHRISTOPHER ZEMAN: When I reviewed
17 this document, the frame of the question I have is how
18 did these alternatives relate to the status quo?
19 Because it seems like the knee-jerk reaction is that
20 the status quo is the weaker of the alternatives.

21 But it seems to me like the situation
22 is here where these all -- we may be thinking that these
23 new alternatives are actually more precautionary; but
24 in fact, they're -- they apply more risk to the fishery

1 managed than what we've been doing in the past. It seems
2 to me, in the past, we've actually been doing a good
3 job in terms of these fisheries and we've actually sort
4 of treated these on a case-by-case basis. I'm getting
5 concerned that we're sort of trying to apply a one size
6 fits all approach for these various fisheries; wherein,
7 we have situations where, yeah, these fish can be in
8 the F rebuilds or they can be -- they just have different
9 characteristics and we might be sort of forced to sort
10 of fit into one of these -- one of these set risk policies
11 even though it may be completely inappropriate for that
12 specific species.

13 I think one example I want to kind of
14 look at is with alternative, I guess, G or F, it seems
15 to me that no matter how -- you know, we need to have
16 an incentive to sort -- to move our information levels
17 to higher levels. I think everyone here will agree to
18 that. But if we go with the alternative G or an F, then
19 if we have an atypical stock, there may be a Level 1
20 atypical stock, but the level -- the probability of
21 overfishing would never increase above 35 percent.
22 That creates a disincentive where there really is no
23 benefit to improving the information we have on that
24 fishery.

1 So, I'm just trying to think of -- with
2 that premise, my question is, are these default
3 alternatives that we apply sort of as a default unless
4 we want to modify it specifically for a specific species?

5 Will we have that discretion?

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Chris, modification could occur, I think, for a similar
8 species. But, you know, we had that discussion early
9 on in the development process and decided that as a
10 starting point we wanted to focus on a unified approach
11 to the question of addressing scientific uncertainty
12 in the establishment of the ABC's. And so, we've
13 avoided getting into single species control rules. You
14 know, we may find after a couple of years of experience
15 that we want to explore that in more detail.

16 But I would just point out too with
17 respect to option G, which does account for -- it does
18 have some additional buffering for atypical life
19 histories that are not accounted for fully in the
20 assessment, that that in and of itself doesn't provide
21 a disincentive to getting more information. In fact,
22 if the characteristics are fully accounted for in the
23 assessment process, then it would move from atypical
24 to typical and the maximum probability of overfishing

1 would increase. So, there is still an incentive built
2 into the process.

3 And so, a species like dogfish, for
4 example, where they are -- you know, somewhat long-lived
5 and they are -- they're oviparous. I think that is
6 accounted for probably in the assessment process
7 adequately. So, you know, you have some species that
8 may have atypical attributes, but those attributes are
9 captured in the assessment. Whereas, others -- you
10 know, the protogynous aspects of black sea bass may not
11 be adequately accounted for in the assessment. And so,
12 if we get to a point that that is incorporated
13 adequately, they would go from atypical to typical.
14 So, I don't think we're necessarily by adopting that
15 option providing a disincentive to that.

16 But other comments or questions on this
17 section?

18 CHRISTOPHER ZEMAN: Just as a follow up
19 to that, do we have the option of applying a different
20 risk control policy for different levels? So, for
21 example, Level 1, I would like to apply -- you know,
22 up to a 50 percent chance of overfishing just because
23 it's a Level 1 we've got there. Whereas the Holy Grail
24 of fishery management, we have all the fish that we need,

1 we should be able to go -- we should be able to sort
2 of manage that at 50 percent irrespective of the status
3 of the fishery. And then below that, we can apply sort
4 of a more -- you know, different tier approach.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Chris, if you wanted to do that, I think you're probably
7 into some of these tiered options. I would ask Jessica
8 if -- I don't think there are any that do that exactly.

9 I mean, you'd have to probably mix and match options
10 at that point. John.

11 JOHN BOREMAN: I hope this is not going
12 to confuse people, but let me try to take this nice and
13 easy. Jessica's comment about preferring the simpler
14 option of not incorporating the tiers is not going to
15 help the SSC and I'll tell you why. The SSC, for the
16 first three tiers, we will be using the Pstar process.

17 And that is, we will have an estimate of the coefficient
18 of variation on the overfishing limit. And using that
19 estimate of the CV, we will apply the Pstar, be it
20 formulaic answer, that will be the ABC.

21 The coefficient of variation on the
22 overfishing limit doesn't necessarily mean that it's
23 going to be larger as you go through Level 1 to Level
24 2 to Level 3. The distinction between Level 1, Level

1 2 and Level 3 is how representative that coefficient
2 of vari -- how much of the uncertainty does that
3 coefficient of variation incorporate. So, that's what
4 we're talking about. So, a Level 1 means that we can
5 -- we have confidence that the assessment incorporates
6 all the major sources of uncertainty that are out there
7 for this species; in the data, in the modeling, in the
8 projections, and so on.

9 But the CV for a species may be higher
10 in Level 1 than another species in Level 2 would have
11 a CV on their OFL that may be a little smaller. As again,
12 the distinction from Level 1, 2, 3 and 4, if we do have
13 an OFL, is that does the coefficient of variation on
14 the overfishing limit account for all the sources of
15 uncertainty. And the more that we have confidence in
16 that, the higher the level would be for that species.

17 Therefore, we would need some policy from the Council,
18 some guidance, saying if it's in Level 1, Level 2, Level
19 3, how much risk is the Council willing to take given
20 that the species falls into that level. So, in that
21 respect, I don't think it's a double-whammy that we're
22 talking about here. It's taken me a while to sort that
23 out in my brain, but I think that's at least my
24 interpretation of what we're doing here and the

1 necessity to have an option given the four levels.

2 COUNCIL CHAIRMAN RICHARD ROBINS: John,
3 we appreciate that clarification. And you know, as far
4 as the double-whammy issues goes, I think -- you know,
5 it's not necessarily a -- I think there's a sense that
6 somehow it's punitive. I don't know that it is. I
7 think what's important to recognize is that there is
8 an explicit accounting for additional uncertainty if
9 you select one of those tiered options.

10 But it also seems to me -- you spoke about
11 the possibility of a CV being larger in a Tier 1 or Tier
12 2 stock than it is in a Tier 3 stock. But as we think
13 about probable outcomes, it seems to me that given the
14 experience we've had recently in some of the stocks we've
15 looked at that if we get into a situation with Tier 3
16 where the SSC would be applying a Pstar approach and
17 using a CV to characterize the uncertainty and create
18 it's own PDF, that that is likely to be a higher CV than
19 what we might see in a -- in a more robust assessment
20 at a higher level. And so -- you know, as these -- as
21 these ABC's are derived from the PDF's, I think they're
22 highly sensitive to the CV that's used to create that
23 PDF. So, we would expect -- I mean, I think it would
24 be reasonable to expect that as we go down to the lower

1 tiers, there is necessarily more uncertainty in the
2 assessments and in the PDF's that are used in the process
3 of establishing the ABC. I recognize that it's a
4 possibility that you might get one that goes in the other
5 direction, but it just seems to me that that's not a
6 highly probable outcome. John.

7 JOHN BOREMAN: I agree that's probably
8 -- it's not highly probable. But by the same token,
9 when you're talking about a Level 3 species, it means
10 that we are using some external information, information
11 external to the assessment, our own expert judgment in
12 that case to assign a CV to it. And to me, that would
13 mean that we're taking more of a risk in assigning that
14 species to Level 3. In Level 1, it's just the assessment
15 provides all the information and is just plug and play
16 in terms of coming up with an ABC. And as you go from
17 Level 1 down to Level 4, at each level, you're
18 successfully -- successively using more expert
19 judgment, more data that's external to the assessment,
20 other information is entering in to cover for more
21 unknowns in your assessment. So, in that case, I think
22 having four levels of risk -- a risk policy that
23 recognizes those four levels is important.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Thank

1 you, John. Other comments or questions on this section?
2

3 PAT AUGUSTINE: Make a motion?

4 COUNCIL CHAIRMAN RICHARD ROBINS: Why
5 don't we have some more questions first, and then we
6 may take a break. Pat, did you have a question? Peter.
7

8 PETER DEFUR: Thank you, Mr. Chairman.
9 I had a question for John if that's okay.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Go
11 ahead.

12 PETER DEFUR: We've talked here and the
13 whole document talks about the probability of
14 overfishing. And what we don't have -- and I'm not sure
15 that we should or how we would put it in there -- is
16 the overage or the magnitude of overfishing. So, we
17 might say that we have a 20 percent probability that
18 we will exceed a target, but we don't know whether it
19 will have any measure, quantification, of whether that
20 will be over by a few percent or a large amount. We
21 do have some history that some of our stocks have been
22 overfished by substantial amount over their target.
23 So, I mean -- and I don't know how we would incorporate
24 magnitude into this estimate when we're principally

1 dealing with probability. Am I missing anything? Or
2 is that --

3 JOHN BOREMAN: I think I'm missing
4 something. I can't follow your logic in your question.

5 PETER DEFUR: The question is, we don't
6 have an estimate here of the magnitude by which the OFL
7 is exceeded or any other measure, ACT, ABC. We have
8 only the probability that -- we have an estimate of a
9 probability of which it might go over; right? But we
10 don't know whether that 50 percent probability is
11 associated with one ton or a hundred thousand tons or
12 -- you know, 1,000,000 metric tons in excess of ABC.

13
14 JOHN BOREMAN: Well, when we get to the
15 assessment information, we are given reference points
16 and that is the current F relative to FMSY which is what
17 dictates your OFL. So, in that sense, we do have a sense
18 of what the current fishing level is compared to what
19 it should be. So, that would be an idea of how much
20 overage is going on now. And in the projections, that
21 would just play out in the projections as well. So,
22 I'm still a little lost in your question.

23 PETER DEFUR: The question has to do
24 with the -- it only estimates the probability that the

1 catch will go over. It doesn't incorporate or doesn't
2 include the magnitude by which it may exceed the FMSY
3 or ABC or ACT or ACL. We're using various measures and
4 various reference points to determine the probability
5 of going over, but that might be by a very small amount
6 or a very large amount; right?

7 JOHN BOREMAN: I think that can be
8 calculated though. We should be able to derive that
9 number.

10 PETER DEFUR: If we have sufficient
11 history, I'm sure that we could, but we don't. I mean
12 -- and I don't know what we would do to incorporate that
13 here. I'm not suggesting we do.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Peter, the other thing that we considered earlier on
16 in the development of this was not just the magnitude
17 of overage but the biological consequences of overages
18 related to -- you know, we had earlier discussions with
19 the SSC about trying to incorporate PSA considerations
20 and the productivity/susceptibility models, and the
21 discussion went to the fact that there are some stocks
22 that we have with different considerations
23 biologically, but the need to do that wasn't seen as
24 compelling.

1 But what we have now are several options
2 in the document that do incorporate life history and
3 some of these vulnerabilities to get at not just the
4 probability of an overfishing event but the biological
5 consequence of that. So, I think we have tried to
6 incorporate some of those considerations. But, you
7 know, I think the risk of an overfishing event is going
8 to be captured in that probability density function.

9 John.

10 JOHN BOREMAN: Yeah. Just as a follow
11 up, thinking more about this. We went through a number
12 of examples early on in the discussion and the amount
13 of overage will depend on the probability distribution
14 function of your OFL. If it's -- if your confidence
15 bounds are very wide versus a very narrow confidence
16 bounds about your OFL, that would dictate how much
17 overage you're going to have for a given Pstar value.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thanks, John. Why don't we take a -- let's take a
20 ten-minute break and come back and take this issue up.

21 Thanks.

22 (Break: 9:40 a.m. to 10:00 a.m.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: Let's
24 take our seats so we can come back to order, please.

1 Thank you. Pat.

2 PAT AUGUSTINE: Thank you, Mr.
3 Chairman. This is unusual for me because I'm the oldest
4 man in the room around the table. So, I ask for a point
5 of personal privilege. I'm not sure if Robert's Rule
6 accepts that. But I'd like to --

7 COUNCIL CHAIRMAN RICHARD ROBINS: State
8 the point.

9 PAT AUGUSTINE: I'd like the
10 opportunity to make a motion. That we move to select
11 alternative C, risk C. If I could get a second to that,
12 I'd discuss it. Thank you.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there a second to the motion? Seconded by Erling.
15 Discussion on the motion. Pat, you want to speak on
16 the motion?

17 PAT AUGUSTINE: Yes, I am, Mr. Chairman.
18 Quite frankly, it seems to be the most -- I guess I'll
19 use the word simplistic -- it's straightforward. Not
20 only does it I think supply a description to the public
21 that is not only understandable, but I think of many
22 of the members of the Council. I looked at option G,
23 which seems to be much more comprehensive. And as you
24 described, Mr. Chairman, may offer better alternatives

1 for the Council to work with. But I would like to have
2 further discussion from some of the Council members as
3 to why they would prefer that over the risk policy C.

4 Thank you.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Jack
6 Travelstead.

7 JACK TRAVELSTEAD: Well, I agree,
8 option C is pretty simplistic, but I don't think it goes
9 quite far enough in providing the kinds of advice we
10 should be providing to the SSC as to where we stand in
11 terms of what risk we're willing to accept. It seems
12 to me we need to add other factors in there. And
13 certainly life history is one of those that I think we
14 should take into account. And that leads me to support
15 option G. I think it's still relatively simple. It's
16 a continuous function, which I prefer over some type
17 of categorical listing. I think the earlier options,
18 option B, are just overly simplistic and won't work.

19 And just by a process of elimination, I fall in to option
20 G. The only thing I'm concerned about with option G
21 is, I am sensitive to Dr. Boreman's suggestion that we
22 ought to offer some or consider some assessment level
23 offset in there. But it seems to me we took care of
24 that in the last motion. And it does, if we put it in

1 this one, it would constitute the double-whammy that
2 we've talked about before.

3 I don't know how others feel about it,
4 but I would be inclined to offer an amendment to the
5 motion or a substitute motion to go with option G.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 there a second to that motion? Second by Red Munden.
8 Discussion on the motion? Nancy.

9 NANCY THOMPSON: Thanks, Rick. I
10 realize I'm not a member of the Council, but I appreciate
11 your letting me ask a question here. About alternative
12 C, when I was reading these -- and of course, alternative
13 C says until the inflection point of biomass equals BMSY
14 is reached and a 40 percent probability of overfishing
15 is utilized -- is there any reason why it couldn't be
16 -- even if it says a 40 percent, it would be up to 40
17 percent. Is there any reason why giving life history
18 concerns or issues it couldn't be less than 40 percent?

19 Which would then basically reflect what risk policy
20 D and E are and G in the sense of allowing for some
21 consideration of other factors? Just out of curiosity.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
23 Nancy, again, the risk policy establishes the Council's
24 expectation for how the ABC would be derived. And we've

1 said all along that the SSC would still have the ability
2 to depart from that if it had justification for doing
3 so. And so, to answer that question, I think the answer
4 is yes, they could depart from that in making their
5 recommendation.

6 However, I think with respect to the life
7 history issue that Jack has incorporated here in option
8 G, what this would do is establish, I think, somewhat
9 more clearly perhaps the Council's expectation about
10 how typical versus atypical life history issues would
11 be accounted for relative to the probability of
12 overfishing as opposed to leaving that issue unaddressed
13 essentially or unincorporated in option C.

14 So, it is -- I think option G does more
15 explicitly address the Council's expectation with
16 respect to how an atypical issue would be dealt with
17 from a risk policy standpoint.

18 Other questions or discussion on the
19 motion? The substitute motion is to select risk G as
20 the Council preferred alternative. Pat Augustine.

21 PAT AUGUSTINE: Thank you, Mr.
22 Chairman. I appreciate the Council member and Dr.
23 Thompson's comments on that. And it clearly cleaned
24 up in my mind that, gee, we do have more clear sideboards

1 if you will and there is not quite as much latitude as
2 we would have in C. And even though I made the motion
3 for C, that it appears now that I'd have to vote against
4 my own motion and support G. Thank you.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Peter
6 DeFur.

7 PETER DEFUR: Thank you, Mr. Chairman.

8 I'm also sensitive, Jack, to Dr. Boreman's comment
9 about the four levels, assessment levels. And I think
10 that the four assessment levels do incorporate life
11 history to a certain extent and I think it's more than
12 just a small extent. And also, it provides greater
13 level of variabilities and flexibility in the types of
14 stocks and the types of data upon which we're going to
15 be basing our risk. So, I actually think that -- or,
16 I appreciate the simplicity of C and G because it only
17 takes one step, I actually think that it does need to
18 be richer and go to something that's expressed in option
19 D, which gives us those options at four different levels.

20 I don't think that's too difficulty -- it's certainly
21 not too difficult for the SSC. I think our SSC could
22 comprehend quadratic equations. I don't think -- I
23 don't think it's that complicated at a public level
24 either. So, I think the option D actually is a richer

1 and covers a broader range of the needs that we have
2 in the Council.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Nancy.

5 NANCY THOMPSON: One of my concerns
6 about option D is that it gives a false expectation that
7 we will be able to achieve Level 1, Tier 1, or whatever
8 it is in terms of information. And quite frankly, I
9 just don't see that as reality. And given that, then
10 if your arguments are in terms of expectations, I think
11 D, like I said, gives that false expectation relative
12 to Level 1 which will never be achieved, at least
13 probably in my professional lifetime, which is pretty
14 short, probably.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
16 do you have better news?

17 JAMES WEINBERG: I have a question that
18 perhaps Dr. Boreman could address. And it has to do
19 with when we have different assessments coming out at
20 different levels, most of our assessments are in Level
21 4 and a few in Level 3. And these are the ones that
22 will be precisely the hardest to make -- to get good
23 estimates of probability of overfishing when the SSC
24 or the Council is trying to do some sort of management

1 on them. So, I'm just concerned about choosing an
2 option that would require for Tier 3 and Tier 4
3 assessments to actually be able to -- for the managers
4 to actually come up with some sort of a precise
5 probability of overfishing when they try to do their
6 management. And the options that rely on tiers seem
7 to require that link.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
9 thank you. John, if you want to address that. I think
10 that I would just offer that in Tier 4 -- you know, we
11 don't expect to see a PDF. I think that's probably clear
12 in the tiering narrative that in Tier 4 we're looking
13 at more of an ad hoc type situation. So, as I see it,
14 I think it's still relevant to communicate to the SSC
15 what the Council's risk policy expectation would be.

16 But at that point, it's really just guidance. I don't
17 think they're going to be able to apply it to a PDF.

18 John.

19 JOHN BOREMAN: Yes and no. There are
20 some cases where like for black sea bass we did have
21 an OFL. But we put it into Tier 4 because we felt the
22 assessment didn't incorporate all the life history
23 aspects of black sea bass that it should have which added
24 to the uncertainty.

1 In terms of guidance to the SSC, that's
2 a policy call. You know, we'll take the guidance. And
3 if the Council was worried about splitting hairs on
4 whether -- and the level of precision in the probability
5 of overfishing that they're providing to the SSC, well,
6 that's something that I really can't comment on. That's
7 something -- that's why we're here today.

8 COUNCIL CHAIRMAN RICHARD ROBINS: And
9 may be here tonight. Vince.

10 VINCE O'SHEA: Thanks, Mr. Chairman.
11 I did have a question. When I think about option B
12 there, 25 percent probability of overfishing, it seems
13 to me there's a lot of decisions we have to make that
14 25 percent chance of failure is not acceptable.

15 So, I'm just curious, Mr. Chairman, when
16 you look at the motion that's up here now, would you
17 see that as being more risk adverse or less risk adverse
18 than a 25 percent chance of failure that's in option
19 B?

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 That's -- I would say it's more risk prone than option
22 B, because most of the Mid-Atlantic Council stocks are
23 at or above the BMSY. So, the relative operating range
24 really for most of our stocks would be at or near the

1 biomass of 1.0. You know, I would say though that if
2 we try to consider this decision in the context of our
3 recent operating history, we have decisions that would
4 fall above and below this line depending on what type
5 of CV you try to go back and apply to the past decisions.

6 The past decisions that were made weren't made in the
7 context of these risk policies by applying the
8 probabilistic approach associated with the OFL
9 estimate.

10 But if you try to go back and look at
11 some of that and make assumptions about CV's, for
12 example, last year's summer flounder decision, you find
13 that with the buffering -- where the piece starts to
14 fall out, some are just below, just above 40 percent.

15 So, you know, I think it's not inconsistent with our
16 past practice that has generally resulted in rebuilding
17 stocks.

18 But I would concur that it is more risk
19 adverse than option B that sets a fixed probability of
20 overfishing at 25 percent. Other questions or comments
21 on the motion? Lee.

22 LEE ANDERSON: Thank you, Mr. Chairman.

23 I just can't help jumping in on Vince's comment about
24 failure. I think we have to be very careful about what

1 is going on and what these words mean. I don't think
2 we're all going to learn it today, but failure is
3 overfishing and fishing has a very technical definition.

4 And the definition, you fail if your current F is
5 greater than your F stock. And so, you can fail at that
6 regard and not -- you know, there's failure and then
7 there's failure. And if your stock is at .2, having
8 your current F above that by a small amount is not going
9 to matter so much. So, I'm not putting down the system,
10 but I -- we have to remember that it's not if we have
11 failure the world ends tomorrow. And I would think that
12 we are addressing these probabilities correctly in the
13 options C and G. Thank you, Mr. Chair.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
15 you. Additional questions or comments on the motion?
16 Okay. Arnold.

17 ARNOLD LEO: Thank you, Mr. Chairman.

18 Arnold Leo. I'm the consultant for commercial
19 fisheries for the Town of East Hampton. And I've begun
20 to feel as though we're in a balloon floating away from
21 the reality of fisheries life. Under the present system
22 where we're using 50 percent probability of overfishing,
23 I've noticed that no overfishing is occurring. So, I
24 don't know why we're thinking of using anything but the

1 50 percent probability. To me, the status quo would
2 be the best.

3 But I do want to say a word against using
4 the assessment levels in helping -- not just helping
5 but in determining the probability of overfishing,
6 because the assessments are notoriously uncertain as
7 Dr. Weinberg said. They're almost all in Level 4. And
8 which would mean for poor data, the ones who are going
9 to pay for that are the fishermen. And so, it seems
10 to me that the wisest course here would be to keep the
11 assessment levels out of determining the probability
12 of overfishing. I mean, we have a lot of recent examples
13 of -- you know, poor data causing tremendous hardship
14 in the fisheries. I mean, scup, black sea bass, spiny
15 dogs, and we're also looking at a butterfish cap in the
16 loligo squid fishery when we don't even know what the
17 butterfish stock is, you see.

18 So, it just seems to me we've got to keep
19 that -- those assessment levels out of determining our
20 probability of overfishing. Thanks.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Adam.

22 ADAM NOWALSKI: Thank you, Mr.
23 Chairman. Adam Nowalski on behalf of the Recreational
24 Fishing Alliance. I would concur with Mr. Leo's

1 comments that left to other devices here would support
2 the status quo no action on this again, because of the
3 fact that the probability of overfishing of 50 percent
4 has been successful.

5 In talking to a number of people, both
6 the public and at times certain Council members here
7 as well, I think that at times there's a perception of
8 that whatever we're coming up with here is what the quota
9 is that we're going to recommend. This is an ABC
10 recommendation from the SSC. This is not your final
11 quota. This is the upper cap according to the revised
12 Magnuson of what you're going to be recommending. Okay.

13
14 As it specifically states here within
15 the status quo option, in this sentence, applies to any
16 of these other options here, the Council could recommend
17 catch be reduced to achieve a lower probability of
18 overfishing after the ABC recommendation has been
19 provided to the Council. And I think that fact is very
20 important. It goes back to my earlier comments that
21 as managers, you don't want your hands to be tied by
22 any one of these options. The ABC can make a
23 recommendation, okay, and the conversation that's going
24 to be had tomorrow is going to be based on the fact that

1 the ABC made a recommendation and now the Monitoring
2 Committee considers management uncertainty, the Council
3 will consider those factors. So, whatever option gets
4 chosen here would support risk option A, no action,
5 because it gives you, the managers, the greatest sense
6 of opportunity to then go ahead and take action.

7 With regards to the specific motion on
8 the floor, would support risk -- option C over risk
9 option G because of the atypical comment. Atypical is
10 presently defined in here as a life history strategy
11 that results in greater vulnerability to exploitation.

12 Any fish that swims within range of someone that could
13 catch it, they've just made themselves vulnerable.

14 Okay.

15 You know, I've heard other comments that
16 what else applies to life history. Does a fish that
17 lives three times as long as a human being, okay, does
18 that -- it's atypical. Okay. So, this concept here
19 of using the atypical definition to reduce the
20 probability of overfishing -- you know, based on what's
21 here, I have to support option C, again, because of the
22 fact of the motions that are on the table, it gives the
23 managers the greatest amount of flexibility to do your
24 jobs. Thank you.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Other
2 comments? Kristen.

3 KRISTEN CEVOLI: Kristen Cevoli for the
4 Pew Environmental Group. I do want to comment on the
5 risk policy, but if you'd just give me a little leeway,
6 I'd like to throw in a little bit about the letter that
7 we sent to the Council yesterday. I don't know if all
8 Council members have actually received that at this
9 point, and so I would like to pass around a copy of that
10 letter if possible.

11 So, we're -- the Pew Environment Group
12 has been involved, as you guys all know, in this process
13 and we really appreciate all the hard work that staff
14 and the Council has gone into this, but we are a little
15 concerned at this point that the Council is really
16 rushing this process. And we're concerned that the
17 public really haven't had a large opportunity to comment
18 past the last public comment period. And one of the
19 things that I'm hearing as we go around and we're talking
20 about this, I'm not hearing a lot about the public
21 comments that were received and where the public was
22 in terms of the acceptable level and the probability
23 of overfishing and support for the relative alternatives
24 that we're seeing here today.

1 And so, I know for some of you who haven't
2 been able to see the letter, it's -- you're not going
3 to be able to read through the whole thing at this moment.

4 But I would, if possible, really like to see the Council
5 step back a bit, talk about where the public comments
6 were on this. I know that we've heard some comments
7 already to that point. But I actually think that the
8 mass of public comments talks about a lower range of
9 probability of overfishing and a lot of these options
10 that we're considering, C, G, actually have quite a high
11 range of probability of overfishing. And the revised
12 Magnuson Act says that the Council has to adopt policies
13 that are going to ensure and end overfishing.

14 And while I appreciate, Lee, your
15 example of for example scup, which is at a high level
16 of B to BMSY ratio, a lot of our stocks here in the
17 Mid-Atlantic are not -- they're hovering around 1. And
18 so, if you have an event of overfishing one year, two
19 years -- you know, you still really do have the potential
20 to draw down that stock. And so, I think it would be
21 useful especially from the public standpoint of
22 understanding where the Council is and the
23 recommendations to the scientists of talking about that
24 probability of overfishing and what that really means.

1 So, thank you for your time.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
3 you, Kristen. Other comments on the motion? Vince.

4 VINCE O'SHEA: Thanks, Mr. Chairman.
5 You know, based on some of the comments during this
6 discussion, my other question would be, would it be your
7 understanding of this risk policy that the Council would
8 have the opportunity and flexibility in the future to
9 be more risk adverse than whatever policy they adopt,
10 or by adopting this policy, does this lock the Council
11 into maintaining that risk. As some of the speakers
12 have suggested the Council will come out at the end of
13 this process always being able to be more risk adverse.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Vince, this would set the upper limit when we are
16 communicating our expectations to the SSC. But it could
17 be modified. As I understand, the proposed
18 modification process could be modified through the
19 specification process. Vince.

20 VINCE O'SHEA: Thanks for indulging me.
21 The reason I ask is because we were certainly told that
22 50 percent probability in the court decision and there
23 have been discussions at this Council over the years
24 that when the Council tried to select alternatives that

1 had a greater probability, we were reminded of the 50
2 percent probability of standard and that we couldn't
3 exceed that standard; that some of the public, their
4 expectation was that we couldn't go higher than that.

5 So, thanks, Mr. Chairman.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
7 thank you, Vince. And to that point -- you know, I think
8 it is important to clarify the status quo a little bit.

9 And I had asked Jessica to prepare some documentation
10 of our recent decisions so that we could have that for
11 additional background information. That was in your
12 briefing book behind Tab 5. And that summarizes recent
13 decisions that this Council and the SSC have made for
14 managed species, and this just builds on information
15 that we've previously discussed, but if you look back
16 through the recent decisions:

17 For example, summer flounder in 2010,
18 the OFL limit was 30.3 million pounds. The ABC
19 recommendation from the SSC was 25.5 million pounds.

20 So, there was about a 16 percent buffer in there. There
21 was an 18 percent buffer in there the year before.
22 Similarly, for scup, you have an ABC recommendation
23 that's well below MSY. Black sea bass similarly, MSY
24 is 8.6 million. The ABC recommended by the SSC was 4.5

1 million. So, when we talk about status quo, the
2 Council's status quo is not fishing at 50 percent --
3 the 50 percent probability of exceeding FMSY ought to
4 be clear. I think we have been buffering between OFL
5 and ABC and that's the relationship that's going to be
6 expressed here in this risk policy. This is not going
7 to get all the way down to the ACT that we would
8 eventually use, but this will -- this will be the
9 relationship between ABC and OFL.

10 Further discussion on the motion?

11 Mike.

12 MICHAEL LUISI: Thank you, Mr.

13 Chairman. I think the one thing, the one question that
14 I have that's going to help me make a decision here
15 between the two options that we've been discussion is
16 what -- how clear is the line between typical and
17 atypical? I understand and I do feel that it's
18 important that some consideration be taken when a
19 species is more susceptible and more vulnerable, but
20 is this going to be something that there is a clear line
21 distinguishing between within a species or are we going
22 to be fighting a battle, a constant battle of deciding
23 whether or not a species falls into the typical or
24 atypical category?

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Jessica.

3 JESSICA COAKLEY: For the typical or
4 atypical definition, I think this is a place where you
5 need to rely on your SSC for advice in terms of which
6 category it falls into, specifically because they would
7 need to determine, based on the assessment information,
8 if life history has been fully characterized through
9 the assessment and the reference points; and if, in fact,
10 that stock is more vulnerable to overfishing. So, just
11 thinking of examples, black sea bass. They have a very
12 unusual protogynous life history that isn't being
13 captured -- explicitly in the stock assessment and the
14 reference points calculations. So, that one would --
15 the distinction would probably be clear.

16 You know, summer flounder is atypical
17 in the sense that it matures very early. However, that
18 characteristic wouldn't necessarily make it more
19 vulnerable to overfishing. So, in my mind, that would
20 probably lump it in the typical.

21 So, I think you need to rely on
22 assessment experts to provide you advice onto where
23 those may fall depending on whether the assessments
24 addressed it.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Mike,
2 I think that what we have in the document indicates that
3 to the extent that the characteristics are not fully
4 accounted for in the assessment, then it would be
5 considered atypical; whereas, if they are accounted for,
6 even though they may be unique attributes, as long as
7 they're accounted for in the assessment process
8 adequately, that they would not be subject to additional
9 buffering so to speak in the policy.

10 Additional comments or discussion on the
11 motion? Peter.

12 PETER DEFUR: Thank you, Mr. Chairman.
13 Yeah. Just to that point. The language says that it's
14 greater vulnerability and life history. So, we're not
15 going to get hung up on that; are we? I don't. But
16 I mean, nobody is going to come back at us and say this
17 fish has only one of those characteristics when it has
18 to have -- the document says it's got to have two. We
19 don't need to change that to or? Do we?

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Peter, I don't think so.

22 PETER DEFUR: Okay. Mr. Chairman, the
23 other point I was going to make is I continue to favor
24 alternative D because I think it captures both the

1 discussion about quality of the data and about the status
2 of the stock.

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

5 Is the Council ready for the question?

6
7 (Motion as voted.)

8 {Substitute above motion to select alternative
9 RISK-G as the Council preferred alternative.}

10 COUNCIL CHAIR RICK ROBINS: All those
11 in favor, please raise your hand. I'm sorry. We're
12 voting on the substitute motion, substitute the above
13 motion to select alternative risk G, as the Council
14 prefer an alternative?

15 All those in favor, please raise your
16 hand.

17 (Response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Ten.
19 Opposed, like sign.

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Seven. The motion carries. Abstentions.

23 (Response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS: One.

1 Thank you. The motion carries.

2 The substitute is now the main motion.

3 The motion is to select alternative risk G as the
4 Council preferred alternative.

5 All those in favor, please raise your hand.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Twelve. Opposed, like sign.

9 (Response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: Five.

11 The motion carries. Thank you.

12 Two down and 37 to go. Jessica.

13 JESSICA COAKLEY: Okay. Moving on to
14 annual catch limits and accountability measures. We're
15 going to start out with Atlantic mackerel. This starts
16 on Page 49. So, there's three sections, three
17 subsections to each specie section. It deals with
18 annual catch limits, proactive accountability, and
19 reactive accountability. So, I'm going to go through
20 each of these one at a time.

21 So, there are two options to deal with
22 setting the annual catch limit. The status quo, no
23 action, and then the proposed. Alternative ATM-B.
24 This would set the ACL equal to the domestic ABC. And

1 essentially, you would walk through the process of --
2 assessment is done for both the U.S. and Canadian stocks
3 in conjunction.

4 So, you start with an ABC, which
5 addresses scientific uncertainty in the estimate of the
6 OFL. Then Canadian catch is taken away from the ABC
7 because we can't manage those fish in Canada to come
8 up with a domestic ABC. And then the ACL is equal to
9 the domestic ABC.

10 In terms of evaluating performance
11 relative to the ACL, it would be based on a single year
12 evaluation of information. So, you would look at your
13 catch; either overall catch, or depending on which
14 alternatives you pick, it would be a
15 recreational/commercial catch combined and compare that
16 to the ACL to determine if you have or have not exceeded
17 that and if accountability measures kick in in response
18 to that.

19 So, for Atlantic mackerel proactive
20 accountability, the status quo alternative is
21 alternative C. And there are four options and they're
22 actually in two sets of pairs. Alternative ATM-D and
23 E. And alternative ATM-F and G.

24 The two sets address whether a

1 recreational ACT is established through Amendment 11
2 or if there is no recreational ACT established -- excuse
3 me -- a recreational -- a hard harvest allocation.

4 So, Amendment 11 is in process right now.

5 It's scheduled, I believe, to be brought in front of
6 the Council in October, in a couple of months.

7 So, the alternatives are structured
8 depending on whether or not that hard allocation exists.

9 If measures that are consistent with the recreational
10 ACT are selected, which I think was the Council's
11 original intent, to develop measures consistent with
12 that, and for some reason Amendment 11 does not establish
13 that hard recreational allocation, then the service
14 could implement measures consistent with that. Those
15 other alternatives are in here.

16 So my suggestion would be, if your intent
17 is to have both a commercial and a recreational ACT
18 linked up to those two hard allocations, any of your
19 motions should focus on those options and that you
20 wouldn't necessarily need to make a provisional motion
21 or take any other action. In October, when we'd
22 probably be submitting this Omnibus, if you vote to
23 submit, that's when the Council would be deciding on
24 what they want to do in Amendment 11. So, it would

1 become clear then what needs to happen and what the
2 service would need to implement in the proposed rule.

3
4 So, for those proactive measures,
5 alternative ATM-D would establish a recreational ACT
6 and a commercial ACT consistent with those hard
7 allocations. The Atlantic Mackerel Monitoring
8 Committee would recommend those ACT's to the Council
9 to address management uncertainty. That committee
10 would communicate the sources of management uncertainty
11 that they considered, any ACT control rules that are
12 derived, et cetera, and communicate that to you at the
13 time that you do your specification setting.

14 The Monitoring Committee is
15 knowledgeable about the fishery and the uncertainty
16 associated with that, so, it would be the group that's
17 most knowledgeable to provide advice to the Council.

18 If a recreational ACT isn't established,
19 then ATM-F would set a single ACT. It's pretty much
20 identical except it would be one overall ACT that
21 addresses management uncertainty for the fishery
22 overall.

23 Again, if that recreational ACT is
24 established, alternative ATM-E would allow for general

1 in-season closure authority for the recreational
2 fishery. Under this alternative, the Regional
3 Administrator would review all the information
4 available and could close the recreational fishery.
5 This is intended to prevent the accrual of large
6 overages. There is not a history of overages in the
7 Atlantic mackerel fishery. I don't think there are even
8 any management measures that are in place in that fishery
9 at this point. So, essentially, this would be a
10 backstop in the unlikely event that there are going to
11 be substantial overages in that fishery.

12 And consistent with this, there's an
13 identical alternative, alternative ATM-G, that's
14 bundled under the alternatives if no recreational ACT
15 is going to be established.

16 For Atlantic mackerel reactive AM's,
17 there's the status quo. So, no AM's would be
18 established. And then, alternatives I and J would
19 address accountability for the catch components for the
20 fishery. So, under ATM-I, which is when we have a
21 harvest limit established, if the commercial landings
22 are responsible for the ACL being exceeded and the
23 commercial landings in excess of the domestic annual
24 harvest, the DAH, which is the landings component, would

1 be deducted the following year.

2 Similarly, if the recreational landings
3 are responsible, then the recreational landings in
4 excess of that harvest limit would be deducted the
5 following year.

6 For other non-landings components,
7 discards, if for some reason the RSA is exceeded, if
8 those components are responsible for the ACL being
9 exceeded, those would be deducted from the ACL, from
10 the overall ACL at the top.

11 Alternative ATM-J is a simplified
12 version of this if there's no recreational harvest limit
13 established. So, if the ACL is exceeded, regardless
14 of what the source of that overage is, whether it's
15 landings-based, discards-based, RSA-based, then the ACL
16 would be reduced the following year in response to that
17 overage.

18 Also, I want to emphasize again, those
19 ACT's are being proposed here, either single ACT or two
20 ACT's, those are intended as soft targets. So,
21 exceeding the ACT but not -- if the ACT is exceeded but
22 the ACL is not exceeded, these measures would not be
23 triggered. These are full cases where the ACL itself
24 has been exceeded based on that one-year comparison of

1 information.

2 And that should cover the Atlantic
3 mackerel alternatives.

4 COUNCIL CHAIRMAN RICHARD ROBINS: So,
5 Jessica, to be clear, with respect to Amendment 11, in
6 Amendment 11, the Council I think has already expressed
7 its intent to adopt a recreational harvest allocation
8 and we still haven't taken final action on that. So,
9 if we can't take final action on that until October but
10 we move forward now with identifying D and E as preferred
11 alternatives, that would not be problematic?

12 JESSICA COAKLEY: No, it shouldn't be.

13 And we've discussed this a little bit. The service
14 would essentially have to work with the timing of when
15 those measures are implemented and when the Omnibus is
16 implemented to make sure that these go into place
17 consistently -- consistent with one another.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

19 Other questions for Jessica? I saw Chris had his hand
20 up.

21 CHRISTOPHER ZEMAN: In terms of
22 ATM-D, alternative ATM-D, when we're -- that sounds to
23 me like it's -- in terms of the recreational fishery,
24 that seems like it's the process that we usually have

1 where the Monitoring Committee comes back each and every
2 year to recommend alternatives to control fishing so
3 that you don't exceed the ACL. It seems like there's
4 also -- on top of that, there's also a payback provision
5 here; is that correct? I just want to know how that
6 interacts? If there's like an overage in terms of
7 discards that would also be reduced, the ACL for the
8 following year would also be reduced as well; is that
9 accurate?

10 JESSICA COAKLEY: Right now, in the
11 recreational fishery, there are no recreational
12 management measures that are in place for the Atlantic
13 mackerel fishery. So, that group, it doesn't provide
14 recommendations there.

15 In terms of alternatives, alternative
16 I that you reference with the payback provisions, it
17 is a three-step mechanism that is addressed. It's
18 either recreational landings, commercial landings, or
19 discards, and those would be deducted the following year
20 if they're responsible for the ACL being exceeded, the
21 annual catch limit.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Other
23 questions? Pat.

24 PAT AUGUSTINE: You want one motion, Mr.

1 Chairman, when you're ready? Or do you want three
2 separate ones?

3 COUNCIL CHAIRMAN RICHARD ROBINS: Yeah.

4 She has it broken up into three. So, the first one
5 would be for selecting between ATM-A and ATM-B on the
6 annual catch limit options.

7 PAT AUGUSTINE: I'd like to make that
8 motion that we do ATM-B as a preferred -- I'm sorry.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there a second to the motion, the motion is to move ATM-B
11 as preferred alternative. Second by Peter DeFur. Jan,
12 after you get that typed, if you don't mind blowing it
13 up for us. Discussion on the motion? Any comment on
14 the motion? Again, the motion is to identify ATM-B as
15 preferred alternative for Atlantic mackerel annual
16 catch limit option.

17 Is the Council ready for the question?

18
19 (Motion as voted.)

20 {Move to select alternative ATM-B as the Council
21 preferred alternative.}

22 COUNCIL CHAIR RICK ROBINS: All those
23 in favor, please raise your hand.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Eighteen. Opposed, like sign.

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Abstentions, like sign.

6 (No response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: The
8 motion carries unanimously. Thank you. Pat.

9 PAT AUGUSTINE: The second motion, Mr.
10 Chairman, would be on proactive accountability, would
11 be ATM-B. And you said ATM-E and G were identical.
12 So, how do you want to do that?

13 COUNCIL CHAIRMAN RICHARD ROBINS: I
14 think we're looking for two alternatives here, Pat, if
15 I'm not mistaken.

16 PAT AUGUSTINE: That would be B and G,
17 Mr. Chairman.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
19 I think if you want -- I think your pairings -- I think
20 the logical pairings here are D and E or F and G. And
21 if you want -- I think the expectation that we've set
22 up with Amendment 11 thus far is that we would have a
23 separate recreational allocation. And so, if you want
24 to reflect that D and E would be the pairing that reflects

1 that.

2 PAT AUGUSTINE: Would you change that
3 for me.

4
5 COUNCIL CHAIRMAN RICHARD ROBINS: So
6 it's a motion for D and E as preferred alternatives?

7 PAT AUGUSTINE: Correct, Mr. Chairman.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Is
9 there a second to the motion? Second by Erling Berg.

10 Again, the motion is to move to select alternatives
11 ATM-D and E as the Council preferred alternative for
12 the proactive accountability section on Atlantic
13 mackerel. Chris.

14 CHRISTOPHER ZEMAN: Motion to split the
15 question so that we address each motion separately.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Is
17 there a second to the motion to divide the question?

18 Is there a second to the motion? Steve Heins seconds
19 the motion. Discussion on the motion to divide the
20 question? Chris.

21 CHRISTOPHER ZEMAN: Thank you,
22 Chairman. The reason why I wanted to do that was because
23 I have some questions regarding the general in-season's
24 closure authority that I wanted to address and also to

1 clarify. So, I think that would have affected my
2 ability to vote on D, which I would support.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Do
4 you want to go ahead and ask the question before moving
5 forward with the motion? Do you have a question about
6 in-season management authority you said that has not
7 been addressed?

8 CHRISTOPHER ZEMAN: Yeah. I think the
9 specifics of this is -- have not been fleshed out in
10 the document and I want to make sure -- I want to
11 understand what exactly are we doing here with this
12 in-season closure authority. What authority are we
13 giving NOAA to do here and what information are they
14 relying on to sort of implement an in-season closure
15 activity.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Jessica.

18 JESSICA COAKLEY: Sure. The general
19 closure authority would be similar to the authority that
20 we have for our commercial fisheries where the Regional
21 Administrator has the ability to monitor that
22 information and make -- do a projection, make
23 determinations as to whether or not to close those
24 commercial fisheries.

1 For the recreational fisheries, any
2 action to close those fisheries because the FMP doesn't
3 have the authority, has to be done through emergency
4 action, which is quite, quite burdensome in terms of
5 the process. So, this would extend that closure
6 authority to the RA. It's general, similar to what we
7 do in the commercial. They would just look at the
8 available information. And we've kept the language
9 there general because it may be MRFSS, it may be MRIP,
10 whatever is available at that time.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Chris, I think the general intent of having in-season
13 management authority in the document as explained is
14 being there to mitigate the possibility of a very larger
15 overage. In other words, if we know that there's going
16 to be an overage and if we don't have this in place,
17 it would require emergency action to prevent it and that
18 would be more cumbersome.

19 But, Pat, can you comment on the
20 procedure a little bit, the difference between an
21 emergency and non-emergency act?

22 PATRICIA KURKUL: Well, I think Jessica
23 has accurately characterized it that an emergency action
24 stems from an unusual situation, something that was

1 unanticipated, and is a very extreme case, an extreme
2 situation. And so, this would instead be a situation
3 where we'd be regularly monitoring and then making
4 projections. I think a third alternative that we need
5 to discuss is instead of relying on projections to allow
6 closure authority based on data in hand, which would
7 also be a situation where in the extreme, you would have
8 the tool as an alternative to emergency action. But,
9 it wouldn't necessarily be relying on the MRFSS data,
10 which -- you know, for some of these stocks that we're
11 going to be talking about over the next several hours,
12 the recreational data from MRFSS, it isn't quite there
13 yet in terms of being able to make the projection. And
14 once we have the MRIP, we may be in a different situation.

15
16 But I think that on a stock-by-stock
17 basis, it's difficult to broadly say that the
18 information is adequate for projections.

19 CHRISTOPHER ZEMAN: Thank you.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Further discussion on the motion? Is Council ready for
22 the question to divide the -- ready for the motion to
23 divide the question?

24 (Motion as voted.)

1 {Move to divide motion.}

2 COUNCIL CHAIR RICK ROBINS:

3 All those in favor, please raise your hand.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: Six.

6 Opposed, like sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: Ten.

9 The motion fails.

10 All right. So, we're back to the
11 original motion; and that is, the motion to select ATM-D
12 and E as the Council preferred alternative. Pat, can
13 we elaborate a little bit on what you described as a
14 -- is that a modification to an existing option or simply
15 clarifying it would be based on information in hand
16 rather than projections?

17 PATRICIA KURKUL: If I understand it
18 correctly, and Jessica can correct me if I'm wrong, it's
19 one of the things that the FMAT discussed as a possible
20 way to handle recreational overages. And so, I guess
21 it's in some ways a clarification to the existing motion.

22 But it's the difference between trying to use the
23 information to do projections and just relying on the
24 information as it comes in; and in a worst case scenario,

1 being able to close based on that information.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Would
3 you like to offer a specific clarification to the motion
4 that's on the board so that our -- so that clarifies
5 our record?

6 PATRICIA KURKUL: I would add with the
7 understanding that for ATM-E the action would be based
8 on data in hand.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Jan,
10 can you add that language to the motion. I'd ask the
11 maker and seconder if they're agreeable to that as a
12 clarification? Pat, Erling, is that acceptable?

13 PAT AUGUSTINE: I don't have a problem,
14 Mr. Chairman.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Erling?

17 PAT AUGUSTINE: If it helps. That's
18 fine.

19 ERLING BERG: Okay.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Jessica.

22 JESSICA COAKLEY: Yeah. Just a quick
23 comment. And when we did have these FMAT discussions,
24 the way we wrote the language in this alternative was

1 very general. We left it as based on available
2 information to allow for the flexibility to make the
3 determination at the time if the data in hand is the
4 most appropriate use or if information improved and
5 projected information was the more appropriate way to
6 do it that we were covered either way.

7 I'm not a Council member, but my concern
8 here would be if you say it's only going to be based
9 upon the information at hand here, if we have
10 improvements through MRIP over the next few years, we
11 may be boxing ourselves in by not allowing the use of
12 those future projections. So, that was why the FMAT
13 focused on very generic language here.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

15 PATRICIA KURKUL: I appreciate that and
16 understand where the FMAT was coming from. And as I
17 read the language, I realized it was very hard to word
18 it in such a way so that you could allow that flexibility.

19 So, you've got general language in here, but ultimately
20 that gets translated into regulatory text, which will
21 be very specific, and I think based on this would require
22 us to do the projections even today. So, I'm not quite
23 sure how to allow that flexibility.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Well,

1 on this point, I wonder if we could modify it through
2 a framework in the future as MRIP improves or if the
3 data got to the point that we thought projections were
4 -- we thought as a Council that projections were
5 adequately used to make this determination, if we could
6 simply modify that regulatory texture of framework?

7 Jessica, would that be possible?

8 JOEL MACDONALD: I'm thinking about
9 possibilities here. And with respect to adding
10 something to this to clarify it, it may be worth
11 considering whether language to the effect that based
12 upon available information, that would cover I think
13 both in hand and projections. Well, I mean, typically
14 what we do is estimate when the -- you know, the quota
15 is going to be taken. But we use what, available
16 information to do that?

17 PATRICIA KURKUL: That's a projection.

18 JOEL MACDONALD: Right. But is it just
19 information in hand that we use or ...

20 PATRICIA KURKUL: I guess I'm not
21 following. We don't want that to be projections.

22 JOEL MACDONALD: Well, what I'm
23 confused about what you mean exactly by information in
24 hand.

1 PATRICIA KURKUL: Oh, I see.

2 JOEL MACDONALD: That's --

3 PATRICIA KURKUL: Sorry. Right. As
4 the Wave information comes in, if the Wave 3 for example
5 showed that the quota had been exceeded, then we would
6 do a closure.

7 JOEL MACDONALD: Okay. Getting back to
8 the question asked of Jessica about whether you could
9 do this by a framework. I believe you can do it by
10 framework. What I'm still thinking of is whether you
11 could do it through the specification process. And I
12 have my doubts whether you could do that. It may fall
13 within the ambit of that particular process, but
14 something I'd have to think about.

15 But in answer, we could do it through
16 a framework.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

18 So, we could -- if we -- if we make this clarification
19 here and the quality of the projection information in
20 the future changes, we could modify the regulations
21 accordingly and incorporate that projection
22 information. I mean, as it is now, this will be more
23 of a post-mortem closure. Okay.

24 Further discussion on the motion? Jim.

1 JAMES FLETCHER: Will this motion allow
2 the closure only of the EEZ? Will this motion only allow
3 the closure of the EEZ? Because I know of very few
4 states that have mackerel management plans.

5 JESSICA COAKLEY: Yes. All of the
6 measures proposed in this document would only apply to
7 the federal aspects of the plan.

8 JAMES FLETCHER: So, basically, we will
9 have a recreational fishery inside state waters that
10 can theoretically devastate the fishery? And there's
11 no way to management, because each state does not have
12 a management plan. So, ASMFC is going to have to put
13 in a mackerel management plan?

14 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
15 I don't think the recreational landings of mackerel have
16 been at a level that would devastate the stock. But
17 Adam?

18 ADAM NOWALSKI: Thank you, Mr.
19 Chairman. Adam Nowalski. I appreciate the desire to
20 split the motion here. I'm sorry to see that it didn't
21 pass, because I think it's important. I hope as we move
22 through these other species, perhaps to expedite some
23 of these other motions we can divide them before we get
24 to this point.

1 But with regards the specific motion
2 here in ATM-E, I'm encouraged by what I hear today.
3 I've stood up here at numerous meetings, have been
4 steadfastly opposed to general recreational closure
5 authority based on MRFSS, remain opposed to anything
6 based on MRFSS where you're talking about something that
7 is purely a survey. I won't go on about all the concerns
8 about it, but steadfastly remain opposed to it.

9 However, I'm very encouraged by the
10 prospects of using actual -- I hesitate to use that term
11 actual because again it's survey data -- but I'm more
12 encouraged to hear that it would be the actual numbers
13 that have come in to date as opposed to the projections
14 and would support that more than just based on
15 projections.

16 One of the alternatives, as well, I had
17 some conversation with some Council members, would be
18 to allow for the Council themselves to have input on
19 this process, grant general in-season closure authority
20 when recommended by the Council. I don't know if that
21 would be within the bounds or not. But if there was
22 some way for other -- for the Council to provide input,
23 they may be able to consider these other factors that
24 Ms. Kurkul is referring to here. But I think that's

1 a step above by saying, okay, the closure would occur
2 when the landings have been exceeded as opposed to when
3 the projections indicate they will. I would see that
4 as an improvement as to what's here; but again, would
5 have to remain opposed to it just because it's MRFSS
6 survey data, not hard landings data to the level of
7 certainty that you have in the commercial sector.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
9 you, Adam. Additional comments? Okay.

10 Is the Council ready for the question?

11 The motion is to move -- to select alternatives ATM-D
12 and E as the Council preferred alternative with the
13 understanding for ATM-E that data will be based upon
14 the information at hand.

15 (Motion as voted.)

16 {Move to select alternatives ATM-D & E as the
17 Council preferred alternative with the
18 understanding for ATM-E the data will be based upon
19 the information at hand.}

20 COUNCIL CHAIR RICK ROBINS:

21 All those in favor, please raise your hand?

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Seventeen. Opposed, like sign.

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Abstentions, like sign.

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: The
6 motion carries. The total is 18 to 0 to 0. Okay. The
7 motion carries. Thank you.

8 That leaves us with a motion that we'll
9 need for reactive accountability. There are three
10 choices there, H, I or J. Pat.

11 PAT AUGUSTINE: Mr. Chairman, I would
12 suggest reactive accountability ATM-I, three mechanisms
13 accountability for catch.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is
15 there a second to the motion? Second by Howard King.
16 That's the logical pairing for the package that we just
17 selected for proactive accountability? Okay.
18 Discussion on the motion? Steve.

19 STEVE HEINS: For reasons that have been
20 expressed by the public, I don't support pound for pound
21 payback in a recreational fishery, especially in
22 something like Atlantic mackerel with CV's of a hundred.

23 We have no real idea what we're catching out there in
24 the recreational fishery. So, I'd be more inclined to

1 support ATM-J.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Further discussion on the motion? Frank.

4 FRANK BLOUNT: Yes, thank you, Mr.
5 Chairman. And I know under I it says: in the unlikely
6 event that it's exceeded by the RSA, then the commercial
7 and recreational fishery would be adjusted in response.
8 Why wouldn't you take it out of the RSA for the next
9 year if the RSA was responsible?

10 JESSICA COAKLEY: Sure. In terms of
11 the RSA, the RSA is part of either the commercial quota,
12 the harvest limit, that up to 3 percent that's allocated.

13 So, RSA could be exceeded if for some reason vessels
14 reported coming back with more RSA than was actually
15 allocated to that program. In terms of the
16 accountability measure, that's something that's
17 probably very unlikely to happen and it seemed
18 appropriate to lump it in with the discards and other
19 unanticipated sources of mortality and then address
20 those by taking those off the top.

21 If it was to say a hundred pounds in
22 excess, whether you take the a hundred pounds off when
23 you're down at the commercial quota rec. harvest limit
24 level, where you take the hundred pounds off the top,

1 the net effect is you're going to be taking that extra
2 hundred pounds in excess of the RSA off of the overall
3 allocation.

4 FRANK BLOUNT: Right. But, if you're
5 giving the RSA -- you know, 3 percent and they exceeded
6 it, I mean, the following year, if you want to adjust
7 it, you'd say the RSA is only getting 2 percent and then
8 the commercial and recreational will get more fish as
9 opposed to them having to pay back what was going to
10 RSA. I mean, like you said, it's unlikely, but it is
11 setting up a precedent for the future.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Vince.

14 VINCE O'SHEA: I guess if they took 6
15 percent instead of 3 percent that would make sense.

16 COUNCIL CHAIRMAN RICHARD ROBINS: It
17 seems a remote possibility at this point, I guess.
18 Other discussions on the motion? Chris.

19 CHRISTOPHER ZEMAN: Yeah. I have a
20 question. Why are we treating landings different than
21 catch and discards? So, in terms of landings, that
22 would then reduce the DAH for the respective fishery
23 that had the landing exceedance. But then for discards,
24 it seems like that -- it seems like that is taking off

1 at the top irrespective of who caused that -- or who
2 caused those discards or which sector.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Jessica.

5 JESSICA COAKLEY: It has to do with how
6 you'd like to address accountability for those overages.

7 If you want each of those individual sectors to be
8 responsible for their individual overages, that may have
9 resulted from the measures that were implemented in that
10 fishery, but it makes sense to try to address those for
11 those individual fisheries. Discards is one of those
12 things that it's a little more difficult to deal with.

13 I mean, a lot of our management measures and the way
14 they're applied or not linked up to the discard
15 components, they're linked up to the landings components
16 when measures are set. So, in that respect, that seemed
17 to be a logical break; that the landings that resulted
18 from the measures that were designed to achieve those
19 would be treated as one block and the discards were
20 treated separately as another source of mortality.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Chris.

23 CHRISTOPHER ZEMAN: I would think if
24 we're sort of going with this approach 1:

1 accountability, it should be across the board for catch,
2 not just landings. Because then, I think, one sector
3 can be penalized for the catch discards of another sector
4 without any recourse.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jessica.

7 JESSICA COAKLEY: I do hear your point.

8 Discards in this document were, in my mind, one of the
9 most challenging aspects because it's a catch component
10 that we -- we have more reliable information for landings
11 when discards tend to be estimated. You also may have
12 discards -- because we address all discards irrespective
13 of what fisheries they come from, you could have a
14 directed fishery that's working off their landings
15 allocation, but you could have a large amount of discards
16 that are discarded in other directed fisheries that are
17 not necessarily occurring in your directed fishery.
18 And I'm trying to think of a good example in my head
19 and one is not popping in.

20 But the discards that are occurring may
21 be not be directly linked to the commercial management
22 measures you're applying in your fishery. They may be
23 resulting from other fisheries and other management
24 actions.

1 CHRISTOPHER ZEMAN: I think it would be
2 a benefit to our directed fisheries if there was
3 accountability for that circumstance as well where you
4 have other fisheries causing discards. Right now, it
5 seems like our only recourse in this plan is that if
6 another fishery is causing catch mortality on our
7 directed fisheries, all we do is then reduce the directed
8 fisheries landings. That's our recourse.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Chris, we haven't allocated any sub ACL's for discards
11 to other fisheries in this document. You know, one
12 point though I think with respect to discards, if you
13 look on Page 52, the Atlantic mackerel flowchart that
14 she has in the document, has discards coming off below
15 the ACT. So, while on the one hand you may have a
16 corrective action liability, as you point out, as you
17 go forward, the expected discards for each sector are
18 taken off at the sector level; that is, from the rec.
19 or the commercial fishery before setting the rec.
20 harvest limit or the domestic annual harvest limit.

21 So, I think you do have the expectation
22 as you set your limits that you're accounting for your
23 discards there at the sector level.

24 I appreciate the point you raise about

1 the corrective AM, but I think the way the flowchart
2 is set up they are trying to treat discards at the sector
3 level as I understand this to be documented.

4 Further discussion on the motion? Pat.

5 PAT AUGUSTINE: Thank you, Mr.

6 Chairman. Just further clarification. I do think that
7 what we've just been describing in terms of where the
8 overage would come from, why would it not be possible
9 to take the last sentence on Page 55 that says:
10 specifically the amount by which the ACL was exceeded
11 would be used to adjust a sector specific.

12 Why can't we consider RSA as a sector
13 to clearly define use for the species of fish with which
14 we are talking about? Then it would go on to say: the
15 following year, such as pound-for-pound repayment.

16 I think Mr. Blount's comment was right
17 on target. It would just seem to me rather than it
18 coming off the top, any overage, if it was from RSA,
19 it would appear to me that the RSA would be reduced by
20 whatever the pound for pound was through percentage
21 reduction the following year. That would keep it
22 absolutely clean. If it was commercial, it was
23 commercial. If it was recreational, it was
24 recreational. And I think that Mr. Blount was

1 absolutely correct in saying if that's a sector, that's
2 a percentage they're given, it's taken out of the overall
3 quota. If they go over it, then the following year,
4 they should have their total allowable catch of research
5 set-aside reduced by a similar amount. Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS: The
7 staff is having a sidebar on your question. Other
8 comments or questions while we consider past questions?
9 Adam.

10 ADAM NOWALSKI: Thank you, Mr.
11 Chairman. Adam Nowalski. I cannot support
12 alternative I with the inclusion of the reactive
13 accountability based on MRFSS i.e. pound-for-pound
14 repayment. Just about every state that's represented
15 here in the room has felt the pain of MRFSS at some point
16 in time. New York, specifically, 2003. New Jersey,
17 Maryland, with summer flounder this last year at a time
18 when you've seen summer flounder increases in quota 20
19 percent each of the last subsequent years. No
20 improvement to regulations due to MRFSS. You have a
21 system that has PSE's that routinely meet or exceed 20
22 percent. And here, you're going to apply the mechanism
23 of pound-for-pound repayment. It just doesn't make
24 sense, you know. Any state -- you know; but

1 specifically New Jersey, New York, Maryland, what we've
2 seen in recent years here, to go ahead and agree with
3 I, with the inclusion of the accountability of
4 pound-for-pound repayment, based on MRFSS, simply can't
5 support that.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Other
7 comments on the motion? I'm going to -- Pat, before
8 we get back to you, I'm going to let Jessica comment
9 on -- in response to your question.

10 PAT AUGUSTINE: Okay.

11 COUNCIL CHAIRMAN RICHARD ROBINS: I'll
12 let her talk.

13 JESSICA COAKLEY: Sorry for the
14 sidebar, but I just needed to refresh my memory of what
15 some of our earlier FMAT discussions were. And this
16 was something that the FMAT did talk about, the idea
17 about partitioning that RSA component out to sort of
18 its own separate mechanism. And it is something that
19 could be done. But ultimately, we ended up not thinking
20 that was really necessary because the -- the possibility
21 of the RSA being exceeded was quite remote. We wanted
22 to make sure there was a mechanism if you wanted to
23 address it in place, but it was probably unlikely that
24 it was going to happen. And so, in terms of sort setting

1 up the administrative process, it didn't really seem
2 necessary to do that. But it is something that it could
3 be done.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

5 PAT AUGUSTINE: Thank you, Mr.

6 Chairman. So, as a follow up to that point then, could
7 we look at the language and just add in, if it's possible
8 to do it as you say, Jessica, could we just add in under:
9 was exceeded which would be used to adjust a sector
10 specific (including RSA) as a sector.

11 Now, that may be too complicated. But
12 it just seems that if the RSA has a 3 percent cap and
13 they go over it, they have no penalty. So, if I were
14 -- if I had an RSA quota, what's going to prevent me
15 from doing that? And I think this closes that
16 possibility though. To that point, Mr. Chairman.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 PATRICIA KURKUL: Pat, that would
19 essentially establishing it as a sector. And frankly,
20 I agree with Jessica that it's just an unnecessary
21 complication. It's a remote possibility. It doesn't
22 even really make sense because you don't have the same
23 people participating. It's not a sector. I mean, it's
24 not the same people in one year necessarily in the next

1 year. So, you know, your option for the following year
2 if you really think it's an issue is to set the RSA at
3 a lower level, 2 percent or 1 percent instead of the
4 3 percent. So, I just think there's complication that
5 we don't need in there.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
7 you for that clarification, Pat. Pat, is that an issue
8 of concern that we could deal with through the
9 specifications process?

10 PAT AUGUSTINE: It does, but, Mr.
11 Chairman, I hope we would make a sidebar note to remind
12 Council members who are involved with RSA that this would
13 be a consideration in future years; that if any one of
14 the RSA's go over, that that amount that they're over
15 goes off of their -- goes off of their RSA allowance
16 for the following year. Thank you, Mr. Chairman. And
17 thank you, Pat.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
19 you, Pat. All right. We're back to the question. Any
20 further discussion on the motion? Chris.

21 CHRISTOPHER ZEMAN: Yeah. I can't
22 support this motion because it really just does treat
23 the commercial component and recreational component the
24 same and it really just assumes completely incorrectly

1 that the catch reporting methodology we have for the
2 recreational fishery is so accurate we can actually
3 reduce future landings pound for pound.

4 The approach this Council is taking with
5 the recreational fishery, and we sort of conceded with
6 this approach in the last meeting, is that we apply sort
7 of an annual AM where at the end of the year, we then
8 have the Monitoring Committee look at how we did and
9 then reassess and implement or recommend management
10 measures to control catch for that entire year so that
11 we achieve our target. It's a sort of a every year we
12 adjust it to make -- and we get closer and closer to
13 and at a point where we're actually exceed it.

14 I mean, that's the approach that seems
15 to me that there's been general acceptance on within
16 in this Council and now what we're doing is we're
17 actually implementing that approach, but then we're also
18 adding a pound-for-pound payback based on a system that,
19 I mean, these discussions are going to the FMAT.
20 They're saying that these are -- these levels -- these
21 CV's are so large that it could have been completely
22 -- if it comes back with a number of 40,000, it could
23 have been just as likely that that answer -- that number
24 that came back from MRFSS is zero -- was zero. I mean,

1 the range is so wide, it's we are just -- we are presuming
2 that we know something that we absolutely do not know
3 and we're presuming that we have an accuracy that we
4 clearly do not have.

5 I would be supportive of this approach
6 if we take -- if NOAA takes the resources to improve
7 our recreational catch reporting system. But until
8 then, it is -- it's completely inappropriate to treat
9 our recreational catch reporting system as if it's as
10 accurate as the commercial system reports.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
12 you, Chris. I think we have -- you know, we have two
13 options in the document that are consistent with
14 National Standard 1 in terms of accounting for overages,
15 both involve paybacks. One would come off the top, one
16 would be sector specific. This is -- this has
17 sector-specific accountability and it versus the other
18 option. But Vince.

19 VINCE O'SHEA: Yeah. I don't want to
20 prolong this, Mr. Chairman. I appreciate your trying
21 to get to the question. But I just point out that there
22 are -- we do have states that put their own resources
23 into MRFSS out of concern for the quality information;
24 and in return for that investment by the states, they've

1 lowered their PFC's and have gotten greater confidence
2 in the MRFSS data. So, it's not solely dependent on
3 the National Marine Fishery Service putting more
4 resources into MRFSS. Thanks.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
6 you. Is the Council ready for the question? Move to
7 select alternative ATM-I as the Council preferred
8 alternative.

9 (Motion as voted.)

10 {Move to select alternative ATM-I as the Council
11 preferred alternative.}

12 COUNCIL CHAIR RICK ROBINS:

13 All those in favor, please raise your hand.

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Fifteen. Opposed, like sign.

17 (Response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Three. Abstentions, like sign.

20 (No response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: The
22 motion carries 15 to 3. Thank you. Jessica.

23 JESSICA COAKLEY: Okay. We're going to
24 move on to butterfish. The information on butterfish

1 starts on Page 56 and 57 -- 56. This butterfish section
2 is much simpler than what we've looked at for Atlantic
3 mackerel. It's a series of status quo actions and then
4 measures that have been developed by the Council that
5 are proposed. So, there are three sets of alternatives.

6 A and B are a pair, C and D are a pair, and E and F
7 are a pair that you'll need to select between.

8 So, under alternative Butter-B, the
9 action alternative, the ACL would be set equal to the
10 ABC and that ACL evaluation would be based on a
11 single-year's comparison of observed catch to the ACL
12 that was specified to determine if it was exceeded.

13 The next action alternative that deals
14 with proactive accountability is alternative Butter-D.

15 Under this alternative, as is very similar to under
16 the Atlantic mackerel alternative, the Butterfish
17 Monitoring Committee would recommend a single annual
18 catch target to the Council that's designed to address
19 management uncertainty. The Monitoring Committee
20 would need to communicate those sources of management
21 uncertainty and the ACT control rules that they chose
22 to apply to the Council at the time specifications are
23 set. And the group that's most familiar with the
24 fishery and would be most appropriate and knowledgeable

1 to provide advice to the Council.

2 In terms of reactive accountability for
3 the butterfish fishery, if the ACL is exceeded, then
4 the ACL would be reduced the following year. It would
5 be a single mechanism for reactive accountability and
6 all sources of mortality, catch and discards that occur
7 in that fishery would be accounted for under this process
8 essentially in a single step.

9 So, you would have the overfishing
10 limit, the ACL would be equal to the ABC, which would
11 address management uncertainty, scientific
12 uncertainty, where management uncertainty could be
13 addressed to set the ACT. And then below the ACT level
14 you would have the butterfish cap and all those other
15 mechanisms that are in place would function essentially
16 below that. And those aren't explicitly addressed
17 throughout this document for that reason. It was just
18 focused on setting the ACL and the ACT.

19 And those are all the alternatives for
20 butterfish.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
22 you. Any questions for Jessica before we get into a
23 motion? All right. Seeing, none, Pat.

24 PAT AUGUSTINE: Thank you, Mr.

1 Chairman. Thank you for that clarification, Jessica.

2 Mr. Chairman, do you prefer three
3 separate motions? These are rather straightforward.

4 If you'd like, I would make them as one complete motion.

5 COUNCIL CHAIRMAN RICHARD ROBINS: I
6 think you can combine them, Pat, as long as we're clear.

7 PAT AUGUSTINE: I recommend proposed
8 Butter-B, ACL equals ABC; Butter-D under proactive
9 accountability -- I'm sorry -- yeah, Butter-D, use of
10 ACT; and under reactive accountability, Butter-F, one
11 mechanism accountability for catch.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 there a second to the motion? Second by Erling Berg.

14 So, the motion is to identify Butter-B, Butter-D, and
15 Butter-F as preferred alternatives for annual catch
16 limits, proactive accountability and reactive
17 accountability respectively. Jan, I'll wait for you
18 to get that up there and blow it up a little bit. Is
19 there any discussion or questions on the motion while
20 they're getting that up there? Any comments from the
21 public on the motion?

22 Okay. Again, the motion on the board
23 select alternative Butter-B, Butter-D and Butter-F as
24 the Council preferred alternatives. Any discussion on

1 the motion?

2 Is the Council ready for the question?

3 Is there any objection to the motion?

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: Is
6 there any objection to the motion?

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Seeing none, it's approved by consent. The motion
10 carries. Thank you. Jessica.

11 JESSICA COAKLEY: All right. The next
12 species we'll be discussing is Atlantic bluefish. And
13 this starts on Page 59 of the document. Again, we have
14 three sets of alternatives. A single alternative for
15 the annual catch limit. There are two options under
16 proactive accountability, that the Council has to
17 consider as action alternatives and then one action
18 alternative under reactive accountability.

19 So, for alternative Blue-B, ACL would
20 be set equal to ABC and the ACL evaluation would be based
21 on a single year's reserved catch relative to the ACL
22 for that fishing year.

23 There are a series actually for all of
24 these alternatives of considered but rejected

1 alternatives, things that you had discussed at previous
2 Council meetings. I want to point out that those are
3 all contained within an appendix to the document if you
4 haven't noted that.

5 For proactive accountability under
6 alternative Blue-D, the Bluefish Monitoring Committee
7 would recommend a recreational ACT and a commercial ACT
8 to the Council to address management uncertainty. And
9 the Monitoring Committee, similar to the other
10 alternatives, would communicate the sources of
11 management uncertainty, those control rules, and
12 provide that advice to the Council.

13 For bluefish, because of the transfer
14 issue which confounded many of the aspects of these
15 alternatives, management uncertainty for this species
16 would need to be addressed in a single step. So, you
17 wouldn't be able to separate out recreational management
18 uncertainty and apply it independently from commercial
19 management uncertainty because they're so intermingled
20 because of that transfer issue. So, you'll note in the
21 flowchart that that's designed to be addressed in a
22 single step.

23 Also for proactive accountability,
24 alternative Blue-E would be general in-season closure

1 authority where the Regional Administrator would review
2 information and close the recreational fishery to
3 prevent the accrual of large overages. And when we get
4 to the motion-making stage, you may also want to consider
5 the additional language you added to the motion for
6 Atlantic mackerel, you may want to consider that here
7 as well.

8 And for reactive accountability, it
9 would be a three-step process. However, we need to
10 address that transfer issue. So, for commercial
11 landings, there already is an overage deduction that's
12 in the FMP. It would be applied as needed. And it
13 occurs irrespective of whether the ACL is or is not
14 exceeded. That mechanism will continue to function
15 exactly as it is in the plan, but what it will do is
16 fulfill the need to address that source of mortality
17 within the accountability system.

18 If the ACL is exceeded, and the
19 recreational landings are responsible for that overage
20 and no transfer has occurred, then the recreational --
21 those recreational landings would be deducted by an
22 overage amount from the recreational harvest limit the
23 subsequent year. So, essentially, that recreational
24 component of the fishery would be responsible for that.

1 If the ACL is exceeded but a transfer
2 occurred, the ACL would be adjusted the following year;
3 so, that adjustment would be at the upper level prior
4 to the allocations to the rec. and the commercial fishery
5 occurring. And that's intended, because there was a
6 transfer, to have those two sectors essentially share
7 responsibility for that overage because the overage may
8 have occurred because too much was transferred in those
9 types of issues. And the transfer amount in the next
10 year needs to be reduced by at least the amount of the
11 overage.

12 Now, if the ACL is exceeded and the
13 overage is due to other non-landing catch components,
14 and we've discussed those discards or the unlikely event
15 of RSA, those would also be deducted off of the top at
16 the ACL level before allocation to the individual
17 fishery occurs.

18 So, it's a three-step process; but for
19 that recreational component, it's going to be contingent
20 on whether a transfer has or has not occurred in that
21 fishery in terms of how that payback mechanism is
22 applied. That's the bluefish motions.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Bluefish, not butterfish. Okay. Questions for

1 Jessica? Chris.

2 CHRISTOPHER ZEMAN: In terms of the
3 payback option, I just have a question as to how that
4 works. Because, let's say if the -- let's say we have
5 a year where the fishery exceeds its limit, then the
6 Monitoring Committee therefore recommends management
7 measures the following year so that it complies with
8 the quota. Now, is the payback
9 done before or after the Monitoring Committee makes its
10 recommendations. My point is that if we are -- the
11 Monitoring Committee made it's recommendations based
12 on a quota -- a recommended quote from the SSC, then
13 do we do the payback provision to further reduce the
14 recreational fishery the following year so that it's
15 actually harder to comply with the quota based on the
16 Monitoring Committee's recommendations? Or, is that
17 pound-for-pound repaid and then the Monitoring
18 Committee makes recommendations to achieve that
19 subsequent annual catch limit?

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Jessica.

22 JESSICA COAKLEY: Well, the way we've
23 applied any payback mechanisms previously and the way
24 these I foresee would continue to be applied, when the

1 recommendations are made for management measures for
2 the upcoming fishing year, it's based off of an initial
3 commercial quota and initial recreational harvest limit
4 that at that point they haven't been fully adjusted for
5 the upcoming fishing year. Excuse me. They haven't
6 been adjusted for the overages from that current fishing
7 year.

8 Because you have to remember the timing
9 of the process. Like we're in 2010 right now and
10 tomorrow we're going to be looking at 2011 measures.

11 So, the adjustments to the 2010 overages, the full
12 information for that year isn't going to be available
13 yet and it won't be available until the end of the year
14 essentially. So, it's typically done in the -- the
15 specifications in the proposed rule, there are
16 adjustments made based on information like in the
17 commercial fishery through July. But for these ACL
18 comparisons, we would really need to wait until the end
19 of the year to make those adjustments at a later point.

20 And that may in the final rule or it may be in the next
21 proposed rule for the next year which would adjust those.

22
23 It all has to do with the timing of when
24 these actions are taking place. And to do these

1 comparisons, like I said, for the commercial fishery,
2 there's already a mechanism that takes place. So, often
3 overages that are known through July are incorporated.

4 But for the ones that hinge on if the ACL is exceeded,
5 so that would be the rec. adjustments, the ones for
6 discards, you would need to wait until the end of the
7 whole fishing year to get a full picture of what your
8 catch was to compare to that ACL.

9 CHRISTOPHER ZEMAN: So, the
10 explanation, the way I see it, is that pound-for-pound
11 payback is only based for overage that the SSC didn't
12 consider or it happened after the fact, after the SSC
13 made its recommendation for the following year? If
14 the SSC did consider the overage, then there shouldn't
15 be a payback because it's already been incorporated in
16 the recommendation for the next year's allowable catch
17 and landings.

18 JESSICA COAKLEY: The SSC's
19 recommendation, they're going to be looking at the
20 science, they're going to be looking at what fishing
21 mortality rates resulted from prior year catches and
22 those types of information, but they're not necessarily
23 going to be explicitly looking at, well, you went over
24 by 3 million pounds so they're going to drop their ABC

1 recommendation by 3 million pounds. They're not going
2 to be doing that. The overage -- the paybacks and
3 overage adjustments are going to be addressed on this
4 management side of the process.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Chris, the ABC recommendation is going to be based on
7 current stock size and the uncertainty associated with
8 that when they come up with their ABC recommendation.

9 But this is being accounted for in the other side of
10 the occasion with respect to management uncertainty.

11 Mike, do you have a comment on the process?

12 MIKE: No.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

14 Pat.

15 PAT AUGUSTINE: Are you ready for a
16 motion, Mr. Chairman?

17 COUNCIL CHAIRMAN RICHARD ROBINS: Yes,
18 sir.

19 PAT AUGUSTINE: I would like to divide
20 this a little differently, Mr. Chairman. I would like
21 to address the annual catch limit and a proactive
22 accountability as one motion if it's okay with you and
23 the Council members. I would select -- recommend annual
24 catch limit be Blue-B, establish ACL equals ABC. I have

1 proactive accountability Blue-D, use of ACT's. And
2 then I would like to address the reactive accountability
3 in a later motion. Thank you, Mr. Chairman.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
5 the previous motion on mackerel, we also had the general
6 in-season closure authority with the caveat that it be
7 based on information in hand. Do you want to add that,
8 or is there a different way?

9 PAT AUGUSTINE: Mr. Chairman, I'd
10 rather pass on that at this moment. I'm reviewing the
11 history of bluefish and the status of the stock and I
12 have not seen in my eight and-a-half years any indication
13 that bluefish catch rate, recreational, is going to be
14 anywhere near a level that would require us to have that
15 ability for in-season closure at this particular point
16 in time.

17 But if someone would like to amend my
18 motion, I would entertain it. But normally, Mr.
19 Chairman, I would like to leave it as it is.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

21 I just wanted to clarify that, Pat. Is there a second
22 to the motion? Is there a second to the motion? Second
23 by Erling. Discussion on the motion?

24 I was asking the staff if there -- what

1 is the history of overages with respect to the bluefish
2 recreational catch?

3 JESSICA COAKLEY: I don't think that the
4 recreational harvest limit has been exceeded except for
5 once. I think it was slightly over by a few percent.
6 Jim would know best. Jose is also nodding his head.
7 So, that's my recollection.

8 PAT AUGUSTINE: Thank you.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Further discussion on the motion? Pres.

11 PRESTON PATE: We could have made the
12 same argument for the Atlantic mackerel recreational
13 closure as well and we didn't and included this measure
14 in the motion. So, I'd like to offer an amendment to
15 include it with the clarifying language that Pat
16 suggested for Atlantic mackerel.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Is
18 there a second to that motion? Second by Lee Anderson.
19 This provides for some consistency with respect to what
20 we did to mackerel. Okay. Discussion on the motion?
21 Frank.

22 FRANK BLOUNT: Thank you, Mr. Chairman.
23 Would the recreational harvest limit be exceeded the
24 prior to the transfer or after the transfer? How would

1 that be determined?

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Frank, can you repeat your question?

4 FRANK BLOUNT: Would the recreational
5 harvest limit be what was allocated before a transfer
6 or after the transfer? It makes a difference. If it's
7 after the transfer and you exceed it, it's just what
8 the recreational should have caught originally. So,
9 you can't have an in-season adjustment to shut down the
10 recreational for fish that were transferred out of the
11 recreational sector. I mean, if they're over the
12 harvest limit, the original harvest limit, that's one
13 thing. But if they didn't exceed the harvest limit and
14 the fish were transferred out of there and that's why
15 they exceeded it, it makes a huge difference.

16 JESSICA COAKLEY: Yeah. Under the
17 system, it would be after the transfer occurs, because
18 you recommend a transfer and then that becomes the
19 harvest limit that's established for that fishery that
20 you're -- and that is why in the reactive accountability
21 it's broken into two separate mechanisms for repayment
22 in response to that.

23 FRANK BLOUNT: If I can, I think the
24 transfer is usually recommended on the fact that it's

1 not anticipated that the recreational catch -- you know,
2 what's allocated to them, and that's why there is a
3 transfer. So, if the Council allocated 10 percent to
4 the commercial and the recreational goes over what's
5 left by 5 percent, there was fish that were allocated
6 to them to begin with. So, the fault lies with what
7 was transferred, not with what they caught, because then
8 you're transferring fish that you thought they would
9 not catch.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

11
12 PATRICIA KURKUL: Well, the way the
13 document is written, I think it would be the amount after
14 the transfer. Now, the majority of the time all that
15 means is that there's less transfer the following year
16 because it's deducted from the recreational the
17 following year. I think. I'm trying to think that
18 through. It would only be in the situation where
19 there's no opportunity for transfer that it would really
20 affect the recreational sector.

21 But I certainly see what Frank is saying
22 and we need to be clear whether it's before or after.

23 And I -- I don't have it clear in my own head yet.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

1 PAT AUGUSTINE: As a follow up -- thank
2 you, Pat, for that explanation.

3 But as a follow up to what Frank said,
4 at the end of the day, the total catch at that particular
5 point in time that the records would check through Pat's
6 office indicate that they're over, whether it's in May,
7 June, July, August, or September, the recreational
8 fishery is shut down in federal waters and there lies
9 a major, major problem. All based on the fact that
10 possibly the commercial folks caught their share,
11 combined with whatever the quota is left. So, we're
12 in trouble.

13 I agree with Mr. Blount on this one.
14 I think we have to take a good hard look at general
15 in-season closure authority and be clear as to what we
16 agree with. That was the reason for my leaving it out
17 in the first place. I wanted that to be addressed
18 separately. Thank you, Mr. Chairman.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
20 you, Pat. Jessica.

21 JESSICA COAKLEY: Well, I'm thinking
22 about it and talking out loud over here and I'll just
23 talk out loud for the entire Council to hear as I talk
24 out loud. But in my mind, I think that closure authority

1 needs to be linked up to the harvest limit after you
2 do that transfer. Because the Council -- the Council
3 will have chosen to make that transfer amount and to
4 establish an allocation between the recreational
5 fishery and commercial fishery, whatever that RHL and
6 that commercial quota are. And part of the effect of
7 these reactive forms of accountability measures and
8 these other measures we have is not just to prevent the
9 accrual of substantial overages, but it's to maintain
10 the allocation intent for what the Council has
11 established.

12 Because if you establish a 60/40 split
13 for an example for summer flounder but you don't have
14 things to constrain your recreational fishery to 40
15 percent, what would prevent that fishery from taking
16 more and shifting those allocations. So, in my mind,
17 even with the in-season authority the Council will have
18 set up an allocation based on that transfer, those are
19 your functional limits. The Monitoring Committee is
20 going to look at whatever that allocation is to the rec.
21 fishery and develop and prescribe management measures
22 specific to that allocation to achieve that. It seems
23 to make sense that your closure authority should be
24 linked up to that. But that's how it plays out in my

1 mind. Because a lot of these -- the impacts of these
2 measures are not just to prevent overages, but it's also
3 to maintain the integrity of the allocations that you've
4 put into place for these fisheries.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

6
7 PATRICIA KURKUL: I agree with Jessica.

8 I think you have to account for the fish as they're
9 allocated in that fishing year. But then the second
10 part of that is if there is an overage, where does that
11 come off of in the following year. Is the overage in
12 the recreational sector but wouldn't have existed
13 because there was a transfer deducted from the
14 recreational side or the commercial side in the
15 following year.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Jessica.

18 JESSICA COAKLEY: But I think that's
19 where it's addressed where we've got reactive
20 accountability for recreational fishery that's
21 different whether or not a transfer does or does not
22 occur. If the transfer does not occur, that
23 accountability is for that recreational harvest limit
24 alone. But if the transfer occurs, it comes off the

1 top because the overage could be due to transferring
2 too much. So, effectively, everybody pays when you take
3 it off the top. So, that structure there -- I thought
4 our question was more that why do the in-season to try
5 to keep you to the in-season closure to try to constrain
6 the fishery to the harvest limit, in my mind it's also
7 an allocation issue. That even if you've transferred,
8 you've now set up that's what you want your allocation
9 to each fishery to be. And that measure would help
10 maintain the integrity of that.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Chris.

13 CHRISTOPHER ZEMAN: So, it seems that
14 if a transfer occurs, then the overage is taken off the
15 top and that affects both commercial and rec. But if
16 the transfer doesn't occur, the reduction is to the rec.

17 But basically, doesn't that just impact the commercial
18 fishery? Basically, the commercial fishery is the one
19 that gets impacted because there is no transfer. The
20 reduction will likely reduce the potential for a
21 transfer in the following year. So, really, at the end
22 of the day, it's the commercial guys that are the only
23 ones affected by that reduction. It doesn't make much
24 sense.

1 COUNCIL CHAIRMAN RICHARD ROBINS: I
2 think both of them end up being affected if it comes
3 off the top. Frank.

4 FRANK BLOUNT: My question wasn't so
5 much why you'd have an mid-season adjustment. That
6 wasn't what I was arguing at the time. My argument was,
7 at the time, if mid-season it's determined that the recs.
8 will go over what's left after you've transferred, but
9 they're still not going to reach the original
10 recreational harvest limit, why would you have a
11 mid-season adjustment? I know you'd say it's because
12 mid-year, but the other thing would be to stop the
13 transfer of what's left.

14 What you're telling the recreational
15 side is, you know -- I'm just going to use a 50/50 figure
16 -- you've got 50 percent of the fishery. We've
17 projected you're only going to catch 30 percent and
18 transfer the other 20 percent to the commercial.
19 Half-way through the year it's determined that you're
20 going to catch 40 percent of the fishery, you're going
21 to be shut down on fish that you're allocated originally
22 and were transferred away.

23 It seems to me the mid-season shutdown
24 would be the transfer and not penalizing the

1 recreational for fish that they're originally allocated
2 that were taken away. The only payback here, it's not
3 a payback, but the penalty here lies that the
4 recreational fishermen was going to be paying for fish
5 that were transferred away from them.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Frank, on this point, I think if you've made the
8 allocation decision and made the transfer decision at
9 the beginning of the year, you can't go back mid-stream
10 and modify or reverse the allocation decision
11 administratively. I would ask that -- Pat is that even
12 feasible?

13 PATRICIA KURKUL: Well, I think you've
14 got two issues:

15 Is it administratively feasible. I
16 don't think we can reduce specifications if I remember
17 correctly from Jule. And then the other issue is you
18 -- you know, you can't at that point -- it would be
19 difficult for the commercial fishing industry to react
20 to that because they need to be watching both the
21 recreational side and the commercial side then. It
22 doesn't make any sense to change the allocation
23 mid-year.

24 PAT AUGUSTINE: To that point.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

2 PAT AUGUSTINE: Thank you, Mr.

3 Chairman. To that point, recreational reporting is
4 done through MRFSS or MRIP as the case may be. But in
5 the case of the commercial, they're making either daily
6 or weekly reports. So, if a commercial quota -- just
7 take for instance, if the transfer was 5 million pounds
8 and they have an overall quota now of 15 million pounds
9 and they're approaching 80 percent or whatever the
10 number we select as a time where you collect the daily
11 quota down, why would you not consider shutting the down
12 the commercial quota for the commercial fishery for
13 bluefish? There's a mechanism in place already. I
14 don't think it has anything to do with penalizing the
15 recreational sector because that quota has been
16 transferred. And you do have a mechanism in place
17 through reporting to identify that. The direction
18 we're going, there will be a penalty. And I do believe
19 that we should be locking in some mechanism on
20 recreational harvest and so on.

21 But to the point of saying that if the
22 commercial go over and has a direct impact on the overall
23 catch that the recreational sector gets shutdown, I
24 think that's totally unfair and really not acceptable.

1 If the commercial were not reporting on a regular basis,
2 it would be different. Their reports come in on a given
3 time. Your computers are probably set up so they reach
4 a certain level. You can shut them off in a minute.

5 And let's go back to why the recreational
6 transfers in the FMP allows for a transfer to commercial.

7 As I understand it, it was to reduce the amount of
8 bycatch discards that the commercial were experiencing
9 because they do have a low quota. And now, at this day
10 and time, we're looking at the game changing so that
11 the recreational community may suffer as a result of
12 a commercial fishery that is highly controlled. There
13 is something wrong with that picture.

14 I do agree with general in-season
15 closure authority. However, the way we're describing
16 it now, I just think it's really out of order, that one
17 sector is paying for the overage of another sector.
18 Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
20 Pat, I think the way -- I think the way this has ben
21 set up is that if we're having an allocation that's being
22 made there has to be accountability that follows that
23 allocation. You know, this is a complex question, but
24 I think the FMAT has spent a lot time working on this.

1 They developed, as I recall, three options. We took
2 two of them out of the document and focused on this
3 remaining option. I think we've had a fair amount of
4 discussion to clarify where the accountability is to
5 be placed. Howard King.

6 HOWARD KING: It seems like the probable
7 outcome of this that maybe transfer from recreational
8 to commercial will become extremely precautionary. I
9 mean, the commercial transfer ought to be net reduced
10 in the future as a result of this.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Additional comments on the motion? Pres.

13 PRESTON PATE: Mr. Chairman, just for
14 the sake of making and ensure the record is clear, what's
15 up on the board needs to be expanded a little bit and
16 that the motion to amend would be to include alternative
17 Blue-E with the language that the data used will be based
18 upon the audit.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Is
20 that clarification acceptable to the seconder? Lee?

21 LEE ANDERSON: Yes.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.
23 Okay. Thank you. Further discussion on the motion
24 to amend? Any comments on the motion? Adam.

1 ADAM NOWALSKI: Adam Nowalski. Again,
2 can't support any option that's going to go ahead and
3 promote an in-season closure based on the MRFSS data.
4 Thank you.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
6 you. Is the Council ready for the question?

7 (Motion as voted.)

8 {Move to amend above motion to include alternative
9 BLUE E with the language that the data will be
10 based upon the information at hand.}

11 COUNCIL CHAIR RICK ROBINS: All those
12 in favor, please raise your hand.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Fifteen. Opposed, like sign.

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Three. Abstentions.

19 (No response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS: No
21 abstentions. The motion carries. Thank you.

22 Pat, you want to -- I'm sorry -- now the
23 amended motion is the main motion.

24 Is the Council ready for the question?

1 All those in favor, please raise your hand.

2 (Response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 fifteen. Opposed, like sign.

5 (Response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Three. Abstentions, like sign.

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: The
10 motion carries.

11 Pat, you have a motion for the reactive?

12 PAT AUGUSTINE: Yeah. Thank you, Mr.
13 Chairman. I do on the reactive accountability. I
14 would recommend a Blue-G with further clarification of
15 it. I would take the first two actions, or alternatives
16 within G and move that we approve those. What I'm
17 looking for is discussion on the third option, on the
18 third part of that option, Mr. Chairman.

19 COUNCIL CHAIRMAN RICHARD ROBINS: It's
20 all one option.

21 PAT AUGUSTINE: I know it is all one
22 option, Mr. Chairman, but I was asking for a discussion
23 on one of the points separately with full acceptance
24 of reactive accountability for commercial landings the

1 first part and the second part. If it would be easier
2 just to go ahead and approve it -- I'm sorry -- move
3 to accept it in total and then go back and discuss the
4 latter part of the section, the third paragraph: if the
5 ACL is exceeded and so on.

6 So, I would like discussion on that.
7 Would it be easier just to move --

8 COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
9 I think it would be easier to move the option and then
10 discuss the option.

11 PAT AUGUSTINE: Thank you for that
12 clarification. So, I'll move that option.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there a second to the motion? Is there a second to the
15 motion? Second by Gene Kray. Motion is to move select
16 alternative Blue-G as the Council preferred
17 alternative. Pat, you want a discussion on the third
18 element?

19 PAT AUGUSTINE: Yes. Thank you, Mr.
20 Chairman. I think there's been concern voiced around
21 the table about how it's worded. And I'm not sure it
22 could be worded any clearer than it is. But I do have
23 concern about that. Recreational fishery (inaudible),
24 so on and so on. I guess it's the part about the transfer

1 being the following year. I would like to have some
2 discussion by the other Council members. I know there's
3 been some concern voiced about that part.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Peter.

6 PETER DEFUR: Thank you, Mr. Chairman.

7 Pat, could you articulate what the concern is? I don't
8 see it. I keep reading it. I don't see the issue.

9 PAT AUGUSTINE: It was where the
10 recreational -- I'm sorry. It was the first paragraph
11 where it said the ACL is exceeded and the recreational
12 fishery landings are responsible for the overage and
13 the year when no transfer has occurred. (Inaudible)
14 commercial then the overage would be deducted from --
15 that's clear and I like that part of it. There's a part
16 that dealt with the concern about reactive
17 accountability. I guess that was the one. Hold on.
18 Let me read it again.

19 I must confess, I think I've confused
20 that, what I was concerned about, with the previous --
21 with the previous species we talked about. Hold on a
22 minute.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
24 the way it's set up right now, if there's an overage

1 in the recreational harvest limit and there hasn't been
2 a transfer then the overage comes off the RHL for the
3 next -- as a corrective adjustment. And if there has
4 been a transfer, then the other couple of things that
5 happen: one, the ACL would be reduced by the overage
6 amount and the amount to be transferred would be reduced
7 by the overage amount. So, there -- if it's determined
8 that the cause was too liberal a transfer. So, you've
9 got accountability that follows through, I think, the
10 original decision that we made in the specs. process.

11 PAT AUGUSTINE: Thank you for that. I
12 stand corrected.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Further discussion on the motion? Steve.

15 STEVE HEINS: Thanks, Mr. Chairman.
16 I'm just going to whack my dead horse one last time and
17 then give up on this subject. But, just in general,
18 I'm opposed to any pound-for-pound payback based on the
19 recreational survey.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thanks, Steve. Further discussion on the motion?
22 Comment on the motion? Adam.

23 ADAM NOWALSKI: Adam Nowalski. While
24 I sympathize with Mr. Heins' concerns about beating the

1 dead horse, I will continue to do so. Recreational
2 Fishing Alliance cannot support anything that allocates
3 a pound-for-pound payback again with all the concerns
4 about MRFSS. Pound-for-pound repayment just isn't in
5 the cards here. Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
7 you, Adam. Further comment on the motion? Is the
8 Council ready for the question?

9 (Motion as voted.)

10 {Move to select alternative BLUE-G as the Council
11 preferred alternative.}

12 COUNCIL CHAIR RICK ROBINS:

13 All those in favor, please raise your hand.

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Thirteen. Opposed, like sign.

17 (Response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Five.

19 Abstentions, like sign.

20 (No response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: The
22 motion carries. Thank you.

23 That concludes bluefish. I would
24 suggest that we go ahead and take lunch. I think we'll

1 be -- some of us will be walking down the street. Why
2 don't we come back at 1:30 from lunch. Thank you. And
3 before we break, I'd like to just welcome Chairman
4 Pappalardo from the New England Council. He joined us
5 this morning. I missed him in my opening remarks.
6 Welcome, John.

7 (Lunch Break: 11:57 a.m. to 1:35 p.m.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: All
9 right. Let's take our seats and go ahead and get
10 started. We're going to take up where we left off with
11 spiny dogfish. Jessica.

12 JESSICA COAKLEY: All right. Spiny
13 dogfish. The information starts on Page 64 in the
14 Omnibus document. And there are three sets of
15 alternatives in this section. For annual catch limit
16 it's Dog-A and B; for proactive accountability, it would
17 be the two alternatives C and D; and reactive
18 accountability, H and J.

19 So, under alternative dogfish B, which
20 is the action alternative, this is similar to Atlantic
21 mackerel where the ABC would be the OFL as reduced by
22 scientific uncertainty. The Canadian catch would then
23 be deducted from the ABC to get a domestic ABC, and the
24 ACL would be set equal to the domestic ABC. The annual

1 catch limit evaluations would be based on a single-year
2 comparison of catch to the ACL in that year.

3 For proactive AM's, the action
4 alternative Dog-D, the Dogfish Monitoring Committee
5 would recommend a single annual catch target to the
6 Council which would address management uncertainty.
7 The Monitoring Committee would then be responsible for
8 communicating the sources of management uncertainty,
9 any control rules that were applied to derive that ACT.

10 And as a group, the Monitoring Committee would be the
11 group most knowledgeable about the fishery to provide
12 advice on these issues for the Council.

13 For reactive accountability, under
14 alternative Dog-F, if the ACL is exceeded, then the ACL
15 would be reduced the following year by that amount.
16 Similar to butterfish, this would be a single mechanism
17 for reactive accountability, and all sources of
18 mortality would be addressed. So, regardless of what
19 the source of catch is, it would all be -- that observed
20 catch would be calculated then compared to your ACL to
21 determine if it was exceeded.

22 And those are the three action
23 alternatives contained within this section.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Questions of Jessica or in this section? Pat.

2 PAT AUGUSTINE: No questions. Motion
3 if you're ready.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Go
5 ahead, Pat.

6 PAT AUGUSTINE: Thank you, Mr.
7 Chairman. Thank you for that report, Jessica. I would
8 like to move that we set the spiny dogfish annual catch
9 limit at Dog-B and establish an ACL equals domestic ABC;
10 proactive accountability as Dog-D, use of an ACT;
11 reactive accountability as proposed, Dog-J, one
12 mechanism accountability for catch. Thank you, Mr.
13 Chairman.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
15 you, Pat. Is there a second to the motion? Second by
16 Erling Berg. The motion is to identify Dog-B, Dog-D
17 and Dog-J as preferred alternatives for the spiny
18 dogfish section. Discussion on the motion?

19 Jessica, I do have one question I want
20 to ask. I had a discussion with John Pappalardo before
21 we got started here and we were talking about the
22 question of discards as they relate to the spiny dogfish
23 flowchart and they're coming out below ACT. Can you
24 just give us a quick summary of how the Monitoring

1 Committee would account for management uncertainty and
2 the process so that we can understand how discards relate
3 back to total catch?

4 JESSICA COAKLEY: Okay. Well, in terms
5 of all of the general sources of management uncertainty
6 -- you know, they'll look at performance of the fishery;
7 they'll look at the imprecision of estimates that feed
8 into that, which may be recreational information,
9 discard information, whatever those sources of
10 uncertainty are; and then reduce that ACL, which is the
11 catch limit, to the ACT, which would be a catch target.

12
13 This is on Page 67. Lee was wondering
14 and thought maybe other people might as well.

15 So, that would reduce the ACT. And then
16 the discards would then be deducted to derive the TAL,
17 which is a total allowable landings limit. So, if there
18 were any general sources of uncertainty, you would
19 address that catch level downwards from ACL to ACT.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Would
21 they also be considering the variability in discards
22 when they're considering management uncertainty or
23 characterizing that? In other words, how would they
24 -- how would they project discards for their future year?

1 JESSICA COAKLEY: Yeah. That could be
2 something that they consider. When the ABC and the ACL
3 are derived, it's going to have a projected landings
4 component to it and a projected discards component to
5 it. So, you're projecting what you think you might
6 have. Now, if your discard estimates are highly
7 variable, that's where perhaps the Monitoring Committee
8 looks at that and says, well, to ensure that we don't
9 go over that ACL, we should buffer for some of that
10 variability, because we expect that the observed
11 discards that we may get back are going to be higher
12 than we projected these might be, so, they could
13 effectively buffer for that. The discards that are
14 being taken off from the annual catch target below would
15 then be -- whatever the proportion is relative to that
16 landings component, so, that's again a projected
17 discards that you're taking off to get to a total
18 allowable landings limit or total allowable landings
19 level for the upcoming fishing year.

20 But the important thing to bear in mind
21 with this whole framework is we're projecting what these
22 catch limits should be for the next year.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Pres.

24 PRESTON PATE: Mr. Chairman, it's just

1 a point of clarification on the motion and the
2 designation on the preferred alternatives that we're
3 through with that, there's a mismatch of the way that
4 the preferred alternatives represented in the table on
5 Page 64 and the way they're presented in the narrative
6 on Page 66. They're H and J in the table and E and F
7 in the narrative. That needs to be cleared up.

8 JESSICA COAKLEY: It's a typo in the
9 table. It should be E and F then. You're correct.
10 Whatever is reflected in the text section.

11 PRESTON PATE: So, that would require
12 a --

13 COUNCIL CHAIRMAN RICHARD ROBINS: In
14 light of that, I would ask the maker of the motion of
15 they would consider that to be an appropriate
16 clarification that the motion reads Dog-F as the
17 accountability measure.

18 PAT AUGUSTINE: Thank you for that
19 correction, Mr. Chairman. Please change it. Thank
20 you.

21 COUNCIL CHAIRMAN RICHARD ROBINS: John.

22
23 JOHN PAPPALARDO: Thank you, Mr.
24 Chairman. If I could go back to the dogfish flowchart.

1 And we've been looking over as we've gone through the
2 other decisions you've made today, I stopped at
3 butterfish because I was looking for a discard -- where
4 the discards pop in in that flowchart and I note that
5 there's an asterisk at ACT and it talks about the cap
6 on the Loligo fishery. I'm just wondering where in this
7 flowchart would that cap come out?

8 JESSICA COAKLEY: The butterfish cap
9 would effectively -- that would be operating underneath
10 that annual catch target. So, ACT includes both
11 landings and discards. And however that butterfish cap
12 is broken up into directed and non-directed landings
13 -- well, I'm trying to remember how it was broken up
14 -- but however those pieces are broken up, they would
15 eventually essentially function below that ACT.

16 JOHN PAPPALARDO: Okay. In the status
17 quo calculation right now for dogfish, where are the
18 discards taken from in the calculations? I know dogfish
19 discards are thought to be roughly 40 percent of the
20 mortality in a given year?

21 JESSICA COAKLEY: The discards would be
22 taken off from the TAC to derive the TAL.

23 JOHN PAPPALARDO: Under the status quo?

24 JESSICA COAKLEY: Under the status quo.

1 JOHN PAPPALARDO: Okay. Thank you.

2 COUNCIL CHAIRMAN RICHARD ROBINS: John,
3 do you have any lingering concerns with that item?

4 JOHN PAPPALARDO: Just something just
5 isn't sitting right with me right now in putting discards
6 below management uncertainty. And I look at the
7 flowchart, you've got the Canadian mortality coming
8 right out of ABC. And part of me says why can't the
9 discard number come out of the ABC as well before you
10 go through the management uncertainty calculation?
11 I've got some time between now and September to think
12 about it.

13 COUNCIL CHAIRMAN RICHARD ROBINS: I
14 think too there may be some thought given to the
15 variability in the discards themselves as it relates
16 to management uncertainty. So, given this kind of
17 construction, that would allow for that type of
18 consideration. But we can continue the discussion.

19 JOHN PAPPALARDO: I'm just thinking
20 about how we've done dogfish in the past and I know that's
21 always a big consideration when the Science Center hands
22 down its numbers. You know. And I'm just curious.
23 If they currently are plugging in that large discard
24 contribution on F when they hand in the numbers, they're

1 already accounted for in the assessments, or is this
2 something now that we're going to have to account for
3 again in the management flowchart.

4 JESSICA COAKLEY: But discards are
5 taken into account in the assessment for all of our
6 species. When they go through and calculate what your
7 fishing mortality rates for the upcoming fishing year
8 are, they're going to look at -- you know, your landings
9 and your discards that have been observed through the
10 time series and it's one of the inputs that goes into
11 the model. And then from that, we then project out what
12 the future landings, the ABC -- the future landings and
13 discards might be under -- you know, an ABC that's
14 selected. So, the discards, that 40 percent discard
15 that you're talking about, is part of the mortality in
16 the assessment model.

17 JOHN PAPPALARDO: And you have the
18 flexibility to look at that on an annual basis? We've
19 seen some pretty rapid -- large swings in discard of
20 dogfish across all of the fisheries.

21 JESSICA COAKLEY: Well, the way that
22 most of the projections -- and I'm not real sure -- for
23 most of our stocks when they're projecting forward, they
24 look at the previous discard history and the ratio of

1 those discards to landings. So, they'll look over maybe
2 some eight-year time series or a ten-year time series,
3 whatever is input into the model, and what's projected
4 forward is typically -- you get typically an average.

5 So, if you have these big swings in observed discards
6 from year to year, that may be something that your
7 Monitoring Committee thinks is important to consider.

8 Because when you're setting these catch limits for the
9 upcoming year, it's based on -- the projection is going
10 to be based on some sort of average of what you think
11 it might be. And if the observed swings wildly about
12 that, then maybe you need to buffer for that to ensure
13 that when the observed discards actually come in to
14 compare it to your ACL, chances are you're not going
15 to go over the ACL.

16 JOHN PAPPALARDO: Trying to understand
17 this process; so, the proposed process would allow for
18 the Monitoring Committee to, with frequency, say
19 annually, take a look at the discard assumption that
20 went into what's being called the TAL? So, the discard
21 assumption drives your TAL in this flowchart? It's the
22 last bite out of the pie before it's handed to the
23 fishery?

24 JESSICA COAKLEY: It is, in terms of

1 what you're projecting your discards might be. That's
2 correct.

3 JOHN PAPPALARDO: Okay. I need to keep
4 thinking about it. Thank you.

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Thanks, John. Further questions or comments on the
7 motion?

8 CHRISTOPHER ZEMAN: Can you just
9 explain to me how if the ABC is set and that takes into
10 account discards, right, is that -- are we talking about
11 two different kinds of discards? Like, are we talking
12 about past discards we're just taking out of the ABC
13 and then estimate discards for the following year?

14 JESSICA COAKLEY: Yeah. When we are --
15 you're going to input into this estimate model what all
16 your previous landings history and discarding history
17 is, all that mortality is input into the assessment
18 model. And then you use that information through the
19 projection program to project what your ABC should be
20 for the upcoming year. So, when you project that out,
21 you're going to project what you think the landings part
22 of it should be and what the discard part of that should
23 be. So, it's what you're estimating that landings piece
24 might be. And so, what will happen is, if you set your

1 ABC -- and I'm looking at that flowchart, 67 -- you'll
2 set your ABC. And to get to your TAL, you're going to
3 take those -- well, pretend we haven't addressed
4 management uncertainty or we're at ABC equal ACL and
5 we want to get to our TAL, so we just take discards out.

6 We subtract what we projected our discards to be.
7 Exactly. We took that estimate off; now you're got your
8 total allowable landings. That's what you projected
9 it might be, but your true observed discards for that
10 year may be a little different. They may be higher,
11 they may be lower.

12 So, this construct is set up so that if
13 there's a lot of noise around your discard estimates,
14 you could say, well, look, it typically bounces up higher
15 and lower than like 15 percent or something like that.

16 So, maybe I should put a buffer between the ACL and
17 the ACT to put a little bit more wiggle room in there
18 so if my observed discards come in higher than I
19 expected, it's not going to trip the ACL. So, it's --
20 it is, it's the combination of discards you're inputting
21 into the model and what you're projecting on the output
22 side.

COUNCIL CHAIRMAN RICHARD ROBINS:

23 Further discussion on the motion? Jim.

24 JAMES FLETCHER: James Fletcher, United

1 National Fishermen's Association. Why are we taking
2 away the Canadian catch when it has been proven that
3 they migrate east and west and are probably a different
4 group of fish? To subtract the Canadian side of the
5 catch? There's new science coming down what the
6 Canadians have published that they feel like their fish
7 move east and west and don't migrate north and south.

8 So, we're going to take all of their catch out of ours?

9 And it's a different -- or substandard species of fish.

10 So, why are we writing it in to take that total amount
11 out?

12 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
13 it's currently managed as a unit stock as you know, and
14 so we have to account for all sources of mortality
15 including the Canadian mortality. That's the way it's
16 set up. Further discussion on the motion?

17 Is the Council ready for the question?

18 Is there any objection to the motion? Is there any
19 objection to the motion?

20 (No response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Seeing none, it's approved by consent. Jessica.

23 JESSICA COAKLEY: All right. The next
24 species we're going to move on to is summer flounder.

1 So, I'm actually going to present the next three sets
2 of options collectively. Summer flounder, scup and
3 black sea bass, they start respectively on Pages 68,
4 73 and 79. The alternatives are very similar for all
5 three of those. The differences really are in terms
6 of how the commercial repayment takes place right now,
7 and that's the status quo -- commercial repayment
8 mechanisms that are in place for summer flounder. It's
9 done by state. For scup, it's done by period, and for
10 black sea bass, it's done coast wide. But other than
11 that, these measures marry each other. So, I'm only
12 going to present summer flounder, fluke A to J, and that
13 you just need to bear in mind -- you'll need to make
14 motions for scup and black and sea bass alternatives
15 A to J as well.

16 So, there's quite a few more
17 alternatives for each of these sections. For annual
18 catch limit, we've got two action alternatives we'll
19 be discussing; for proactive accountability, there are
20 two action alternatives proposed; a single action
21 alternative proposed for reactive accountability; and
22 there's a joint action accountability item that's also
23 included.

24 So, both alternative Fluke-B and Fluke-C

1 specify that the sum of the sector ACL's would be set
2 equal to the ABC. So, the commercial ACL is the
3 recreational ACL would equal the ABC. The Council
4 identified this construct as preferable going way back
5 to July last year actually because they wanted
6 sector-specific accountability. So, by having those
7 separate ACL's, it will allow the ACL comparisons to
8 observed catch to be done by sector and the
9 accountability itself could be compartmentalized for
10 each of those.

11 Under alternative Fluke-B, both the
12 commercial and recreational ACL comparison to catch
13 would be based on a single year. Under alternative
14 Fluke-C, the difference is the commercial ACL comparison
15 to catch would be based on a single year; however, the
16 rec. ACL comparison to catch would be based on a
17 three-year average. So, the Council is going to need
18 to decide if they want alternative B or alternative C
19 which would allow either the one- or three-year
20 averaging.

21 I know this is hard to see. I even have
22 a hard time seeing this, but I just wanted to refresh
23 everyone's memory on the one versus three-year
24 comparison we looked at back in April, I think actually.

1 So, the upper line that starts to the far left is the
2 established recreational harvest limit; so, that is what
3 it would be for that year. And what the FMAT did was
4 look at if you were doing the one-year adjustments --
5 overage adjustments to the recreational harvest limit
6 what would your harvest limits in subsequent years look
7 like or if you did a three-year average adjustment when
8 you compare it what would that look like.

9 So, the dotted line is the one-year
10 average adjustment and the three-year average is in the
11 solid line with I think it's squares on the bottom.
12 And what we found with summer flounder, because of
13 periodic large overages, over that earlier part of the
14 time series, that harvest limits under the three-year
15 averaging were actually lower than under the one-year
16 average. And that was because when you have that large
17 overage, that gets retained in your average for an
18 additional two years. Whereas, when you do the one-year
19 adjustment, it's a larger adjustment that's done once
20 and isn't maintained -- it isn't retained within that
21 catch history time series that you're using to compare.

22 So, the summer flounder, scup. The
23 other line is the established recreational harvest limit
24 and the dotted line, which is that one-year adjustment,

1 you can see the big dip in 2004 in response to the 2003
2 overage. So, it drops down, but you see it pops right
3 back up because it's a single-year adjustment; whereas,
4 the three-year average adjusted harvest limits sits
5 slightly below that. And here's black sea bass.
6 There's more a pattern both for the one-year and the
7 three-year. Okay. So, that's just to refresh your
8 memory on the analysis for those two alternatives.

9 The action alternative Fluke-E, under
10 proactive accountability measures should say Summer
11 Flounder Monitoring Committee would recommend a
12 recreational ACT and a commercial ACT to the Council
13 to address management uncertainty. And similar to all
14 of the others, the stock would -- yeah -- I butchered
15 this -- it would be the Monitoring Committee would
16 communicate those sources of management uncertainty and
17 those control rules to the Council.

18 For proactive accountability, again,
19 Fluke-F, general in-season closure authority. The
20 Regional Administrator would review the information and
21 then close the fishery to prevent the accrual of large
22 overages.

23 For reactive accountability,
24 alternative Fluke-H. There is a commercial landings

1 overage deduction that's already in the FMP that occurs
2 by state for summer flounder, period for scup, coast
3 wide for black sea bass. They would be applied as needed
4 and it occurs irrespective of the ACL being exceeded.

5 If the recreational ACL is exceeded,
6 then a recreational landings repayment would occur in
7 response to that. If the ACL is exceeded and that
8 overage is due to other non-landings catch components,
9 like discards or others that we've discussed, it would
10 be deducted from the sector-specific ACL. So, there
11 would be sector-specific non-landings catch components
12 you would be dealing with. Those would also be
13 compartmentalized to the individual sectors and
14 compared to those sector ACL's.

15 For these three species, there's another
16 category of accountability called joint accountability.

17 Alternative Fluke-J would need to be adopted under
18 joint rules; so, if this is something the Council decides
19 to do, it should be brought up tomorrow when the Council
20 and Board are convened jointly. If the ASMFC implements
21 TAC/TAL's quota recreational harvest limit that differ
22 from the ASMFC recommendations, then administrative
23 action would be taken to reconvene at earliest
24 convenience to revisit those recommendations. So, this

1 is designed to encourage the groups to get together and
2 try to sort out those differences if in fact it looks
3 like there is going to be a disconnect between the
4 measures for the Commission and the Council.

5 So, for motions, as I said, for scup and
6 sea bass, those alternative letterings mirror the ones
7 for summer flounder; so, you'd need to make motions for
8 all three of those species.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Question for Jessica on this section? Pat.

11 PAT AUGUSTINE: Yeah. Thank you, Mr.
12 Chairman. Very good presentation, Jessica. It helped
13 clear things up for me. A question. When you say a
14 three-year average, does that become a three-year
15 rolling average like we used to have with scup? In other
16 words, at the end of your one -- I'm sorry -- at the
17 end of one, two, three, then you go to your four and
18 your one is dropped off or do you have to go back to
19 the established -- could you clarify that?

20 JESSICA COAKLEY: Sure. The
21 three-year average, it would be phased in. So, in the
22 first year of the three year, it would just be based
23 on that one year. Then you accrue a second year; it's
24 based on those two years. You accrue a third year; it's

1 based on the three years. And then from thereafter,
2 you roll that three-year forward, carrying your average
3 forward.

4 PAT AUGUSTINE: Follow up, Mr.
5 Chairman. Would there be any need or consideration to
6 go back a year and consider previous years? Don't know
7 if it would be doable. Whether we could look at 2008,
8 2009, I don't know. So, is that viable and would it
9 be beneficial one way or the other; would there be an
10 advantage or disadvantage to considering that? Or
11 would this plan not allow us to do that?

12 JESSICA COAKLEY: Well, I think the idea
13 of moving forward phasing this in is because the system
14 will have been implemented. If you are incorporating
15 previous years of catch into your rolling average that
16 haven't been a part of this ABC/ACL system, you may be
17 comparing apples to oranges.

18 PAT AUGUSTINE: Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Jessica, could you talk a little bit about the one versus
21 three year. I know you just went through that. And
22 the conclusion that I've sensed in that analysis is that
23 given the characteristics of recent overages, we'd be
24 just as well off with the one-year payback rather than

1 a three year. And, you know, there's just some
2 biological questions that go along with that as well
3 in terms of making that decision. But I was under the
4 impression that if we had a three-year averaging that
5 that would smooth out some of the effects of accounting
6 for overages. And, you know, I'm wondering if you ran
7 that out -- and you got a fairly small sample there --
8 but if you ran that out over a hundred years, I would
9 expect that you would have the same average catch over
10 that period of time; would you not? It's just the
11 question of paying back over one year versus three, your
12 average long-term catch under either would be the same;
13 would it not?

14 JESSICA COAKLEY: Yeah. I think over
15 the long term it would be -- while I'm thinking about
16 this, in terms smoothing it out, I put the scup example
17 up there because it does show the bottom three-year
18 average adjusted is lower but it's a much smoother
19 transition in response to that overage when compared
20 to the one-year adjustments. So, that those speak to
21 the smoothness of it.

22 But let me think about the other question
23 just for a second.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Mike.

1 MICHAEL RUCCIO: Thank you, Mr.

2 Chairman. When we did this at the FMAT, and it's been
3 some time so forgive me if it's not perfect clarity and
4 recall. But, the results -- we tried to iterate this
5 out for a time period. And basically what we found is
6 because looking at the historic data set showed these
7 periods where there were large overages, those tended
8 to have impacts over the three-year average.

9 So, the analogous thing to think of is
10 when we managed scup and sea bass based on trawl survey
11 indices, when you got a really strong index, that was
12 persistent through the average for a period of three
13 years and then it would drop out. So, you actually see
14 less variability. You tended to have higher magnitude.

15
16 So, when we iterated this out over I
17 think it was 50 years and we kind of crafted this
18 simulation to do it, your long-term yield was lower using
19 the three-year average, but it was a little bit more
20 stable. So, the tradeoffs, I guess, when you look at
21 either of those. But the take-home that we had at the
22 FMAT discussion was again you're looking at the historic
23 data set so things may not be constrained or the same
24 system that they would be moving forward under ACL's

1 and AM's, but those large magnitude overages tended to
2 have a lasting effect that was pervasive through the
3 three-year period. So, hopefully, that adds some
4 clarity.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
6 you, Mike. Pat.

7 PAT AUGUSTINE: Yeah. Thanks for the
8 explanation, Mike. Then in regards to the fishermen
9 in particular, they're pretty much fed up with this up
10 and down and up and down and the constant very wide swings
11 and quota setting and et cetera. And although in the
12 long run what you've just described, the total overall
13 harvest might be less, it would seem to me it would
14 stabilize fisheries to a high degree to consider the
15 three. You said you went out six years. Does that
16 represent six years there? Well, you went through from
17 early 2008 when you did your sample run, that was the
18 six years you worked with? Okay. So, in terms of real
19 time what are we talking about (inaudible) or less over
20 a period of six, seven, and eight -- 2006, 7 and 8 we're
21 talking about less than a half-a-million pounds; is that
22 correct?

23 COUNCIL CHAIRMAN RICHARD ROBINS: Mike.
24 Mike is going to check on that for you.

1 MICHAEL RUCCIO: Pat, let me see if I
2 have the actual source document I can access.

3 PAT AUGUSTINE: I'm not trying to put
4 you on the spot.

5 MICHAEL RUCCIO: I understand, Pat.

6 PAT AUGUSTINE: Just for clarity sake,
7 it would seem to me that I would be more inclined to
8 go with the one year if I thought it wouldn't be as great
9 an impact. But having known the history of what's
10 happened in these various fisheries that we're dealing
11 with, where the swings and bag size and season every
12 year, from one extreme to the other -- and in our case,
13 New York has taken it on the chin in summer flounder
14 -- it can be because of variability -- where the fish
15 are in this particular case -- but it seems then in your
16 example the three-year period would accommodate I think
17 all states a little better, particularly New York, you
18 know. If you could show us anything you have on that,
19 I'd appreciate it.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Howard.

22 HOWARD KING: Yeah. Under present
23 scenario, the recreational fishery gets no benefit I
24 think from an underage in any year. Under the

1 three-year running average, if in that three-year period
2 you had an underage and an overage, then it seems like
3 the recreational fishery would get an indirect benefit
4 from the underage and that the overage of that three-year
5 average would be less?

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Jessica.

8 JESSICA COAKLEY: Well, by including
9 that, I mean, it would be an average. It would smooth
10 out that value you get. So, if you're under one year
11 and spot on the next year and over the next year, it
12 would kind of just would be a wash effectively when you
13 compared it.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Other
15 questions on this section? Pat.

16 PAT AUGUSTINE: Are we going to wait for
17 Mike to put something up or are we going to wait for
18 a motion?

19 COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
20 I think that's going to take a while.

21 PAT AUGUSTINE: Okay. Thank you.

22 COUNCIL CHAIRMAN RICHARD ROBINS: I
23 don't think he's going to have the information with him.

24 PAT AUGUSTINE: Well, I appreciate the

1 comment that Mr. King made. It cleared in my mind which
2 option I would go for.

3 So, with your indulgence, Mr. Chairman,
4 I would like to move that we -- for summer flounder annual
5 catch limit, we use Fluke-C, establish sector ACL's
6 equal ABC with three-year recreational catch average.

7 Under proactive accountability, Fluke-E, use of ACT's
8 and I'll let someone else amend my motion. Under
9 reactive accountability, use Fluke-H, propose through
10 mechanism accountability for catch. Under joint action
11 accountability, Fluke-J, joint action to revisit
12 disconnects and quotas. That would be my motion, Mr.
13 Chairman.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is
15 there a second to the motion? Second by Gene Kray.
16 Okay. So, just going back to what we had before, Pat,
17 the only difference here is that you don't have the
18 in-season closure authority with the caveat that it be
19 limited to in-hand information; is that correct?

20 PAT AUGUSTINE: That's right. And if
21 that's all, Mr. Chairman, we move forward to include
22 that and they may do that.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Discussion on the motion? Is there a discussion on the

1 motion from the Council? Or on the issue of the
2 in-season management authority that we have in the other
3 measures? Pres.

4 PRESTON PATE: Just to the extent that
5 we maintain consistency with the measures in some of
6 the other species, I would offer an amendment to Mr.
7 Augustine's motion to include that language about --
8 that clarifies the extent of the in-season adjustment.
9 The Pat Kurkul language I'll refer to it as.

10 COUNCIL CHAIRMAN RICHARD ROBINS: So,
11 you're moving to identify --

12 PRESTON PATE: Yeah. Yeah.
13 Alternative F, with that language, yes. I'm sorry.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is
15 there a second to the motion? Second by Peter DeFur.
16 So, the motion to amend is to identify Fluke-F as a
17 preferred alternative for proactive accountability
18 measure and include the clarifying language that only
19 information at hand would be used. Discussion on the
20 motion to amend? Is there any discussion on the motion
21 to amend? Adam.

22 ADAM NOWALSKI: Thank you, Mr.
23 Chairman. The Recreational Fishing Alliance doesn't
24 support in-season closures based on MRFSS. Thank you.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
2 you. Any further discussion on the motion? Is the
3 Council ready for the question?

4 (Motion as voted.)

5 {Move to amend above motion to include FLUKE-F and
6 include only information at hand would be used.}

7 COUNCIL CHAIR RICK ROBINS: All those
8 in favor, please raise your hand.

9 (Response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Fifteen. Opposed, like sign.

12 (Response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Three. Abstentions, like sign.

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: The
17 motion carries.

18 The motion is now the main motion. The
19 main motion is move to select alternative Fluke-C,
20 Fluke-E, Fluke-H, and Fluke-J, and Fluke-F as the
21 Council preferred alternatives.

22 Is the Council ready for the question?

23 All those in favor -- is there a comment on the motion?

24 All right. Go ahead, Adam.

1 ADAM NOWALSKI: Thank you, Mr.
2 Chairman. Trying to hold comments specifically to the
3 last motion. I want to comment again on fluke option
4 F here. It seems that in this particular section of
5 the document there's been a significant amount of effort
6 to address concerns that have been raised previously
7 with regards to that provisions in the fishery
8 management plan for the summer flounder, black sea bass
9 and scup fisheries already provide reactive
10 accountability measures.

11 Specifically, what happens right now is
12 that when the landings in a given year exceed the
13 landings in the subsequent year, the size, season and
14 possession limits are modified accordingly. The
15 current version of the amendment had some additional
16 sentences added. Under the status quo no actions under
17 Fluke-G sections, and section G in a lot of other cases,
18 because the measures contained in the FMP do not perform
19 the full function of a comprehensive catch
20 accountability system it would be inconsistent with the
21 NS1 guidelines.

22 First off, I have a question about what
23 is different about the fishery management plan here in
24 the Mid-Atlantic that's different about the fishery

1 management plans specifically for codfish in New England
2 where Amendment 16 specified recreational
3 accountability measures as modifications to size,
4 season and bag limit as meeting that need for -- meeting
5 the need of NS1?

6 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
7 you. I think one of the key points is that the reactive
8 AM's have to be automatic and not sole at the Council
9 discretion. But I'm going to look to Jessica to see
10 if there's any further clarification on this point.

11 JESSICA COAKLEY: Yeah. That would be
12 my clarification. Particularly for reactive
13 accountability, it's supposed to be something that's
14 automatic and does not require extensive analysis, those
15 types of things, which is what happens with the
16 recreational measures. It takes almost six months to
17 develop what those adjustment measures might be.

18 ADAM NOWALSKI: Those measures I
19 believe are done automatically in that the tables are
20 generated and can then be done. But again, it doesn't
21 answer the question of why does it address the need in
22 New England meet NS1 guideline that you modify size,
23 season and bag limit but not here in the Mid-Atlantic?

24 PATRICIA KURKUL: Well, it does meet NS1

1 guidelines because it is automatic. It's just a
2 different way of approaching the problem.

3 ADAM NOWALSKI: Okay. I'll just offer
4 here that FLUKE-G under status quo specifically states
5 that it is inconsistent with NS1 guidelines, which I
6 believe is one of the reasons why a number of people
7 here have hesitated to look at option G in these
8 instances as opposed and going with option H. Okay.

9 Option G states -- you know, and I understand the needs
10 as managers -- you know, that the oaths that were taken
11 earlier here today to go ahead and comply with the
12 provisions of Magnuson-Stevens. I can appreciate that.

13
14 So, sitting on that side of the table,
15 if I read a statement like that, I would hesitate to
16 go ahead and approve something to that effect as well.

17 What I'm hearing though now, is that the current
18 provisions of the FMP with modifying size, season and
19 bag limit, and an example is that if you have a 5 million
20 pound quota this year, 5 million pounds next year, if
21 you land 6 million pounds this year, next year you will
22 modify size, season and bag limit to reduce harvest by
23 a million pounds.

24 Under the provision of the

1 pound-for-pound repayment, the subsequent year, you'll
2 now have only 4 million pounds available. You will now
3 reduce size, season and bag limit to account for a 2
4 million pound reduction in size, season and bag limit
5 as opposed to only the 1 million pound that you'd be
6 under right now.

7 Either way, it's a reactive
8 accountability measure that in another Council has been
9 approved and accepted as a mechanism for meeting the
10 provisions of Magnuson-Stevens. And I would hope that
11 what we could do is modify if Fluke-H is going to be
12 done, to have the reactive accountability measure for
13 the recreational component removed because of the fact
14 that the FMP is already compliant with the needs for
15 Magnuson-Stevens for a reactive measure. And that's
16 what I would call on the Council to do here at this time.

17 Thank you very much.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thanks, Adam. Pat.

20 PATRICIA KURKUL: I may not have been
21 clear. I was not talking about the fluke plan when I
22 said that it was compliant with National Standard 1.

23 The status quo is not compliant. I was talking about
24 Amendment 16 and the provisions in Amendment 16 we

1 determined to be compliant with National Standard 1,
2 which as you point out is an automatic adjustment.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
4 you. Pres.

5 PRESTON PATE: I think Adam was
6 incorrect also in his scenario also as far as the
7 measures that would be crafted to avoid overages in the
8 subsequent year following an overage in that he was
9 saying that if -- if the quota was reduced from 5 to
10 4 million pounds because of an overage in the subsequent
11 payback you would need to develop your size, season and
12 bag limits to target a 3 million pound quota, and I think
13 you would need to craft those two -- actually, that 4
14 million pound limit to stay -- to reach the adjusted
15 target that resulted from the payback from the overage
16 to set off the prior year.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Jessica, can you clarify that?

19 JESSICA COAKLEY: I'm not sure I can
20 clarify that, but -- clarify what had he had said. But
21 in terms of what you have said, yes. The rec. measures,
22 whatever your target is for the upcoming fishing year,
23 your rec. measures are adjusted in response to that new
24 target. So, if that target goes from 5 million pounds

1 to 8 million pounds, you would probably look at how to
2 liberalize your measures such that you're going to
3 achieve that 8 million pound target or you expect you
4 would and vice-versa. If it goes down from 5 to 4,
5 you're going to adjust your measures in response to that.

6 But there is as Adam said, all the tables are prepared.

7 That aspect is automatic. But there is a deliberative
8 process that goes on with the Council and the Commission
9 in terms of what your preferences for what those measures
10 could look like. It is a somewhat subjective decision.

11 Do you want to trade off length of season for possession
12 limit or size limit? And that aspect of it is not
13 automatic, that's a deliberative process and a decision
14 that you're going to make in December.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Thanks, Jessica. Further discussion on the motion?
17 Chris.

18 CHRISTOPHER ZEMAN: With regard to
19 Adam's comment with the pound-for-pound repayment.
20 That's what I see as the concern here that it's taken
21 out twice. In the extent that it's not, then I would
22 be supportive. But it just seems that in past years
23 when we talked about black sea bass, we specifically
24 -- it's my understanding that in past years there was

1 no pound-for-pound payback in the black sea bass
2 fishery. What would happen is that there would be a
3 target set for the following year that was based on what
4 we -- what was reported in the prior year in catch and
5 overages and then we just set bag, season and limits
6 to achieve that target.

7 But when I think of a pound-for-pound
8 payback, maybe I'm just being too literal here. I think
9 when you exceed the limit by this million pounds of fish,
10 irrespective of what the stock assessment set is telling
11 you is a sustainable harvest for next year, you will
12 take away that exact amount of pound of fish from the
13 following year. It's a lot more of a quantitative
14 approach as opposed to the qualitative approach that
15 I was -- I thought we were doing with black sea bass
16 in prior years. So, what are we doing?

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Jessica.

19 JESSICA COAKLEY: Well, what the
20 reactive accountability under Fluke-H proposes is it
21 would be a pound-for-pound adjustment to the harvest
22 limit. So, if you go over by a million pounds, that
23 million pound would come off the next year. Adjusting
24 the recreational management measures isn't akin to that

1 payback. Another way to describe it would be it's a
2 recalibration of your management measures. Each year,
3 you get a new harvest limit whatever that value is going
4 to be. And what the Monitoring Committee does when they
5 provide advice is they recalibrate what combination of
6 measures will constrain the fishery to that new target.

7 What this payback does, it's doing a couple of things.

8 It either is paying back that overage as a
9 pound-for-pound for biological reasons because it may
10 be necessary to prevent overfishing or it may have caused
11 overfishing, or that payback is helping to maintain the
12 integrity of those allocations that you've established.

13
14 So, if you establish a 5 million pound
15 harvest limit for the recreational fishery -- you know,
16 and you've landed 8, you don't want that to continue.

17 You're essentially paying that back in the next year.

18 CHRISTOPHER ZEMAN: But we --
19 management measures do that by conservation equivalent
20 management measures where we reduce the season, size
21 limit and bag limit to then achieve that target?

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Chris, I think the management measures that are crafted
24 would have to be crafted to whatever target the Council

1 is trying to achieve and that's part of the normal
2 process. But the -- in the NS1 guidelines, we have the
3 requirement to have fully accountable -- fully
4 accountable, fully functioning accountability measures
5 that go along with these catch targets. So, I think
6 staff has tried to explain it as best as they can. Are
7 there further questions on this issue or on the motion?
8

9 Council ready for the question? We're
10 now on -- the amended motion is now the main motion.

11 So, again, we have -- can you scroll up a little there,
12 Jan -- Okay.

13 So, the motion is to move to select
14 alternative Fluke-C, Fluke-E, Fluke-H, Fluke-J and
15 Fluke-F with the clarification that only information
16 at hand would be used for in-season management measures
17 -- or in-season closure authority as the Council
18 preferred alternatives.

19 All those in favor, please raise your hand.

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Thirteen. Opposed, like sign.

23 (Response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS: Five.

1 Abstentions, like sign.

2 (No response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS: No
4 abstentions. The motion carries. Thank you. Jessica.

5 JESSICA COAKLEY: Okay. In terms of
6 scup and black sea bass, you're going to need to make
7 motions on those. And I don't have any additional
8 slides. That mirrors the fluke alternatives.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

10 PAT AUGUSTINE: Thank you, Mr.
11 Chairman. I move for scup the annual catch limit be
12 set at Scup-C, establish sector ACL's equals ABC with
13 three-year recreational catch average.

14 On the proactive accountability,
15 Scup-E, use of ACT's. I will leave out Scup-F to be
16 amended by someone else. Under reactive
17 accountability, Scup-H, three-mechanism accountability
18 for catch. Under joint action accountability, Scup-J,
19 joint action to revisit disconnects in quota. That's
20 my motion, Mr. Chairman.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
22 you. Is there a second to the motion. Second by Erling
23 Berg. Discussion on the motion? Pres.

24 PRESTON PATE: Nothing like tradition;

1 is there? Mr. Chairman, I'll offer an amendment to the
2 motion to include alternative
3 Scup-F, general in-season closure authority with the
4 same clarifying language that we used in the previous
5 motions.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thanks. Is there a second to the motion to amend?
8 Second by Lee Anderson. Any comments on the motion
9 while they're getting it up on the board? Adam.

10 ADAM NOWALSKI: Recreational Fishing
11 Alliance opposed the use of MRFSS for general in-season
12 closure for option F. Thank you.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
14 you, Adam. Okay. The motion to amend is to identify
15 Scup-F as the preferred alternative with clarification
16 that only information in hand would be used.

17 Is the Council ready for the question?
18

19 (Motion as voted.)

20 {Move to include Scup F and include only
21 information at hand would be used.}

22 COUNCIL CHAIR RICK ROBINS: All those
23 in favor, please raise your hand. Thirteen. Opposed,
24 like sign. Three. Abstentions, like sign. No

1 abstentions. The motion carries.

2 The amended motion is now the main
3 motion. The main motion then would move to select
4 alternative Scup-C or Scup-E -- the motion would read
5 to move to select alternative Scup-C, Scup-E, Scup-H,
6 Scup-J and Scup-F with clarification that only
7 information in hand would be used as the Council's
8 preferred alternatives.

9 Is the Council ready for the question
10 or are there any comments on the motion? Adam.

11 ADAM NOWALSKI: Thank you again. I
12 think I'll take a seat closer here. Recreational
13 Fishing Alliance opposes options F and H. Thank you.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Any
15 other comments on the motion? Is the Council ready for
16 the question?

17 All those in favor, please raise your
18 hand.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Fourteen. Opposed, like sign.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: Four.
24 Abstentions, like sign.

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: The
3 motion carries.

4 Black sea bass. Pat.

5 PAT AUGUSTINE: Thank you, Mr.
6 Chairman. I move for black sea bass that the actual
7 annual catch limit be black sea bass C, establish sectors
8 ACL's equals ABC with three-year recreational catch
9 average.

10 Under proactive accountability, black
11 sea bass B, use of ACT's -- and I'll wait for Mr. Pate
12 to bring in F. Reactive accountability would be under
13 black sea bass H, three mechanisms accountability for
14 catch. And under joint action accountability, BSB-J,
15 joint action to revisit disconnects in quotas. That's
16 my motion, Mr. Chairman. Thank you, Pat. Is there a
17 second to the motion? Second by Erling Berg.

18 Discussion on the motion? Pres, I'm looking your way.

19 PRESTON PATE: Thank you, Mr. Chairman.

20 I'll offer an amendment to Mr. Augustine's motion to
21 include alternative F, BSB-F, general in-season closure
22 authority with the clarifying language we used in the
23 previous motions.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Thank

1 you, Pres. Is there a second to the motion to amend?

2 Second by Lee Anderson. Discussion on the motion to
3 amend? Any comments on the motion to amend?

4 Seeing none, is the Council ready for
5 the question to amend? The question to amend is move
6 to amend including BSB-F with clarifying language that
7 only information in hand would be used. Council ready
8 for the question?

9 (Motion as voted.)

10 {Move to amend to include BSB-F with clarifying
11 language in previous motions.}

12 COUNCIL CHAIR RICK ROBINS: All those
13 in favor, please raise your hand. Twelve. Opposed,
14 like sign. Five. Abstentions, like sign. The motion
15 to amend carries.

16 The amended motion is now the main
17 motion. The main motion identifies BSB-C, BSB-E,
18 BSB-F, with the limitation that only information in hand
19 would be used, BSB-H and BSB-J as preferred
20 alternatives. Any comments on the motion? Adam.

21 ADAM NOWALSKI: Recreational Fishing
22 Alliance opposes options F and H. Thank you.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
24 you. Jan, can you get that on the board, please. Okay.

1
2 Is the Council ready for the question?

3 All those in favor, please raise your hand.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Twelve. Opposed, like sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: Five.

9 Abstentions, like sign.

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: No
12 abstention. The motion carries. Thank you. Jessica.

13 JESSICA COAKLEY: Okay. The next
14 species we'll be talking about is Atlantic surfclam and
15 that section starts on Page 84. Just give me a second
16 to find my way to Atlantic surfclam. Okay. Atlantic
17 surfclam. Very basic structure. Three sets of
18 alternatives. They're all paired.

19 For annual catch limit, alternatives A
20 and B; for proactive accountability, alternatives C and
21 D; and for reactive accountability, alternatives Surf
22 E and F.

23 So, for the Atlantic surfclam ACL, ACL
24 would be set equal to ABC and that ACL evaluation would

1 be based on a single-year comparison of observed catch
2 to the ACL.

3 For proactive accountability under
4 alternative Surf-D, the staff, because we don't have
5 Monitoring Committees for surfclam and ocean quahog,
6 would recommend through their quota paper a TAL to the
7 Council that addresses management uncertainty. And the
8 staff would communicate the sources of management
9 uncertainty, any control rules that they applied, et
10 cetera, when that TAL was derived. I'm raising this
11 issue because as we move forward in this process for
12 all of the species we've applied an ACT to address
13 management uncertainty, and in this case, we've retained
14 the concept of TAL.

15 So, posing the questions, does the
16 Council wish to consider calling this an ACT for
17 consistency with all the other species; the TAL would
18 still effectively be the ACT minus the discards because
19 an ACT is a catch target. Discards in that fishery at
20 this point are zero, so it would be the equivalent of
21 setting the TAL equal to the ACT.

22 We're going to go over ocean quahog after
23 this, ocean quahog does apply ACT's for the Maine and
24 non-marine fishery and uses that same terminology.

1 This is the only species that doesn't have it -- and
2 I've talked to Tom about this -- I think it was retained
3 from back when we discussed this in July at the Council
4 workshop that we had drawn out the little flowchart and
5 had the TAL in there, and we've retained that figuration,
6 but as I was writing this final -- you know, 300 pages,
7 it came to our attention this might be -- it might be
8 appropriate to apply that in a consistent -- apply the
9 terms in a consistent way.

10 For reactive accountability for
11 Atlantic surfclam, if the ACL is exceeded, it would be
12 ITQ permit holder accountability, the individual permit
13 holders would be accountable and the permit that was
14 responsible for that overage would be adjusted in the
15 subsequent years, a single-year adjustment in response
16 to that. Essentially, since we're not dealing with
17 pounds, it would be a bushel-for-bushel payback. We
18 have talked about this ITQ accountability issue. If
19 there was an overage on one of these ITQ permits, it
20 would effectively be an enforcement issue because all
21 of the cages are supposed to be tagged. So, it would
22 be an untagged cage that would result in those overages.

23 So, I just wanted to make sure that that was clear as
24 well.

1 So, those are the three action
2 alternatives contained within the document.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
4 you, Jessica. Jessica, can we talk a little bit about
5 -- a little bit further about this TAL issue and the
6 nomenclature that you're asking us about.

7 Specifically, I want to make sure that we're clear in
8 the document in the relationship between TAL and ACL.

9 Because the way the flowchart is written, there's a
10 block, a gap, in between ACL and TAL and all that's
11 identified in there is management uncertainty. But the
12 way we're setting TAL now is based on OY considerations
13 and it's far below what we would think of as ABC.

14 And so, here we have (inaudible) that
15 proposes ABC is equal to ACL. And then there's a gap,
16 at least in the diagram, and that's just reflecting
17 management uncertainty. But then up in the narrative,
18 it talks about the Council staff being responsible for
19 recommending a TAL and that may include a number of
20 things including management uncertainty. It then says
21 the staff may provide other recommendations relevant
22 to setting catch limits consistent with the MSA. Is
23 that language -- does that language encompass the range
24 of OY considerations that we effectively use now to set

1 quotas for this fishery? Or does that need to be --
2 does that need to be more specific?

3 JESSICA COAKLEY: I think it would
4 include those. In the introductory sections in the
5 document, there is an OY section and it's made clear
6 in that section that the Council could reduce either
7 from the ACL or the ACT level, whichever is appropriate,
8 to adjust optimum yield. And it's going to depend --
9 depending on which plan you're in -- you know, it will
10 depend where the most appropriate place to do it is if
11 the Council would like to do that. I don't think
12 (inaudible) in the flow chart on Page 86. If you take
13 the TAL and you substitute in there ACT, at that step
14 above, you could address management uncertainty. If
15 there were discards, you could deduct discards. And
16 in setting your ACT, you could use your OY range when
17 that ACT is derived. So, I don't think substituting
18 ACT in for TAL to address management uncertainty would
19 be inconsistent with the current practice because you
20 can make those adjustments for other factors -- you know,
21 social economic, ecological, for any of the stocks.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

23 I just think we need to be clear that we're not setting
24 an expectation that we're going to be setting TAL at

1 essentially just below ACL to reflect management
2 uncertainty but that the Council would still be using
3 its current practice of considering the OY type issues
4 in making that determination. Discussion? Peter.

5 PETER DEFUR: Thank you, Mr. Chairman.

6 So, if we make this change, then are we just going to
7 change the language here and throughout the document
8 in that section that we would take out TAL and insert
9 ACT?

10 JESSICA COAKLEY: Yeah. That is
11 exactly what we would do. We would substitute that in
12 so it would be clear that the Council staff would
13 recommending an ACT to the Council and they can address
14 management uncertainty or any other factors relative
15 to setting catch limits, because there's language in
16 that alternative -- actually, let me make sure I'm in
17 the right alternative letters -- under alternative
18 Surf-D, there is language in there that says they can
19 make recommendations on other factors relevant to catch
20 limits. So, they can make that OY range recommendation
21 up, so -- when they identify an ACT for the Council.

22 PETER DEFUR: Do we need a motion to make
23 that change, Mr. Chairman?

24 COUNCIL CHAIRMAN RICHARD ROBINS: I

1 would think so. We could have a motion for -- we have
2 three action items for the alternatives and then we could
3 have a -- if somebody wants to move those options, we
4 can simply incorporate that change in the motion.

5 PAT AUGUSTINE: Yeah. We can do that.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

7
8 PAT AUGUSTINE: Thank you, Mr.
9 Chairman. He's a newcomer and you just have to earn
10 your spurs. Thank you, Mr. Chairman.

11 For Atlantic surfclam and ocean quahog
12 for annual catch limit, I would recommend we accept
13 Surf-B, establish ACL equals ABC; for proactive
14 accountability, Surf-D, use of TAL; and for reactive
15 accountability, Surf-F, one mechanism accountability
16 for catch. And included would be the clarification that
17 Jessica said she would provide. I don't know what kind
18 of language you want to put in there. Lump it all
19 together, Mr. Chairman; that would be my motion.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

21 Pat, so your motion would identify Surf-B, Surf-D, and
22 Surf-F as preferred alternatives with the additional
23 clarification that term ACT would be substituted for
24 TAL in the document?

1 PAT AUGUSTINE: That's correct, Mr.
2 Chairman.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is
4 there a second to the motion? Second by Erling Berg.
5 Are there any comments or discussion while Jan works
6 to get that up on the board? Are there any further
7 comments on the motion?

8 The motion is to move to select
9 alternative Surf-B, Surf-D, and Surf-F as the Council
10 preferred alternative and include clarification that
11 the term ACT would be substitute for TAL in the document.

12 Jan, do you mind just changing that where it says of
13 that, say that the term. Thank you. And add the
14 between that and term. Thanks.

15 Is the Council ready for the question?

16 Is there any objection to the motion?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is
19 there any objection to the motion?

20 (No response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Seeing none, it's approved by consent. Jessica.

23 JESSICA COAKLEY: Okay. Now, the next
24 species up for discussion is ocean quahog. That starts

1 on Page 87 of the document. Ocean quahog is a very
2 similar structure to Atlantic surfclam, it's just three
3 suites of options and each suite is essentially a pair
4 of options, a status quo, and no -- a status quo no action
5 alternative and the action alternative.

6 So, for alternative Quahog-B, the ACL
7 would be set equal to the ABC and that ACL evaluation
8 would be a single-year evaluation comparing catch to
9 the ACL.

10 Alternative Quahog-D, for proactive
11 accountability, the Council staff, because for quahog
12 we don't have a monitoring committee, they would
13 recommend a Maine fishery ACT and a non-Maine fishery
14 ACT to the Council to address management uncertainty.

15 Staff would communicate these sources of management
16 uncertainty, any control rules that they applied to the
17 Council at the time that specifications are set as part
18 of their quota and the process that that normally goes
19 through.

20 For reactive accountability,
21 alternative Quahog-F, this is in the event that the ACL
22 is exceeded. For the non-Maine fishery, there would
23 be ITQ permit level accountability. This is similar
24 to Atlantic surfclam. This would be a

1 bushel-for-bushel payback if the ITQ permit results in
2 catch in excess of what that permit allocation was.
3 As I said previously for surfclam, that would probably
4 be an enforcement issue because it would be untagged
5 cages.

6 For the Maine fishery, the ACT would be
7 adjusted by the amount of the ACL overage if it's caused
8 by that fishery; so, adjustment would occur the
9 subsequent year. Now, this is only if the ACL is
10 exceeded. So, if the ACL is exceeded, then that Maine
11 fishery ACT could be adjusted that subsequent year.

12 So, each of these non-Maine and Maine
13 fisheries have their own accountability mechanism for
14 their own catch components that they are responsible
15 for. And those are the three action alternatives.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
17 you, Jessica. Mr. Augustine.

18 PAT AUGUSTINE: Thank you, Mr.
19 Chairman. For ocean quahog, I'd recommend for
20 consideration the annual catch limit be set at Quahog-B,
21 establish ACL equals ABC; proactive accountability,
22 Quahog-D, use of ACT's; reactive accountability,
23 Quahog-F, one mechanism accountability for catch.
24 Thank you.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
2 you, Pat. Is there a second to the motion? Second by
3 Erling Berg. Discussion on the motion? Are there any
4 comments on the motion?

5 The motion identifies Quahog-B,
6 Quahog-D, and Quahog-F as preferred alternatives.

7 Is the Council ready for the question?

8 Is there any objection to the motion? Is there any
9 objection to the motion? Seeing none, it's approved
10 by consent. Jessica.

11 JESSICA COAKLEY: Okay. The next
12 species is tilefish. Tilefish, we've got one action
13 alternative for setting the annual catch limit; however,
14 we've got a couple of proactive accountability measures.

15 Alternatives D, E and F would be the action
16 alternatives. The Council could select one, two, or
17 all of those proactive measures. So, you can select
18 more than one from that category.

19 For reactive accountability, there's a
20 status quo and there is one action alternative.

21 So, for ACL's under alternative
22 Tile-B, the ACL would be set equal to the ABC and this
23 comparison of observed catch to the ACL would be based
24 on a single year of catch information, a single-year

1 comparison.

2 For proactive accountability,
3 alternative Tile-D is where the Tilefish Monitoring
4 Committee would recommend an ACT to the Council to
5 address management uncertainty and the Monitoring
6 Committee would communicate any sources of management
7 uncertainty, any control rules that are applied in its
8 derivation, and that would all happen at the time that
9 specifications take place.

10 For alternative Tile-E, this is
11 incidental fishery closure authority. The incident --
12 it would establish that closure authority for the
13 Regional Administrator. The Administrator would
14 monitor the fishery and close on a certain date based
15 on the information available and this would be intended
16 to prevent and/or reduce the magnitude of overages in
17 the tilefish incidental fishery.

18 Alternative Tile-F, this alternative
19 would increase the trip limit which is currently 300
20 pounds and make that trip limit 500 pounds. There is
21 a touch up to the text in the document. When we looked
22 at that, I left a few important words out of the
23 alternative. So, if the incidental catch exceeds the
24 5 percent fishery allocation, which that's the

1 incidental fishery allocation, the incident trip limit
2 of 500 pounds may be reduced. And that's the same
3 language that exists for the 300 pound trip limit that's
4 currently in place. If that allocation is exceeded,
5 it may be reduced the subsequent year.

6 Alternative Tile-F, this is a reactive
7 accountability measure, the one action alternative to
8 address it. There's ITQ permit accountability that
9 occurs irrespective of whether the ACL is or is not
10 exceeded. This is already something that is in the
11 tilefish plan. So, if an ITQ permit exceeds it's
12 allocation, that's deducted the subsequent year from
13 that permit as a single-year adjustment.

14 If the ACL is exceeded and the incidental
15 fishery is responsible, then the ACL would be adjusted.

16 So, it's at the overall ACL level that an adjustment
17 for that would occur and it would be a pound-for-pound
18 adjustment.

19 For other non-landings components such
20 as discards, RSA, some of the other things we've talked
21 about, if the ACL is exceeded and those components are
22 responsible for the overage, then those would be
23 deducted at the ACL level, at the upper level, prior
24 to the allocation to the ITQ fishery or the incidental

1 fishery.

2 Okay. These are all the alternatives.

3 For alternative -- the alternative Tile-F for the trip
4 limit, I do have some additional slides at the end of
5 my talk in case anyone wants to have that analysis
6 refreshed before they make their decision.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Chris?

9 Do you want to go ahead and go through
10 that with us then if you have additional slides, Jessica?

11 JESSICA COAKLEY: Sure. Just give me
12 one second to jump to those. I wasn't sure if you would
13 want them or not, so. Okay.

14 Since this is a review of what we went
15 over in June, the Council tasked the FMAT with examining
16 in-season trip limit adjustments. In December, the
17 staff did this in conjunction with Eric Thunberg on the
18 FMAT and we looked at a trip limit analysis and he did
19 a part -- a model to look at of fishermen behavior in
20 response to different trip limits.

21 So, in terms of fishery performance, the
22 last column gives the overages and underages that have
23 occurred in the fishery. In the most recent years, the
24 fishery has been consistently under its allocation.

1 In 2004, that was the Hadajja verses Evans court case
2 when the landings were quite substantial in response
3 to that court case. But typically, the incidental
4 category has come in under that allocation.

5 In terms of trip thresholds, this is the
6 number of otter trawl vessel's trips and associated
7 pounds at different thresholds. Looking at the 2006
8 to 2008 VTR data, it goes from 1 pounds to 300 pound
9 limit. And as you can see, there's a small number of
10 trips that are landing all the way to the 300 pound
11 threshold, but only 19 trips that landed up to that
12 amount. The bulk of the trips are less than 150 pounds.

13 And of those 19 trips, 2 pounds of discards were
14 reported. So, we suspect that discards are being
15 under-reported because the sum of all the tilefish
16 equaled exactly 300 pounds and that's quite unlikely.

17
18 In terms of trip contribution, this is
19 for individual otter trawl trips, that incidental landed
20 tilefish. The tilefish is a very small contributor to
21 the overall trip and weight. And in terms of overall
22 trip value, as you can see, out of the 250 to 300 pound
23 limit, you're looking at about 1.17 percent contribution
24 to weight and 3.6 percent contribution to value. The

1 grand total is less than one percent in each of those
2 categories.

3 So, this trip limit model examines how
4 a trip affects fishing choices. It includes the trip
5 limit, the revenues earned, the catch composition and
6 fishing costs. Those all reflect whether or not a trip
7 occurs. And essentially, the model asks what would the
8 fishermen do under a specific trip limit? Would he
9 continue to fish? Would the trip be abandoned? Would
10 that behavior be modified?

11 And the general conclusions from this
12 analysis were, regardless of the trip limit opposed in
13 the incidental fishery, otter trawl vessels that catch
14 tilefish would not abandon or shorten any of the fishing
15 trips even if the trip limit was dropped to zero.
16 Landings appear to be truly incidental in this fishery
17 and can correspond to a minor component of total volume
18 and X-vessel value.

19 So, for the tilefish landings for these
20 otter trawl vessels are not what's driving their fishing
21 activities. And that's the overview.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
23 you, Jessica. Pat.

24 PAT AUGUSTINE: Yeah. Thank you, Mr.

1 Chairman. Question, Jessica. Then why would a number
2 like 500 pound trip limit be appropriate as opposed to
3 pick another number 750 pounds? I don't know what kind
4 of thought went into picking that number. Whether it
5 was just an increase to allow for more harvest and more
6 landings, but it just seems to me that if they're only
7 catching one percent of the value of the fish and 3
8 percent of the value, 500 is only going to give them
9 another percent and a half, two. So, if we convert that
10 to dollars, I guess that's one way of looking at it.

11 The other way would be, would the trawl vessels increase
12 their effort if you were to raise that to 750? I don't
13 want a technical answer, but would one be better than
14 the other? If 500 is acceptable, then I'll make a motion
15 we accept five.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Jessica.

18 JESSICA COAKLEY: I'm happy to give you
19 a technical answer, Pat.

20 PAT AUGUSTINE: Okay.

21 JESSICA COAKLEY: When we looked at this
22 information -- and back in June, we did talk about the
23 pros and cons of increasing the trip limit. It doesn't
24 appear, given the way the fishery is behaving right now,

1 that that would result in increased directing.

2 However, there's a new ITQ that's been implemented in
3 this fishery; that doesn't mean that fishing behavior
4 won't change. And a lot of times, changes in other
5 fisheries and the way they're managed will affect how
6 the fishery -- because they're carrying multiple permits
7 on these otter trawls. So, how those other fisheries
8 are managed may have an impact on this as well.

9 So, it was one of the things we talked
10 about back in June. To come up with that 500, we looked
11 back in the original FMP. And if you go to Page 93,
12 it's the last paragraph on that page. Looking back at
13 that 1998 information, which is when there was not a
14 trip limit in place, there were no trips -- excuse me
15 -- nine trips landed between 2,000 and 300,000 pounds
16 per trip which suggested that those trips might have
17 been directing. No trips landed between 600 to 2,000
18 pounds, and 14 trips landed between 301 and 600 pounds.

19 So, we focused on those 14 trips. And the remainder
20 of the 2,766 trips landed 300 pounds or less. So, as
21 we said, the bulk of them were focused on that 300, which
22 was the original basis for that 300 pound that was put
23 into place.

24 For those trips in that next category,

1 that 301 to 600, the catch per trip averaged 534 pounds.

2 So, rounding that to a nice round number, 500 seemed
3 like a good number.

4 One of the reasons for considering
5 increasing that trip limit, you would suggested economic
6 reasons, it was clear that the discards are not being
7 reported in the incidental fishery. Because if we
8 looked at that 2006 to 2008 VTR data, of those trips,
9 only 2 pounds of discards were reported for those --
10 I think it was -- was it 19 trips I believe it said on
11 the screen. So, for those 19 trips. So, it's clear
12 they're not reporting those discards. So, increasing
13 the trip limit might be an opportunity to get a better
14 catch accounting for those fish that are being discarded
15 right now.

16 PAT AUGUSTINE: Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Jessica, in terms of these incidental permits, are they
19 all held by trawl vessels? Jose?

20 JESSICA COAKLEY: He said the bulk.

21 COUNCIL CHAIRMAN RICHARD ROBINS: The
22 bulk of them?

23 JESSICA COAKLEY: Yes.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

1
2 PAT AUGUSTINE: May I make a motion?

3 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

4 PAT AUGUSTINE: Thank you, Mr.

5 Chairman. For tilefish, I move that we under annual
6 catch limit, we accept Tile-B, establish ACL equals ABC;
7 under proactive accountability, we accept 3, which would
8 be Tile-D, use of ACT; Tile E, incidental fishery closure
9 authority; and Tile-F, trip limit increase to 500
10 pounds. And under reactive accountability, would
11 recommend that we would accept Tile-H, three mechanism
12 accountability for catch. And that's the motion, Mr.
13 Chairman.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is
15 there a second to the motion. Second by Erling Berg.
16 Discussion on the motion? Pat.

17 PAT AUGUSTINE: Could we go back to the
18 500 please, Mr. Chairman.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.

20 PAT AUGUSTINE: Jessica said there's a
21 movement now to have ITQ's and I'm wondering as that
22 comes down the road and unfolds, whether or not the 500
23 will be an acceptable number as we go forward. It's
24 going to take us a year or two to put this in place,

1 would there be an impact on that or has that been
2 considered as a part of the 500?

3 COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
4 Amendment 1 is already final.

5 PAT AUGUSTINE: It's already finalized.
6 Okay.

7 COUNCIL CHAIRMAN RICHARD ROBINS: There
8 is already and ITQ program in effect for the directed
9 fishery.

10 PAT AUGUSTINE: Okay. So, the 500 will
11 not have a negative impact on the prosecution of tilefish
12 under that ITQ? I don't think it will. I'm just asking
13 the question for the record because I'm not clear.

14 JESSICA COAKLEY: I don't foresee a
15 direct impact. What I was speaking more to was having
16 a new system go into place, that there may be changes
17 in fishing behavior and in terms the way fishermen decide
18 to target species under the different permits.

19 PAT AUGUSTINE: Okay. Thank you.

20 COUNCIL CHAIRMAN RICHARD ROBINS: And,
21 Pat, I would have been concerned if we had raised it
22 higher than that. I think we've all been burned before
23 with bycatch limits. And they can certainly attract
24 effort, and so, I don't know that that's fully considered

1 if we go beyond that. But I think it does convert
2 discards into catch potentially if that becomes
3 necessary.

4 PAT AUGUSTINE: That's why I asked the
5 question, Mr. Chairman. Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Discussion on the motion? Steve.

8 STEVE HEINS: Yes, Mr. Chairman. Thank
9 you. At our last meeting, we took out an alternative
10 that would hold the incidental category responsible for
11 overages and hold harmless the ITQ category. I didn't
12 support that and consequently I can't support this
13 motion. I don't believe we should be holding the ITQ
14 holders responsible for overages in the incidental
15 category. And I think that going to 500 pounds -- you
16 know, you never see the consequences of an action like
17 that. I don't know what that will have.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thanks, Steve. Further comment on the motion? Are
20 there any comments from the public on the motion?

21 Is the Council ready for the question?

22 The motion is to move to select alternative Tile-B,
23 Tile-D, Tile-E, Tile-F and
24 Tile-H as Council preferred alternatives.

1 (Motion as voted.)

2 {Move to select alternative TILE-B, TILE-D, TILE-E,
3 TILE-F and TILE-H as Council preferred
4 alternative.}

5 COUNCIL CHAIR RICK ROBINS:

6 All those in favor, please raise your
7 hand.

8 (Response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Fifteen. Opposed, like sign.

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Two.

13 Abstentions, like sign.

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: No
16 abstention. The motion carries. Jan, you have that,
17 15-2-0. Thank you. All right. Jessica, you want to
18 move on to the Review and modifications section.

19 JESSICA COAKLEY: Review and
20 modification of actions. We're going to talk about
21 actions to modify measures first. There are three
22 potential ways to modify actions for management plans.

23
24 The first is specifications. These

1 typically take anywhere from a half-year to
2 three-quarters of a year to develop. In the case of
3 summer flounder where we do two specs. packages, it takes
4 a year and-a-half total by the time we work through the
5 whole process. Staff submits the package and then the
6 service goes through the rule-making process.

7 Framework adjustments typically take
8 anywhere from a half-year, which is a really fast
9 framework, to about a year and-a-half. It requires a
10 minimum of two Council meetings. I say minimum because
11 that's if there are no changes to the framework between
12 Council meetings. It could require more meetings.
13 Then it goes through the NMFS rule-making process.

14 An amendment, that takes one to five
15 years, includes scoping, hearings, multiple Council
16 meetings, and the NMFS rule-making process. We have
17 had some amendments take longer than five years to
18 develop.

19 I just wanted to put this up to put the
20 time perspective in everyone's mind as we talk about
21 how we're going to modify things.

22 So, there's three alternatives. I've
23 got myself out of order here. Okay. I'm going to take
24 this out of order. Process to modify actions is on Page

1 97. So, now I've talked about our three actions, we'll
2 go through those.

3 There's two options there. The
4 Review-A and Review-B. So, for ABC control rule
5 methods, those are in the first section, Section 5, the
6 catch limit associated with ABC would be communicated
7 through the specifications process along with the
8 associated ABC control rule, and that will include the
9 level to which a stock is classified, which risk policy
10 value is used. Those things will all be communicated
11 through that process.

12 The ABC has four levels and modification
13 of those ABC levels changes to the number of levels;
14 the criteria contained within those levels could be
15 recommended by the Council through specifications and
16 codified through that rule-making process. By using
17 the specifications process to make those small changes,
18 that will hopefully streamline any minor adjustments
19 to those ABC control rule methods framework.

20 Complete wholesale elimination of those
21 levels in lieu of something else or major changes to
22 that framework itself may require a framework adjustment
23 or an amendment process. And whether you go with the
24 framework or an amendment would depend on the magnitude

1 of the change and if it's something that had been
2 previously contemplated; the criteria for framework
3 adjustment has been for measures that are previously
4 contemplated.

5 Terms of risk policy, the specific
6 values that are applied from the risk policy that are
7 used when the ABC is derived would be communicated by
8 specifications. Minor modification to the risk policy,
9 such as changes to the inflection point, the range of
10 probabilities, or the intercepts, could be recommended
11 by the Council for specifications and then codified
12 through that rule-making process. So, these are small
13 changes to the policy as it exists and the Council would
14 need to identify why that change is appropriate and then
15 pass that on through specifications.

16 An introduction of a risk policy that's
17 a major departure may require either a framework
18 adjustment or an amendment. Same basis is for ABC.
19 It's whether or not it has been previously contemplated.

20 Other measures such as the ACT and ACT
21 control rules if those are applied; specifications could
22 be used to communicate the ACT itself and any associated
23 ACT control rules that the Monitoring Committee
24 develops. So, the Monitoring Committee will be

1 discussing this and they may come up with qualitative
2 types of rules that they apply to derive the ACT or
3 quantitative. Either way, those methods could be
4 communicated through that.

5 The accountability measures that
6 already exist within the FMP's, the modification of
7 these could be recommended by the Council through
8 specifications and codified through that rule-making
9 process. And we already make a lot of adjustments to
10 measures that already exist in the FMP. There are trip
11 limits that have been adjusted through specifications,
12 adjustments to trigger points, for shifting trip limits,
13 gear requirements, those types of changes are all made
14 and communicated through specifications.

15 New accountability measures. The
16 addition of new accountability measures that are already
17 contemplated in the document could be done through
18 framework.

19 So, we've got framework categories for
20 all of the managed resources. Those are described
21 within the document. For all of those the following
22 new categories could be added, and these would include:
23 sub ACT's; predefined in-season adjustments to
24 commercial measures; if applicable, predefined

1 in-season adjustments to recreational measures;
2 existing ABC control rule methods modification;
3 existing Council risk policy modifications; and
4 frequency of ABC, ACL and AM performance reviews. So,
5 those are the categories that the FMAT has identified
6 that could be included and we could then contemplate
7 future frameworks on the items in those categories.

8 Other modifications. Completely new
9 novel AM approaches that are not previously contemplated
10 would need to be addressed through an amendment. And
11 it's likely if it's something that's so new and novel
12 that it has not been applied previously, but it's
13 probably appropriate to go through the amendment process
14 and to have that extensive deliberation and input from
15 the public when that's developed.

16 The FMAT has developed the strategy for
17 how things can be modified to provide the maximum
18 flexibility for adaptive management. It's clear that
19 this ACL/AM process is intended to be adaptive and so
20 we've tried to build in the maximum flexibility so that
21 adjustments and tweaks to the system to improve its
22 function would also be adaptive.

23 All right. And I'm going to go over the
24 review alternatives as well. So, there's two review

1 alternatives that are action alternatives. The first
2 is the review of ABC control rules and the second is
3 for review of ACL's and AM's. You could choose to --
4 you would need to choose between either review
5 alternative A or alternative B and you could also select
6 alternative C. So, you can select both action
7 alternatives.

8 So, Review B establishes that the
9 recommendations for changes to ABC control rule methods
10 would come from the SSC and be communicated to the
11 Council. There would be a five-year performance
12 review. This was something that was not in the June
13 document. We hadn't identified the periodicity for the
14 review. We talked about it on the FMAT level and five
15 years seemed to be a reasonable number. That will give
16 you the opportunity to review the prior four year's
17 information. It could be more frequent and the Council
18 could specify they want more frequent review if there
19 is a rebuilding plan, if there's overfishing occurring,
20 and the ABC control rules were performing poorly, they
21 could recommend a more frequent review.

22 Under alternative Review C, ACL and AM
23 recommendations would come from the Monitoring
24 Committees and the staff in the case of surfclams and

1 ocean quahogs, and then be communicated to the Council.

2 Review would be a five-year performance review similar
3 to the one above. It could be more frequent if the
4 Council requests more frequent review for rebuilding
5 plans, poor performance. The Stanford monitor, that
6 ACL performance, and notify the Council if the ACL is
7 exceeded more than 25 percent.

8 And if you recall, in National Standard
9 1 guidelines, they suggested as a performance criteria
10 that the ACL not be exceeded more frequently than one
11 in four years. So, that would be either one in the more
12 recent four years or the ACL's exceeded in two
13 consecutive years. It may be worth revisiting the
14 function of the ACL's and AM's that are currently in
15 place.

16 These don't substitute for the annual
17 review that we do for specifications. It's intended
18 to be sort of a separate review of performance, but
19 there's nothing to suggest that you can't time this when
20 you do the specifications process. So, it could happen
21 on the front end of the process when the SSC and
22 Monitoring Committee are reviewing this. It just may
23 require preparation of a little bit more information
24 on performance to allow that review to occur.

1 Those are the two action alternatives for
2 review. And now, that's everything for this section
3 that we've gone over.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

5 PAT AUGUSTINE: Thank you, Mr.
6 Chairman. Jessica, good presentation. I was going
7 back to your document of -- I'm sorry -- description
8 of process to modify actions. Were I to make a motion,
9 I would suggest -- I would select Modify B, but the brief
10 description you have in there is description of process
11 to modify actions in the future. Are you going to
12 incorporate some specific bullets such as i.e. under
13 that? Do you follow where I'm at? I'm on Page 96.
14 In your format that describes performance review
15 alternatives, then description of process to modify
16 actions, will you be looking for a motion on that?

17 COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
18 we -- yeah. We have two categories where we can take
19 motions; that is, performance review of alternatives
20 and then description of process to modify actions.

21 PAT AUGUSTINE: Yes. That's what I was
22 discussing, Mr. Chairman, under Modify B.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Correct?

1 PAT AUGUSTINE: Then the description of
2 the action is just a statement that says description
3 of process to modify actions in the future. But were
4 there any suggestions as to what might be included.
5 I know you said it on the board. Do we just refer to
6 the document.

7 JESSICA COAKLEY: There's a lot
8 included. It's two and-a-half --

9 PAT AUGUSTINE: We're referring to the
10 document --

11 JESSICA COAKLEY: -- three and-a-half
12 pages.

13 PAT AUGUSTINE: -- details and that's
14 fine. Do you want a motion, Mr. Chairman?

15 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.
16 And that is in the narrative of the document as --

17 PAT AUGUSTINE: You've got it.

18 COUNCIL CHAIRMAN RICHARD ROBINS: --
19 that's what Jessica is indicating.

20 PAT AUGUSTINE: For future review and
21 modification of actions, under sub issue performance
22 review of alternatives, I would recommend the Council
23 Review B, review of ABC control rules; Review C, review
24 of ACL's and AM's; and under description of process,

1 modify actions under Section 5.4.2, Modify B,
2 description of the process to modify actions in the
3 future and as delineated in the document. That's my
4 motion.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Is
6 there a second? Is there a second to the motion?
7 Second by Erling Berg. Discussion on the motion? Are
8 there any detailed questions here on the process? Pres.

9 PRESTON PATE: Not intended for
10 discussion or detailed comments, Mr. Chairman, only to
11 express my opinion and satisfaction of where we have
12 come with this part of the program. When we started
13 out, I was very concerned that we would develop a process
14 that was very rigid and lacked the flexibility that we
15 would need to respond to the needs of our constituents
16 and further and better management of the resource. And
17 I think we've done an outstanding job, particularly with
18 regards to the analysis that is presented in Modify B.
19 We set the stage for a very effective and responsive
20 system for the future.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
22 you, Pres. Peter.

23 PETER DEFUR: Thank you, Mr. Chairman.
24 I like the whole thing. Under alternative B, wouldn't

1 -- the SSC isn't restricted to situations in which they
2 find that a control rule is not working perfectly; are
3 they? Or if they come up with a bright idea and they're
4 still -- they're not precluded from recommending that
5 we adopt something that they think will make an
6 improvement even if things are not going badly; are they?

7
8 You know, every five years they review
9 and they say, hey, things are going great. We don't
10 have any recommendations. Right? Or they do?

11 JESSICA COAKLEY: Exactly. If they're
12 performing well and there's no reason to recommend
13 changes, they may not. They may, as the process
14 develops, come up with -- there may be newer, better
15 innovative methods to apply control rules that are maybe
16 being applied in other parts of the world and seems like
17 an interesting thing to address. They could -- you
18 know, bring up those issues with the Council to consider.
19 So, action would still be there.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Just
21 to follow up, Peter, they have a -- they have a relatively
22 broad charge to provide us with scientific information.

23 And as staff has already pointed out earlier, and John,
24 I believe, the SSC is engaged in that ongoing management

1 strategy evaluation process that will hopefully feed
2 back into this -- into our decision-making process in
3 the future. So, this is not something that's going to
4 be static. I would anticipate that as we go through
5 the interim process, we will continue to get advice from
6 the SSC on the issue. Further discussion on the motion?

7
8 Is the Council ready for the question?

9 The question is to move to select Review B, Review C,
10 and Modify B as the Council preferred alternatives as
11 stated in the document. Is there any opposition to the
12 motion?

13 (No response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is
15 there any opposition to the motion?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Seeing none, it's approved by consent.

19 I did have one note to myself. I needed
20 to ask Jessica a question on tilefish and I forgot to
21 do that when we were up there. So, Jessica, let's see,
22 my question was similar there to the question related
23 to the flowchart and the question of OY as it relates
24 to ACT. And just wanting to make sure that the language

1 that we have in the document provides for setting the
2 TAL's based on OY considerations. And I just wanted
3 to make sure that that's adequately captured, because
4 we're currently using a constant harvest strategy that's
5 well below an ABC. Is that adequately captured in the
6 document?

7 JESSICA COAKLEY: I think it is. And
8 actually if you turn to Page 28, which is in the
9 introductory sections where we deal with OY, there is
10 some descriptive text -- and we've talked about this
11 before -- which suggests since the Council has chosen
12 that construct of ACL equal ABC, that OY in any given
13 year because it's just long-term average will probably
14 fall somewhere between the OFL and the ACT. And the
15 Council could reduce catch limits at the ACL or ACT to
16 address scientific uncertainty and management
17 uncertainty as well as other factors relating to optimum
18 yield for the managed resources. So, there is language
19 in here that reaffirms the fact that Magnuson does give
20 you that ability. This new revised act didn't change
21 your ability to address optimum yield, but we just added
22 clarification that you can address it through this
23 framework. And where it's addressed, there may be
24 circumstances where it's more appropriate to deal with

1 it at the ACL level or at the ACT level or at the TAL
2 level. But that's an option to the Council for
3 addressing it.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thanks for that clarification, Jessica. I think that
6 is important just as a matter of record that we have
7 that on the record. Red.

8 RED MUNDEN: Thank you, Mr. Chairman.

9 I have a question for Jessica. Did you consider joint
10 action to address disconnects in trip limits for
11 bluefish? I didn't see that in bluefish. And in my
12 years, I've never known there to be a disconnect between
13 bluefish quota. But could it come up?

14 JESSICA COAKLEY: No. It wasn't
15 addressed and it wasn't something that the Council had
16 asked the FMAT to develop options on. It could be
17 something that -- you know, if you would like that to
18 be included for bluefish, that's a possibility. But
19 it wasn't -- it just wasn't developed because we weren't
20 asked that.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Red,
22 did you want to follow on that point?

23 RED MUNDEN: Yes, Mr. Chairman. Since
24 this is such a comprehensive document, I think it would

1 be a wise idea to include bluefish language to address
2 any disconnect that may occur between the ASMFC and the
3 Council.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Would
5 you like to make that in the form of a motion?

6 RED MUNDEN: Yes, I would. I would move
7 that we develop an alternative for bluefish for joint
8 action to address disconnect and catch limits.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is there
10 a second to the motion? Second by Gene Kray.
11 Discussion on the motion? I'll give Jan a minute to
12 get that up there.

13 Red, I assume you'd want to also identify
14 that as a preferred alternative?

15 RED MUNDEN: Yes, Mr. Chairman. And I
16 would like to ask Vince if he has any thoughts or comments
17 on that.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Captain O'Shea? Thumbs up. Got it. Okay. So, the
20 motion is move to develop an alternative for bluefish
21 for joint action with the ASMFC to cover a disconnect
22 in quotas.

23 RED MUNDEN: I believe the language is
24 catch limits rather than quotas.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
2 you. So, move to develop an alternative for bluefish
3 for joint action with the ASMFC to cover disconnects
4 and catch limits. Motion by Red Munden. Seconded by
5 Gene Kray.

6 Is the Council ready for the question?

7 Is there any objection to the motion? Let's make sure
8 we have preferred alternative in that language, if you
9 would. Okay. Thank you, Jan.

10 So, the motion is move to develop a
11 preferred alternative to bluefish for a joint action
12 with the ASMFC to cover disconnect in catch limits.

13 Is there any objection to the motion?

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 there any objection to the motion?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Seeing none, it's approved by consent.

20 Jessica, before we consider finalizing
21 and submitting the document, are there any other issues
22 that need to be addressed, do we need to clarify intent
23 in any of the other areas of the document?

24 Pat, are there any issues from the

1 Regional Office that require clarification at this point
2 by the Council? No. Peter.

3 PETER DEFUR: Mr. Chairman, thank you
4 very much. If we have any -- go through the document
5 and see any typos or technical things, just submit those
6 to Jessica.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.
8 Go ahead, Joel.

9 JOEL MACDONALD: Thank you, Mr.
10 Chairman. Red, just a couple of questions with respect
11 to your motion. What exactly do you expect to come out
12 of this process for collaboration between the Commission
13 and the Council where there is a disconnect between the
14 quotas set by the two groups?

15 RED MUNDEN: I (inaudible) that we would
16 use the same process for bluefish that we may use for
17 summery flounder when the Council sets the quota -- catch
18 limits and ASMFC sets it at another. So, rather than
19 going off in divergent paths, the two bodies would get
20 back together and see if they could come up with an
21 agreement as to what the catch limit should be as we
22 have done in the past for summer flounder.

23 PETER DEFUR: That's typically done
24 proactively. Like the groups have not adopted a quota

1 for that species and so they get together and come up
2 with an agreed upon quota or agree to disagree. You
3 see this as being an after-the-fact process where you
4 have identified a discrepancy between the quotas for
5 the two groups?

6 COUNCIL CHAIRMAN RICHARD ROBINS: Joel,
7 I think this is identified -- Jessica is pointing you
8 to Page 84. If you look at black sea bass J, that's
9 typical of the descriptive language that was developed
10 by the FMAT on this issue. On Page 84. Jessica.

11 JESSICA COAKLEY: Essentially, this was
12 the only thing the FMAT was able to develop on this issue
13 because the management systems are functioning
14 independently and the Commission is not subject to
15 Magnuson, if there are these disconnects, the Council
16 asked the FMAT to come up with options for this and the
17 best thing we could come up with is to try to reconvene
18 the two groups to revisit their recommendations. You
19 could try to reconvene them or the Council could ask
20 the Commission to reconvene. They may say that they
21 don't want to reconvene. That's a possibility. But
22 we really don't have any other tools in the toolbox to
23 address this issue unless you went to the extreme
24 circumstance of preemption or something like that, which

1 is a very intractable, unpleasant type of situation.

2 So, that's how this option developed in this process.

3 And again, I'm going to emphasize, these
4 are going forward as Council preferreds. We'd need to
5 raise these tomorrow with the Board while they're here
6 and they would need to be voted under joint rules in
7 order to have that measure to into effect.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Vince.

10 VINCE O'SHEA: Mr. Chairman, I'm
11 wondering if perhaps the issue is the Council comes up
12 with one number and the Commission comes up with another
13 number, and even if the two groups do get together, I'm
14 wondering if the question is on what basis would the
15 Council then change their number if they're already
16 locked into everything else that's in this amendment.

17 I wonder if that's where Joel is sort of coming from.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
19 Vince, I would just follow up and say also that I think
20 your point is well made that our flexibility as a Council
21 is significantly more limited under law than the
22 Commission's is perhaps. And yet, we're called to try
23 to achieve collaborative management and work diligently
24 with the Commission. And there are very few steps that

1 we can take, but I think it is helpful to have some
2 prescriptive measure in the document that says if we
3 get disconnected on a catch limit we're going to do
4 everything we can to get together and try to resolve
5 the issue. And again, our ability to anything else is
6 quite limited. This is an administrative measure that
7 I think at least indicates right up front that if we
8 do have a disconnect we're going to work to try to resolve
9 it. Vince.

10 VINCE O'SHEA: Yeah. I think that's
11 helpful, Mr. Chairman. I think that again in full
12 disclosure to folks that there are limits to what the
13 Council would be able to do and in the past has been
14 able to do given the disconnect between the Commission.

15 Yet, on the other hand, the two groups can get together
16 and meet again. I think that at least opens up the
17 chance for perhaps the Commission to reevaluate what
18 it's doing, but doesn't assure that the Commission
19 necessarily would change either. Thanks.

20 COUNCIL CHAIRMAN RICHARD ROBINS: I
21 think historically we've worked to try to find
22 flexibility with respect to issues such as recreational
23 measures when we've had differences. We've gone back
24 and been able to demonstrate, I think, some flexibility

1 on those types of issues. But obviously with catch
2 limits themselves, our legal construction is a different
3 one.

4 Are there any other issues to consider
5 before we consider the question of submitting the
6 document? What's the pleasure of the Council? I'm
7 sorry. Yes. Ken.

8 KEN STUMP: Thank you, Mr. Chairman.
9 Ken Stump, Policy Director for the Marine Fish
10 Conservation Network. This is a process question. Is
11 this the last vote you all are going to make on this
12 today? And is there going to be other opportunity,
13 before you close this out, for public comment?

14 COUNCIL CHAIRMAN RICHARD ROBINS: Ken,
15 this -- procedurally, this will be the last opportunity
16 for public comment before this Council as a deliberative
17 body as we consider the final decision to submit the
18 document. Once it's submitted and the rule comes out,
19 there will be an opportunity for public comment, written
20 comment, to the service.

21 KEN STUMP: Okay. Well, the Network
22 didn't speak earlier to this question this morning, but
23 I wanted to take an opportunity, if I may, to make a
24 few comments right now.

1 We wanted to -- for those of you who don't
2 know me, I have not testified before the Council, but
3 we have followed the ACL process very closely. We've
4 commented on each of the scoping comment periods on this
5 document. And I want to compliment the staff for their
6 excellent work in putting this information together.

7 We do have a number of concerns. We
8 submitted a joint letter with Natural Resources Defense
9 Council which we put out on the table for people to look
10 at this morning expressing some of the concerns about
11 the document that you all are moving forward today.
12 And I think most importantly we feel that as a matter
13 of process and transparency, that we have not had an
14 opportunity to comment on the Council's preferred
15 alternative. We have had -- you know, a couple of
16 opportunities to comment in scoping as this document
17 has been prepared, but we haven't had a chance to see
18 what you all ultimately chose as your preferred
19 alternative.

20 And so, we think that it would be
21 advisable and preferable for you to send this back out
22 for public comment one more time before you send it
23 forward for Secretarial review. And I think it would
24 also be an opportunity not only for you all to take

1 additional public comment and hear any concerns about
2 this, but for you to reconsider some of the things that
3 we found lacking ultimately in the document and in the
4 preferred alternative that you all have decided upon.

5 As an example, for instance, we
6 recommended alternative D of the ABC control rule with
7 the risk policy incorporated. And you spoke of -- you
8 touched on this issue earlier today and heard comments
9 from your Chairman of your SSC that it would be
10 preferable to have a control rule, ABC control rule,
11 that had a four-tiered or four-level component to it.

12 And I think what I didn't say this morning, but I'll
13 say it now, for the record, is that -- you know, I think
14 this shows that you're trying to move a little bit too
15 fast. We do want this thing to move forward.

16 We're not seeking indefinite delay, but
17 there are considerations such as the use of ABC control
18 rules in other council systems like the North Pacific
19 or the Pacific where they have adopted the equivalent
20 of a tiering system that allows the SSC's to evaluate
21 ABC's and OFL recommendations based on the quality of
22 the assessment. And I think that it provides the SSC
23 the ability to look at -- you know, different
24 methodologies for developing an ABC recommendation

1 based on the quality of the data and the quality of the
2 assessment.

3 You definitely want to have a Tier 1
4 level type of an assessment that would ultimately give
5 you the ability to provide ABC based on -- you know,
6 probability, density, function, estimate of the
7 uncertainty in your MSY calculation. And while you
8 heard from the Director of the Northeast Fisheries
9 Science Center that that's somewhat -- you know, in the
10 future and seemingly unattainable, the fact is, is that
11 in the North Pacific they have had that system and they
12 have had -- you know, they've strived to attain that
13 level and have with in recent years with a couple of
14 stocks. And so, I think it provides an incentive to
15 move ultimately to that level.

16 But in the interim, you're going to have
17 stocks that maybe have a proxy for MSY and that's going
18 to be in a different level of assessment and it's going
19 to require the ABC to take into consideration there is
20 a higher level of uncertainty there. And also, that
21 you're going to have stocks that are at a lower level
22 of certainty with less data than that, and some of which
23 you may only have catch histories for.

24 And so, I think that these kinds of

1 considerations are things that you really didn't fully
2 discuss here. And I think you may have missed some of
3 the importance of those elements. And I think that this
4 is why we feel that this document would benefit, with
5 your preferred alternative now in place, additional
6 public comment before you send it forward. Thank you.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
8 you, Ken.

9 BUFFY BAUMANN: Thank you, Mr.
10 Chairman. I'm shorter than Ken. My name is Buffy
11 Baumann. I'm with Oceana. And on behalf of my
12 organization, I'd like to just submit the following
13 comments on this Omnibus:

14 We actually -- we did submit written
15 comments back in May on our concerns expressed on the
16 original -- on the document before this EA version.
17 We do still have the substantial concerns that we
18 detailed back in that letter.

19 But in addition to those, we object to
20 the environmental analysis for this really broad ranging
21 policy document being released only a week before the
22 meeting which you all are making a final decision and
23 putting it forth before the agency. And while we
24 definitely agree with the Council and the agency that

1 implementing the statutorily mandated ACL's and AM's
2 by the deadline as set forth in the law is critical,
3 we do disagree with doing so at the cost of these limits
4 and measures being developed correctly.

5 Inherent in the very name of this
6 amendment, this Omnibus is wide ranging; it's going to
7 affect every management -- I'm sorry -- every fishery
8 managed by the Council and we feel it deserves full and
9 careful analysis. We do maintain that environmental
10 analysis is not sufficient; that an EIS should have been
11 done for this document.

12 Having said that, giving the agency is
13 going ahead with this less robust analysis, we feel that
14 it should still have been released to the Council and
15 the public with sufficient time to read and comment.

16 With regard to the amendment itself, we
17 would like to reiterate that we feel that the
18 Mid-Atlantic Council is following in the footsteps of
19 the New England Council where it's taking the narrowest
20 approach possible in defining what stocks are in the
21 fishery and not taking a hard look at whether or not
22 that approach is appropriate.

23 So, we would urge it's both
24 inappropriate and irresponsible and that any fishery

1 management plan should include analyses and accounting
2 for all fish populations affected by the fishery whether
3 they're actually a targeted stock or not.

4 Additionally, we feel that this
5 amendment and the accompanying EA actually fail to
6 account for takes of or analyze the impacts on protected
7 species and is thus severely deficient and in violation
8 of the NS1 guidelines to that effect. So, thank you
9 for allowing me to comment.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
11 you, Buffy. Kristen, did you have your hand up?

12 KRISTEN CEVOLI: I did, but it was a
13 question about the review process. (Inaudible, away
14 from microphone.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: Sorry
16 about that. Okay. Any further comment? Adam.

17 ADAM NOWALSKI: Thank you, Mr.
18 Chairman. Adam Nowalski, Recreational Fishing
19 Alliance. I'd just like to start out by expressing the
20 appreciation from the Council, the Council staff, SSC,
21 service, members of the science centers, and everybody
22 else that's been involved. It's been a very long
23 process from day one. I think we've come a long way
24 from what the original scoping documents were. So, I'm

1 appreciative for all the work that's been done and effort
2 that has gone into this.

3 One, just a point of clarification with
4 regards to the general closures authority that had been
5 discussed. The available data that was discussed would
6 be that the general closure authority would be exercised
7 when MRFSS landings reported that the RHL has been
8 exceeded; is that correct?

9 COUNCIL CHAIRMAN RICHARD ROBINS: I got
10 a nod from Pat. Pat.

11 PATRICIA KURKUL: That's the way I
12 understood it.

13 ADAM NOWALSKI: Okay. Very good. As
14 I indicated earlier -- you know, there's been a lot of
15 talk from Council members over the years, fisheries
16 managers in general, hands are tied by Magnuson-Stevens.

17 We now have 274 more pages before the Council here.

18 I think the effort that has gone into the review and
19 modification process were hopefully proved to be
20 beneficial to the Council members are they move forward
21 in being able to address issues that come up and arise
22 that affect fishermen, fish, environment, throughout
23 the process of how these regulations are going to be
24 implemented moving forward.

1 The measures with regards to the
2 pound-for-pound payback -- you know, as indicated in
3 the example I've given to be punitive. Perhaps as they
4 play out in real life, the review process will allow
5 for those to be addressed when needed down the road.

6 And in closing, again, appreciate all
7 the work that's gone into it. Finally, the Recreational
8 Fishing Alliance kind of finds itself in the odd place
9 here in agreeing with a lot of organizations we are often
10 at odds at in opposing the release of the document in
11 its present format, specifically with regards to the
12 use of MRFSS for in-season and recreational payback
13 measures. Thank you very much.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
15 you, Adam. Further comment? Are there any additional
16 comments at this point? Gene.

17 EUGENE KRAY: Mr. Chairman, I think we
18 would be -- oh, what's the word I'm looking for
19 -- remiss, thank you -- if we didn't express our
20 appreciation to Jessica Coakley for the outstanding job
21 she did in carrying this baby for a couple of years now.

22 So, thank you very much, Jessica. She has a response.

23 JESSICA COAKLEY: I appreciate that.
24 I really do. But I do want to acknowledge that there

1 was -- there were a lot of people that contributed to
2 this process. I worked with all the staff in our office.

3 We worked with staff in the region. We worked with
4 the FMAT, in particular Mike Ruccio and Joel. Anytime
5 I had a question, I called up there and said I need an
6 answer now, not a week from now, now, and they did that.

7 And so, I just want to make sure that everyone spread
8 the thanks around because there were a lot of people
9 involved.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
11 you, Jessica. Howard.

12 HOWARD KING: When this is released to
13 the service, will it be published in its entirety in
14 the Federal Register?

15 COUNCIL CHAIRMAN RICHARD ROBINS: No,
16 not the entire document.

17 JOEL MACDONALD: It will not be
18 published in the Federal Register. We gave up that
19 practice many, many, many years ago because of the cost.

20
21 COUNCIL CHAIRMAN RICHARD ROBINS: Any
22 further comments before we take up the question? I
23 appreciate some of the concerns we've heard here at the
24 end of the day about the process that was used and notably

1 the use of an EA rather than an EIS. I would point out
2 that the decision to do that was based on the advice
3 of our legal counsel. The staff worked with legal
4 counsel on that question and we've had a fair amount
5 of discussion about that at the table, but as you may
6 recall, the impacts were determined to be remote and
7 speculative. And what's embodied here is a process
8 that's going to be populated by future actions as we go
9 through on an annual basis our specifications setting
10 process. So, the decision to do that was not one that
11 was made lightly and it was based on the advice of
12 counsel.

13 So, at this point, I would ask what the
14 pleasure of the Council is in terms of submitting the
15 document? Peter.

16 PETER DEFUR: Yes, Mr. Chairman. I
17 have a process question. Once this goes to the service,
18 then the service, I assume, then has not only the
19 responsibility but the authority to make sure that it's
20 correct and in a form that has substance that's
21 consistent with federal laws, all of them. So, if they
22 find that there's a change that needs to be made, do
23 they simply make it and release it or does it come back
24 to us if there is something that we've overlooked that

1 -- you know, comments raised. I don't know what could
2 happen, but, you know.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Peter, there's a step that's provided for in the Act
5 that's a deeming step, whereby, the Council has to deem
6 the action to be consistent with its original intent.

7 And so, the proposed rule, I guess, will next finalize
8 and come back to us; and the Executive Director, together
9 with staff, will review the document. They'll submit
10 it to me as part of our standard procedure and with the
11 recommendations to either deem it or not. And so,
12 that's the deeming process. It then goes back to the
13 service. Gene.

14 EUGENE KRAY: Mr. Chairman, is a motion
15 in order now?

16 COUNCIL CHAIRMAN RICHARD ROBINS: It
17 is.

18 EUGENE KRAY: I would prefer it of Pat
19 Augustine, because he's the master of the motions.

20 COUNCIL CHAIRMAN RICHARD ROBINS: I was
21 inclined to look to the gentleman from New York.

22 PAT AUGUSTINE: What do you want me to
23 say? Thank you. I guess in regards to me what's
24 happened today and this activity we went through today,

1 I think it's been very -- what's the word, Gene?

2 EUGENE KRAY: Judiciously.

3 PAT AUGUSTINE: Yes. That we
4 participated in such a lovely event today. I really
5 don't know what to say. It is what it is.

6 COUNCIL CHAIRMAN RICHARD ROBINS: I'll
7 hear Gene in that case then.

8 EUGENE KRAY: The master of the motions
9 over here. But I would move that we approve the document
10 in total with the corrections and additions that we added
11 today and send it on to the service as soon as it is
12 complete.

13 COUNCIL CHAIRMAN RICHARD ROBINS: So,
14 move to approve and submit the document with the changes
15 to the service. Is there a second to the motion?

16 PAT AUGUSTINE: I second the motion.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Second by Mr. Augustine. Thank you, Pat. So, the
19 motion is to approve the document -- approve and submit
20 the document with the changes of today to the service.

21
22 Is the Council ready for the question?

23 All right. Counsel is informing me that our SOPPs
24 require a roll call vote. Jan, do you have one for us?

1 Thank you. Okay.

2 The question is on the board. Move to
3 approve and submit the document with the changes of today
4 to the service. We're on a roll call vote.

5 (Motion as voted.)

6 {Move to approve and submit the document with
7 changes of today to the service.}

8 COUNCIL CHAIR RICK ROBINS:

9 Pat Augustine?

10 PAT AUGUSTINE: Yes.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Steve

12 Heins?

13 STEVE HEINS: (Inaudible.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: John

15 McMurray?

16 JOHN MCMURRAY: Yes.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Steve

18 Schafer?

19 STEVEN SCHAFFER: Yes.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Chris

21 Zeman?

22 CHRISTOPHER ZEMAN: Yes.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Erling Berg?

1 ERLING BERG: Yes.
2 COUNCIL CHAIRMAN RICHARD ROBINS: Gene
3 Kray?
4 EUGENE KRAY: Yes.
5 COUNCIL CHAIRMAN RICHARD ROBINS: Rick
6 Cole?
7 RICK COLE: Yes.
8 COUNCIL CHAIRMAN RICHARD ROBINS: Lee
9 Anderson?
10 LEE ANDERSON: Yes.
11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Howard King?
13 HOWARD KING: Yes.
14 COUNCIL CHAIRMAN RICHARD ROBINS: Mike
15 Luisi?
16 MIKE LUISI: Yes.
17 COUNCIL CHAIRMAN RICHARD ROBINS: Peter
18 DeFur?
19 PETER DEFUR: Yes.
20 COUNCIL CHAIRMAN RICHARD ROBINS: Jack
21 Travelstead?
22 JACK TRAVELSTEAD: Yes.
23 COUNCIL CHAIRMAN RICHARD ROBINS: Red
24 Munden?

1 RED MUNDEN: Yes.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Jule
3 Wheatly?

4 JULE WHEATLY: Yes.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Pres
6 Pate?

7 PRESTON PATE: Yes.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Pat
9 Kurkul?

10 PAT KURKUL: Abstain.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Steve
12 Lindhard?

13 STEPHEN LINHARD: Yes.

14 COUNCIL CHAIRMAN RICHARD ROBINS: The
15 Chair votes yes. Okay. The motion carries. Thank you
16 very much.

17 And I would like to follow Gene's comment
18 and thank all of the staff and notably Jessica for her
19 tremendous hard work on this amendment and thank the
20 Council for a very constructive effort in developing
21 this. I think the initial start we got with the meeting
22 with the FMAT together at the table and all the
23 committees allowed us to get off to an excellent start
24 in terms of structure and how we wanted to manage the

1 ACL question.

2 And so, here we are with the completed
3 document, but I appreciate all of your input on it; and
4 staff, I think, had done an excellent job on it as well.
5

6 With that, we'll adjourn as a Council
7 and have an Executive Committee meeting following this.

8 I do have a couple of announcements. We'll have our
9 Council photo tomorrow morning prior to the morning
10 session. So, why don't we plan on doing that -- let's
11 do that right at eight o'clock. And additionally,
12 there's a hospitality event tonight. I'll turn to
13 Kristen Cevoli, if you'd like to make that announcement,
14 please.

15 KRISTEN CEVOLI: (Away from
16 microphone.) I would like to invite the Council, SARC
17 and all its members tonight at (inaudible) a little meet
18 and greet reception here at (inaudible) in the Betsy
19 Ross Room. It's around the corner towards the bar area.

20 There will be food and drinks and an opportunity for
21 the Council (inaudible).

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Kristen, what time will that start?

24 KRISTEN CEVOLI: Oh, sorry. Six

1 o'clock.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

3 Thank you very much. Why don't we come back at 4:15
4 as an Executive Committee. Are there any other issues
5 to come before us before we break up? Thank you very
6 much.

7
8 WHEREUPON:

9
10 THE MEETING WAS CONCLUDED AT 3:50 P.M.

11
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 21st, day of September, 2010.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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Pages: 1-174

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
Room 2115 Federal Building
300 South New Street
Dover, Delaware 19901-6790

COUNCIL MEETING

17-19 AUGUST 2010

at

Holiday Inn, Historic District
400 Arch Street
Philadelphia, Pa 19106

MORNING SESSION

WEDNESDAY, AUGUST 18, 2010

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1 [8:07 a.m.]

2
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS: Lee
5 and Pres are going to take the Council photo. If we
6 could line up in front of the table down at this end,
7 in front of Jack, on the inside.

8 (Photo taken.)

9 Good morning and welcome. Let's come
10 to order. We're convened now as the Demersal Committee
11 of the whole for the Council, jointly with the ASMFC
12 Summer Flounder, Scup, Black Sea Bass Board. I'd like
13 to welcome everybody to the August meeting of the Council
14 and jointly with the Commission. thank you very much
15 for indulging us in our annual photograph. It's a
16 sharp-looking bunch, I know, but I appreciate your
17 indulgence.

18 And Jack Travelstead will be running the
19 meeting on behalf of the Council for the Demersal
20 Committee, and A.C. Carpenter is up here for the Summer
21 Flounder Board. Jack.

22
23 SCUP MANAGEMENT MEASURES FOR 2011

24 COMMITTEE CHAIR JACK TRAVELSTEAD: Good

1 morning, everyone. Just to remind you, we'll continue
2 to use our standard operating procedures where we strive
3 for like motions from both the Committee and the Board.

4 Jessica will start off with her usual presentation on
5 the information from various committees and final
6 recommendations, and then we'll open it up for questions
7 and finally motions from the two groups and proceed from
8 there. So, with that, Jessica, are you ready? Okay.

9 JESSICA COAKLEY: All right. Good
10 morning, everyone. The information we'll be talking
11 about is behind Tab 7 in the briefing book. They're
12 summaries of the SSC and Monitoring Committee
13 recommendations behind that tab, along with the staff
14 memo and the assessment update that was provided through
15 the Souther Demersal Working Group.

16 In terms of management history for scup.
17 Table 1 in the staff memo gives a detailed history.
18 TAC's have ranged, total allowable catch, have ranged
19 from about 19.8 million pounds in 2006 as a high to about
20 6 million pounds in 2000.

21 The 2010 ABC recommendation, which was
22 a catch-based recommendation, was 17.09 million pounds.

23 Recreational landings were slightly higher than the
24 2009 harvest limits. Commercial landings were just

1 about on par with the commercial quotas.

2 The current commercial minimum fish size
3 is 9 inches and the recreational minimum fish size for
4 2010 is 10 and-a-half inches. Recreational measures
5 will be discussed in November by the Monitoring
6 Committee to provide recommendations for the Council
7 at their December -- at your December meeting.

8 The last peer-reviewed accepted
9 assessment occurred in December 2008. That was the Data
10 Poor Stock Workgroup Peer Review Panel. That workgroup
11 and peer review proposed a series of assessment models.

12
13 The first was the age structured
14 assessment program, ASAP, which is the main model that's
15 used. Year per recruit analyses were used to derive
16 the biological reference points. And a program called
17 AGEPRO was used to take the information from the ASAP
18 model and project that forward to determine what catch
19 limits should be for future fishing years. Those models
20 were used to calculate all of the core pieces of
21 information we needed, stock biomass, recruitment F,
22 and biological reference points.

23 The Southern Demersal Working Group
24 updated this information in June 2010 with data through

1 2009 and the update is provided behind this tab.

2 Biological reference points that were
3 provided from that peer-reviewed assessment included
4 an F 40 percent as an FMSY proxy of 0.177, an SSB MSY
5 proxy of 202.9 million pounds. And based on the
6 information available, the scup is not subject to a
7 rebuilding plan at this time because the stock size is
8 quite high.

9 So, looking at some of the information
10 that we used in the assessment, this is recreational
11 fishery landings at age. The time series goes back to
12 1984 in this table. Management measures went into place
13 for the scup fishery in the mid '90s, mid to late '90s.

14 So, you can see a shift if you look at age on the bottom
15 axes. You see a shift in the mid '90s to older age
16 categories being landed as minimum sizes went into place
17 for both the commercial fishery and the recreational
18 fishery in this case, which is what we're looking at.

19 If you look at the earlier part of the
20 time series and these older ages, you see that there
21 are more fish at those older age categories in the late
22 '80s than you see in the mid '90s. Essentially, there's
23 a compression of the age composition throughout that
24 time series. And since about 2000, there's been a

1 re-expansion of fish into those older age categories,
2 so those have been available to the recreational fishery
3 to land.

4 For the commercial fishery landings by
5 age, a similar pattern. When management measures went
6 into place, you see a shift to landing older fish by
7 that fishery to two and three-year olds being landed,
8 and you also see that compression of the older age
9 categories in the middle part of those time series.

10 Northeast Center's spring survey
11 indices. Similar pattern, although it is a much more
12 abrupt patter in terms of the compression of the age
13 categories. All the survey indices that are included
14 in this model are truncated at age two, which in this
15 figure would be what's indicated as age three because
16 the surveys do not sample those older age categories
17 well.

18 Total catch and fishing mortality.

19 Fishing mortality is the black line with the squares.

20 There's been a rapid decrease in the fishing mortality
21 rate from the mid 1990s and it's really below the FMSY
22 threshold of 0.177 for quite a few years in the most
23 recent few years. Catch is the solid line given in this
24 figure.

1 Spawning stock biomass and recruitment.

2 The recruitment are the bars on this figure. And SSB
3 is the solid line. The BMSY proxy is the red line that's
4 given along this graph. There's a rapid increase in
5 the SSB that's been calculated by the model from about
6 2000 leveling off at about 150,000 metric tons of SSB.

7
8 There's also a pattern in recruitment
9 that's evident where prior to 1999, the lower
10 recruitments that were -- that are estimated for this
11 time series, and post 1999 there have been consistently
12 higher recruitments.

13 So, stock dynamics and summary.
14 Fishing mortality in the 1960's and '70s ranged from
15 about .1 to .3 but peaked in the mid 1990's at about
16 1.1. That's around the time when there was that
17 compression in the age classes that was evidence in the
18 recreational and commercial landings.

19 In 2009, F was .043, which is below the
20 F 40 percent threshold, therefore, overfishing was not
21 occurring in the most recent year and has not occurred
22 for a number of years.

23 Spawning stock biomass decreased
24 substantially in 1963 from 220 million pounds to 110

1 million in 1969. It increased in the '80s, but declined
2 again quite substantially to 11 million pounds in the
3 mid 1990's. The SSB is currently 170 percent of the
4 SSB MSY proxy of about 203 million pounds. Therefore,
5 the stock is not overfished and is substantially larger
6 than the BMSY target.

7 The SSC reviewed the information
8 available to them in July at a two-day meeting. They
9 reviewed all four species, fluke, scup, sea bass and
10 bluefish.

11 They recommended an ABC based on 75
12 percent of the FMSY proxy, which is that 0.177. So,
13 75 percent of that is an F of .133. The ABC associated
14 with that would be 51.7 million pounds. That's based
15 on the 50th percentile of catch. And the ABC is catch
16 based, so the catch component of this. This is less
17 than the overfishing limit of 67.53 million pounds,
18 which would be the catch associated with that F .177
19 applied to the current stock size.

20 The SSC also supported the Data Poor
21 Stock Workgroup concerns about rapid increases in quota
22 to meet the revised MSY. There were a series of things
23 that they considered in their recommendations as
24 significant sources of uncertainty. One was the

1 dynamics of the older ages are driven solely by catch
2 in the model. All of the fishery independent indices
3 are truncated at age two because they don't sample those
4 older age categories well. So, all the age three plus
5 dynamics in the model are based on the information in
6 the catch.

7 Commercial discards. The estimates of
8 those were imprecise and a large component of the total
9 catch. There was uncertainty in stock status relative
10 to the biomass and the FMSY proxy. In addition, there's
11 no uncertainty characterization of the overfishing
12 limit. The overfishing limit is given as a point
13 estimate, but there is no distribution around it.

14 Recruitment has been high in recent
15 years. However, there's a lack of historical context
16 to compare it to. In our time series, those
17 recruitments were calculated from 1984 onwards. So,
18 we had that period of lower recruitment pre 1999, but
19 one of the questions was what were the dynamics before
20 that in order to be able to compare what's happening
21 now.

22 There's high inter-annual variable in
23 the indices. Many of our indices have a lot of
24 variability, but in particular scup seems to be very

1 sensitive to the timing of fish, their removals,
2 their availability of the trawls when they're sampling.

3 So, for scup, this is a particular issue for them.

4 There's also concerns about the
5 application of trawl calibration coefficients which
6 were applied in the most recent year index values between
7 the Albatross IV and the Bigelow and the influence of
8 applying those coefficients on selectivity patterns and
9 the results of the assessment.

10 Now, the Monitoring Committee met the
11 third day of this three-day meeting of the SSC and the
12 Monitoring Committee and they -- we talked about the
13 information, the SSC recommendations. They
14 recommended a TAC for 2011 somewhere in the range from
15 status quo TAC and a TAC equal to MSY. They reiterated
16 the Science and Statistical Committee's and Data Poor
17 Stock Workgroup's concerns about rapid increase in
18 quota.

19 So, there are five options that are laid
20 out in the Monitoring Committee recommendations. The
21 first is that TAC which is the equivalent of the 2010
22 ABC of 17.09 million pounds. The next is a TAC based
23 on a 15 percent increase relative to 2010. This was
24 the staff recommendation and this is what was consistent

1 with how the SSC had made their recommendation for the
2 prior year, for the 2010 fishing year. So, it was a
3 step-wise increase.

4 There was also a TAC of 41 percent, a
5 41 percent increase relative to 2010. That would be
6 the 24 million pounds. A TAC that's a 55 percent
7 increase, which would be the 26.5. And then the TAC
8 equal to MSY, which would be the 35.63 million pounds.

9 The Monitoring Committee had extensive
10 discussions about what their recommendation should be,
11 because it was clear that rapid increases in quota
12 probably weren't appropriate for this fishery.

13 There were a lot of questions about what
14 the most appropriate way to increase the quota would
15 be, if it should be step-wise, whether the fishery would
16 be able to absorb the increases in quota. What that
17 might do to prices. These were socioeconomic concerns,
18 fishery concerns, and they've essentially given the
19 managers the opportunity to address these issues when
20 you form your recommendations.

21 They had some recommendations for the
22 things that the Council and Board should consider in
23 terms of the impacts of this increase. Commercial trip
24 limits should be considered. Commercial triggers.

1 Affects on the winter and the summer fishery. Price.

2 As well as other economic factors including market
3 stability.

4 They noted that there's large
5 uncertainty in how effective changes to regulations will
6 be in constraining landings to the harvest limit. And
7 in particular, they were talking about the recreational
8 fishery in this case. If the harvest limit increases
9 substantially liberalizing those measures rapidly, they
10 thought there would be a lot of uncertainty in terms
11 of how effective those measures might be in the face
12 of these higher quotas.

13 They thought you should consider
14 overages and if it's sufficient to use status quo
15 measures in some of these cases for the management
16 measures themselves. Current commercial management
17 measures are sufficient to constrain the fishery to all
18 of the TAC options. And so, since management
19 uncertainty in the implementation of this was important,
20 they wanted to note that.

21 They're pretty confident that the things
22 that are in place could constrain the fishery. This
23 would include the Winter 1 possession limits, the 30,000
24 pounds or the 1,000 pound trip limit at the 80 percent

1 quota trigger; the Winter 2 measures, and there's that
2 Winter 1 rollover that occurs as well.

3 They recommended the Council should
4 consider revisiting allocations in the future between
5 the recreational and the commercial fishery as well as
6 the winter and summer periods and noted that the
7 recreational measures will be discussed in detail in
8 November.

9 And those allocation issues came up in
10 particular when they were talking about price for those
11 fisheries between the winter and summer periods and in
12 terms of allocating fish, and also for the recreational
13 and commercial allocation. But it seems to be there
14 are a lot of fish available to the recreational fisheries
15 and they thought it might be worthwhile taking another
16 look at what some of those allocations were based on
17 newer information.

18 So, the recommendations for all the
19 other measures that are in the plan right now, maintain
20 current mesh size, minimum fish size, pot vent
21 requirements, gear restricted areas, and RSA up to 3
22 percent of the TAL.

23 Just another piece of information.
24 This wasn't discussed at the Monitoring Committee

1 meeting, but there is a price value relationship that's
2 been developed for scup. This was developed for
3 Amendment 14, the scup rebuilding plan. It has a sample
4 size of 25, so 25 years worth of information and a very
5 good R squared. So, R squared indicates how good the
6 relationship the predictive capability is for that
7 model, and it's got a very strong predictive capability.
8

9 Landings were estimated to be negatively
10 related to price. And the findings of this modeling
11 exercise under Amendment 14 was that if scup landings
12 increased by 1 percent, the ex-vessel price per pound
13 paid to harvesters declines by 0.57 percent. So, it's
14 a negative relationship to price.

15 And there's just one more piece of
16 information I thought might be worth bringing to the
17 attention of the Council that might help you. So, where
18 the four alternatives that are not the status quo,
19 because I suspected people probably weren't going to
20 be looking at the status quo, I've calculated the TAL's
21 associated with those, the initial commercial quotas,
22 and initial recreational harvest limits, to put those
23 all in perspective when thinking about the next fishing
24 year.

1 And my last slide. For RSA for those
2 four options, I've also calculated what the RSA would
3 look like at the maximum of 3 percent.

4 COMMITTEE CHAIR JACK TRAVELSTEAD:

5 Okay. Questions for Jessica? Pat.

6 PAT AUGUSTINE: Thank you, Mr.
7 Chairman. Very good presentation, Jessica.

8 I noted that the Monitoring Committee
9 took a substantial amount of time to delve into the
10 possible impact of increasing the quota above a certain
11 level and the economic impact of prices and so on.
12 Nowhere in the document have I seen the negative effect
13 of the scup population.

14 And I'm now going to address this
15 relative to Long Island Sound and southern New England.

16 We are inundated with porgies. We're having a negative
17 effect on bugs, baby lobsters. The lobster fishermen
18 are finding porgies in their traps spitting up baby
19 lobsters.

20 We're on the verge of ASMFC considering
21 a five-year moratorium on lobster fishing in southern
22 New England. And then I look at the restrictive
23 increase and concerned statement in the document that
24 we really can't expand the quota too fast or too quickly

1 because there might be an economic impact of pricing
2 in the marketplace.

3 On the other side of that, it seems by
4 restricting the increase in quota both for commercial
5 and recreational, which has had an extremely negative
6 impact socioeconomically on those charter boat
7 recreational fishermen, and on the commercial side by
8 loss of market share with other species of fish that
9 have come in and displaced porgies. It just seems to
10 me that when the Science -- the SSC comes forward and
11 says you could do the following and we look at all these
12 uncertainty levels of assumption that are baked into
13 the Monitoring Committee's recommendation topped by
14 another 18 or 20 percent protective measure by the staff,
15 it just seems to me we've lost sight of the fact that
16 there is a negative impact by allowing the increase of
17 any particular specie of fish to far surpass where it
18 should be, whether it's SSB or total population.

19 We've seen it evidenced in striped bass.

20 We're just seeing it in the curve of summer flounder.

21 We call it anecdotal information when the commercial
22 fishermen put it on the table. We look at the retraction
23 in bag size and season, which is okay except for the
24 season part. Fishermen have been deprived of going out

1 and doing their fishing. They're been deprived of
2 trips. Economic impact not only in the southern New
3 England area, but up and down the coast, it's been very
4 traumatic and very negative.

5 So, when I look at the protective
6 measures that are being considered here as opposed to
7 how much of a risk are we taking if we doubled the quota.

8 Well, we might overrun. Remember, whatever we set as
9 a quota today that's going to be reviewed in October
10 and November by the states. They're the one that have
11 control over the management measures. They're the ones
12 that have the most correct in their assessments of bag
13 size and season.

14 So, my concern here again here is how
15 restrictive do we have to be in order to get these
16 fisheries back to an economic level where they should
17 be. And so, when I look at this, it would seem to me
18 that as though the fact of a 55 percent increase to 26.5
19 might be a reasonable stock.

20 I just wanted to respond, Jessica. I'm
21 not knocking what you folks have done. I think you've
22 done a very admirable job. But it raises more severe
23 questions on the other side in true socioeconomic
24 impact. That those people who are going to be effected

1 by not being able to harvest these fish, and that's from
2 a single-species management point of view, how do we
3 bring this stock back to a level that does not have a
4 negative impact on the other stocks.

5 We're not equal system management yet.

6 But we've got to consider the negative effect of these
7 species that have gone well above the spawning stock
8 biomass that we have as a target. We have a threshold.

9 We have a target. You go a hundred percent above that,
10 what is the magic number where you have to take that
11 back down. So, that's the bigger picture that I'm
12 concerned with. So, thank you for allowing me that.

13 And I don't know if you needed to answer anything, but
14 that was just a statement.

15 COMMITTEE CHAIR JACK TRAVELSTEAD: I
16 didn't think I heard a question in there.

17 Before I take further questions, Dr.
18 Boreman, I wanted to give you an opportunity if you had
19 anything else to add to Jessica's presentation.

20 JOHN BOREMAN: Jessica did an excellent
21 job of summarizing the concerns of the SSC. I just want
22 to focus on one of those which we consider a fairly
23 significant concern. And that is, when we reviewed the
24 model and the assessment itself, we realized that, as

1 Jessica said, the indices of abundance that were used
2 in the assessment were capped at two age groups. Only
3 the first two age groups were used and not the older
4 age groups.

5 And that caused us some concern because
6 the model that's used in the assessment exhibits a large
7 stockpiling of stock biomass at age seven and older
8 fishes. And that's not corroborated by whatever
9 evidence is out there from the commercial fishery, from
10 the catch, from the landings, that there is a stockpiling
11 of age groups of biomass in those older age groups.
12 So, that causes us some grave concern at this point.

13
14 Grave in the sense that the model is
15 saying there is -- there should be a lot of older fish
16 out there in the population, and you saw that by the
17 plot that showed the spawning stock biomass is up 170
18 percent. But it's basing that on abundance indices only
19 for the first two age classes. And whatever other data
20 we had to look at out there did not support that as --
21 well, if there wasn't any evidence one way or the other
22 really that that is actually happening. Which I think
23 is a shortcoming of the assessment and we point that
24 out in our paragraph -- in our report here.

1 And because of that, we're calling --
2 we said as soon as possible, or whenever possible is,
3 we should actually do another benchmark on this scup
4 assessment and look at methods that don't have to rely
5 just on the first two age classes in your survey indices,
6 which themselves are very variable.

7 And it turns out that the estimates of
8 the biological reference points coming out of those
9 assessments are sensitive to either the recruitment,
10 which is the first two age classes, and insensitive to
11 the changes in spawning stock biomass because the
12 changes in spawning stock biomass are generated through
13 whatever happens to the recruitment in the first two
14 years. It's not using data on older fishes, putting
15 that into the assessment and seeing how that compares
16 with what the predictions are.

17 So, we consider that a major shortcoming
18 of the assessment which is a reason why we chose the
19 default value of 75 percent of FMSY to recommend our
20 ABC.

21 Now, another aspect, and this addresses
22 some of what Pat's talking about, we spent several hours
23 literally talking about what we did last year. And last
24 year when we set the ABC, we took status quo and bumped

1 it up by a certain percentage, because we were following
2 the recommendations of the Data Poor Working Group
3 saying we should incrementally increase the quota and
4 not jump all at once.

5 This year, we got into a discussion of
6 should we be doing the same thing. And then we, after
7 a couple of hours, we realized that that wasn't the role
8 of the SSC; that is a management implementation role
9 and we defer to the Monitoring Committee even though
10 we do point out in our recommendation that incremental
11 increases are probably wise given the -- I wouldn't say
12 the shortcomings of the assessment, but the uncertainty
13 caused by how the assessment was conducted as well as
14 just the jump all the way up to the ABC level itself
15 could cause problems just as Pat's pointed out. So,
16 that's just what I wanted to add to what Jessica said.

17 Thanks.

18 COMMITTEE CHAIR JACK TRAVELSTEAD:

19 Thank you. Tom Fote.

20 TOM FOTE: One housekeeping question.

21 Your reference is in November. You're talking about
22 that we set the rec quote -- recreational measures, that
23 means we'll be setting it down in South Carolina at the
24 Atlantic State Marine Fisheries Commission annual

1 meeting?

2 JESSICA COAKLEY: When I referenced
3 November, I meant the Monitoring Committee meetings will
4 occur in November to provide advice to this body in
5 December, the December meeting for the Council.

6 TOM FOTE: That's my housekeeping
7 question. I kept getting confused. Because I didn't
8 see any meeting scheduled for November, I'm saying,
9 well, maybe they're putting the joint meeting in
10 November.

11 The other question is -- and I have the
12 same concerns as Pat -- I mean, we're looking at an
13 industry both commercial and recreational have been
14 greatly affected by scup, sea bass, summer flounder and
15 reduced quotas. You know, we keep telling them that
16 if they suffer the pain, they're going to be rewarded
17 sooner or later. And every time we get where the quotas
18 seem to be going up, we're saying, well, you have to
19 suffer a lot longer.

20 And you know, this is an industry,
21 especially on the recreational side on scup, there is
22 no economic down side to increasing the quota. The cost
23 does not go down for a recreational trip if you're able
24 to make more trips. People go on them. And as Jimmy

1 -- since -- Council meetings since 1984, Commission
2 meetings since -- and the Commission is off and on since
3 1990. It's very few times in those -- except for striped
4 bass and a few other species

5 -- we've been allowed to do that. And I always know
6 I've been coming back and telling people, well, yeah,
7 the stock looks great or the projections are great.

8 Now, as far as the benchmarks
9 assessment, I respectfully -- I'm saying when they came
10 out, but that's what we have to go with. We do that
11 with every other species. We don't pick and choose what
12 stock assessment is good and what stock assessment is
13 bad, because we just got to follow the rules. That's
14 what the SSC does and that's what we do here.

15 So, when the rules say we can do
16 something -- and I don't think it's going to be a
17 detrimental effect -- I don't see anybody around this
18 table saying that. I'd like to give the increase as
19 far as we can for an industry that suffered a lot of
20 -- you know, economic downturn in the last 10 or 15 years.

21 I mean, I was sitting at a meeting the
22 other day talking about Barnegat Bay, about fertilizers,
23 and how we used to protect the bays and everything.
24 And I heard the lawn people come in and they were

1 complaining that if we basically restrict they lose a
2 day in December when no fertilizer shouldn't be put on
3 the ground anyway and they might lose 4 percent of their
4 income.

5 Well, I think I'd like to see any
6 commercial fisherman or recreational part of the
7 industry that lost 4 percent of their income in the last
8 10 years and be in that same boat. So, that's why I'm
9 supporting what Pat was talking about.

10 COMMITTEE CHAIR JACK TRAVELSTEAD: Dave
11 Pierce.

12 DAVID PIERCE: Yeah, Jessica, I've got
13 a couple of questions for you. And John Boreman may
14 actually be able to step in and help out with this.
15 I noticed that you as Chair of the Monitoring Committee
16 recommended to the Monitoring Committee as well as the
17 SSC that the ABC be 19.66 million pounds for next year,
18 the ABC accounting for scientific uncertainty. The SSC
19 went with 51.7 accounting for scientific uncertainty.

20 So, I just need you to help me understand why you and
21 the SSC, Monitoring Committee as well pretty much
22 supporting your position, what explains that great
23 difference between the ABC recommendations that account
24 for scientific uncertainty?

1 John indicated earlier on he thought
2 that the Monitoring Committee -- that the -- I could
3 be misstating this, John, but I think you said that the
4 Monitoring Committee should be the group making the call
5 on scientific uncertainty? Okay. You didn't say that.
6

7 Then why does the SSC have a recommended
8 ABC at 51.7 million pounds and the staff and the
9 Monitoring Committee end up at around 19.66 million or
10 a little bit less. So, what's the explanation for the
11 discrepancy?

12 JESSICA COAKLEY: The staff
13 recommendation was 19.66 million pounds in the staff
14 memo that was sent out at the same time to the Monitoring
15 Committee and the SSC to read prior to their meetings
16 to develop their recommendations. It was put forward
17 as a starting point for discussion and it was based on
18 the approach that the SSC had applied the previous year,
19 which was a 10 percent increase in -- or excuse me --
20 a 20 percent increase in the TAL's from 2009 to 2010.

21 When I looked at the information and the discussions
22 that had happened that prior year, I didn't have anything
23 to suggest that the application of that approach again
24 wouldn't be reasonable. So, that was how I formed my

1 staff recommendation.

2 The SSC then looked at all of that
3 information and discussed the issues that John had
4 highlighted, should they be looking at a step-wise
5 approach here or should the discussion really be more
6 focused top down, OFL to that 75 percent of FMSY. They
7 formed their recommendation.

8 And then the Monitoring Committee looked
9 at that and the concerns about rapid increases in quota
10 and has proposed a range of options for the Council and
11 the Board to choose from which range from that 17.09
12 to 35.63 million pounds as a TAC. That's the basis for
13 all of those.

14 So, when I form my staff recommendation,
15 I don't have my Monitoring Committee Chair hat on at
16 that point. It's just to establish something to discuss
17 that's based on the information that's available and
18 that seems a reasonable starting point.

19 DAVID PIERCE: Okay. So, you follow
20 the approach that the SSC took last year, a relatively
21 small increase in the ABC. So, you followed that
22 approach, which certainly was a reasonable approach to
23 take. But then the SSC meets. They consider your
24 recommendation, but they go with 51.7 million as an ABC.

1 I'm still having trouble reconciling this. But
2 anyways --

3 COMMITTEE CHAIR JACK TRAVELSTEAD:

4 David, let's have John Boreman respond to that.

5 JOHN BOREMAN: As I said, we had a
6 discussion that lasted several hours on the incremental
7 approach to increasing the ABC knowing that we had at
8 that point an upper limit of in the order of 50 million
9 pounds or so. So, how do we get from 17 million up to
10 50 million? And we're saying well, it's a 20 percent
11 climb, but why not 25 percent? Why not 15 percent?
12 What's so magical about the 20 percent number?

13 And we went around and around on that.

14 Then we realized as I said that this is not the role
15 of the SSC. The role of the SSC is to set the acceptable
16 biological catch given the scientific uncertainty and
17 let the management side of the house decide how to best
18 get to that catch, be it incrementally or all in one
19 step. So, we looked at this assessment and we
20 considered it a Level 3 assessment according to our new
21 rules which we were kind of using as guidance for
22 ourselves.

23 We had an OFL estimate but we didn't have
24 a PDF associated with that OFL, so, we chose our default

1 value of 75 percent of FMSY and that came out to the
2 -- I think it was .133 which translated to on the order
3 of 50 million pounds or so. And then we decided to again
4 put in the recommendation along with that number that
5 we support the Data Poor Working Group's recommendation
6 that this be an incremental increase and not one huge
7 jump from current landings levels all the way up to the
8 ABC.

9 DAVID PIERCE: If I may, Mr. Chairman?

10 Okay. So, again, just to make sure I understand. The
11 recommendation from the Monitoring Committee, the range
12 of numbers that you provided to Jessica, those are not
13 ACL's, those are suggested ABC values that -- those are
14 TAC's. I'm sorry. Those are TAC's. Those are the
15 TAC's. Right.

16 All right. One other question,
17 actually two. You noted the calibration coefficients
18 Bigelow versus the Albatross, the all important
19 calibration coefficients. The SSC indicated that it
20 had some concern about the calibration coefficients.

21 Could either you or John elaborate a little bit
22 regarding the nature of that concern.

23 COMMITTEE CHAIR JACK TRAVELSTEAD:

24 John.

1 JOHN BOREMAN: Yes. Last year, the
2 last data point from the survey is the first data point
3 that's resulted using a calibration coefficient because
4 the survey was conducted by the Bigelow and not the
5 Albatross. So, they used a conversion coefficient to
6 equate what they caught on the Bigelow to what they would
7 have caught if they had used the Albatross changing
8 catchability. And you'll notice that this concern that
9 we have is not only for scup but for all the species
10 that this calibration coefficient was applied to. It
11 was the first year. It's going to take a number of years
12 to sort out how robust that calibration coefficient
13 truly is. And after a while, after a number of years,
14 we'll be switching over to just total Bigelow indices
15 and at that point. But during this transition time,
16 this is the first data point in a time series, so, there's
17 always an associated level of uncertainty when you have
18 one point in a trend and you don't know whether that
19 trend is going up or down.

20 DAVID PIERCE: Okay. Thank you. So,
21 that's the subject to more work as time runs forward.

22 And my final question is the GRA's.
23 There's no recommendation from the Monitoring Committee
24 regarding a change in the GRA's. And in looking at your

1 recommendation that you offered up the Monitoring
2 Committee, Jessica, you simply note that no
3 modifications were made to the GRA's in 2006 to 2010
4 and then you recommend no changes in the GRA's for 2011.

5
6 I just wonder were any data available
7 for review that would indicate whether or not we really
8 do need to revisit the GRA's and change the boundaries?

9 You recommend no change. But is that based on any
10 particular analysis?

11 JESSICA COAKLEY: No. We didn't have
12 a detailed analysis that was evaluated to review that
13 information for the GRA's. I don't think we discussed
14 it explicitly at the Monitoring Committee meeting this
15 time, but I know we have discussed it at previous
16 meetings what we think the effects of the GRA's have
17 been and may be -- you know, on that recruitment pattern
18 that we looked at where post 1999 there have been higher
19 recruitments observed in many of the indices that are
20 being modeled through the ASAP model versus prior to
21 that, which some Monitoring Committee members think it
22 suggests that the GRA's are having a positive effect,
23 but we didn't look at detailed information.

24 COMMITTEE CHAIR JACK TRAVELSTEAD: John

1 McMurray.

2 JOHN MCMURRAY: Thank you, Mr.
3 Chairman. I agree with Pat and I agree with Tom that
4 the recreational fishing community, particularly the
5 charter and party boat fleet, are certainly taking a
6 beating on scup and we're facing some of the most
7 restrictive measures in the history of the fishery.
8 But I also understand why we're choosing -- why the
9 Monitoring Committee and the staff is choosing to
10 recommend incremental increases.

11 But I wanted to segway into something
12 else that you mentioned in the briefing material, and
13 that's that the prices for the scup, commercial scup
14 fishery, are very sensitive to gluts in the market.
15 And so, you recommended precaution and increasing the
16 commercial TAL. You also mentioned and I thought this
17 was particularly relevant in the context of what we're
18 facing, which is a glut in the market on the recreational
19 and the commercial side, and some very restrictive
20 measures on the recreational side, and that's that we
21 follow up and investigate on perhaps an allocation
22 change, maybe taking some fish from the commercial side
23 and giving them to the recreational side. I wonder if
24 you could elaborate a little bit on that.

1 JESSICA COAKLEY: Well, I'm not sure
2 quite how to elaborate on that. The Monitoring
3 Committee just had a general discussion on that issue
4 and they thought it was something that managers may want
5 to talk about. They did talk about their restrictive
6 measures on the recreational fishery and the potential
7 for the commercial fishery to not absorb all of that
8 quota that might become available to them. But those
9 allocation issues they acknowledged are long-term
10 issues, they aren't things that could be addressed this
11 year or next year. You would need some extensive
12 analyses and long-term evaluation of what those
13 allocations might be and what the Council wants to do,
14 an amendment and some things like that.

15 JOHN MCMURRAY: Just a follow up to
16 that. So, the correct way to go about that would be
17 for this Council to maybe ask for NOAA or to commission
18 an economic study perhaps or would it just be to bump
19 it to the committee and have the committee discuss it,
20 the Demersal Committee?

21 COMMITTEE CHAIR JACK TRAVELSTEAD: I
22 think that would be more appropriate for the committee
23 to discuss that and to take that up at this point.
24 That's more of a long-term issue. I still have a number

1 of people on the list and we will get to everybody.
2 If you raised your hand, I do have you on the list.
3 Steve Heins.

4 STEVE HEINS: Thanks. Just a comment
5 on some of the uncertainty on the stock assessment.
6 I find it kind of puzzling that we're not seeing age
7 seven-plus fish in the catch, especially when -- if I'm
8 going by the photographs that people are sending me and
9 the fishing reports, the anecdotal information -- it
10 appears that they are in the catch.

11 And I look at New York's, according to
12 the recreational survey -- you know, we bounce around
13 between 3 and 4 million pounds in our recreational catch
14 in the last several years. And how we're not seeing
15 them, I just -- it's just very puzzling to me. And
16 that's either real or I think maybe we need to look at
17 sampling a little harder.

18 JESSICA COAKLEY: Steve, we are seeing
19 them in the catch. They are in the recreational catch
20 and the commercial catch. Where we aren't seeing those
21 older fish are in the survey indices. They're not being
22 picked up in large numbers in the survey.

23 STEVE HEINS: Yeah. And if I may?
24 What I said is that we're not -- it's not a point of

1 not seeing them in the catch, but according to the model,
2 there should be a stockpile and a growing proportion
3 of age seven and older fish in the population and that's
4 what's not being seen. The model says we're
5 stockpiling all these fish in the seven-plus age
6 categories and that's growing every year. You can see
7 by the plot of the spawning stock biomass. But that's
8 not being reflected in the samples we're getting from
9 the catch. The older fish are out there, there's just
10 the model saying there should be 1.7 times as many now
11 as there was, and that's just not showing up according
12 to the information that we have in front of us.

13
14 COMMITTEE CHAIR JACK TRAVELSTEAD:

15 Vince.

16 VINCE O'SHEA: Thank you, Mr. Chairman.

17 I actually have a question. I'm not sure whether this
18 is Dr. Boreman or Jessica. But we were given a letter
19 this morning from the United States Senate, Senator
20 Schumer, Judiciary Banking Rules Committee. Anyway,
21 he characterizes the SSC recent recommendations for scup
22 could potentially sustain a harvest increase of
23 approximately 15 to near 200 percent. And I was just
24 wondering, putting Dr. Boreman on the spot, is that an

1 accurate representation of what the SSC's
2 recommendation is? Thank you.

3 COMMITTEE CHAIR JACK TRAVELSTEAD:

4 John, did you want to respond?

5 JOHN BOREMAN: I don't know how he's --
6 I just saw this letter, so, I need to read it in the
7 context. But our recommendation is 75 percent of FMSY,
8 so, that's 50 million. But that's way above MSY levels,
9 so, that's why we have a TAC here equal to the MSY as
10 the upper bound of about 36 million. So, if the current
11 quota is 17 million going to 36, well, that's doubling,
12 that's a hundred percent increase, not a 200 percent
13 increase. 200 percent increase would be tripling I
14 would guess.

15 VINCE O'SHEA: Thank you, Mr. Chairman.

16 COMMITTEE CHAIR JACK TRAVELSTEAD:

17 Dave.

18 DAVID SIMPSON: Okay. Thank you. I
19 raised my hand in response to something Dr. Boreman had
20 mentioned, and that's the age structure or lack of it
21 in the survey indices. And just wanted to point out
22 that the Connecticut survey does see older fish, does
23 sample age -- you know, fish substantially older than
24

1 age two. So, they are in there.

2 And the other positive thing, although
3 it's a new survey with a short time series, the Rhode
4 Island ventless trap survey seems to be doing a pretty
5 good job picking up older fish. So, I think there are
6 indications outside of the fishery itself that this
7 stock is expanding in age structure. And as Dr. Boreman
8 clarified that -- and part of his point was that
9 stockpiling of age seven-plus fish.

10 And the final thing is actually a
11 question. The idea of the Bigelow coming online with
12 a new survey net. And it looks like the calibration
13 coefficient is something around one
14 and-a-half which is good. It's not 12. But -- so,
15 they're not vastly different in their catch rates. The
16 Bigelow has a higher catch rate. But I was wondering
17 if they sampled a different age structure. So, that's
18 the question for Dr. Boreman.

19 COMMITTEE CHAIR JACK TRAVELSTEAD:

20 John.

21 JOHN BOREMAN: Well, I'll just respond
22 to the first comment. Yeah. We did see the Connecticut
23 index and the Rhode Island. Rhode Island was too short.

24 And we asked the Monitoring Committee -- I guess it

1 was Mark specifically at the Connecticut index -- why
2 it wasn't used. And none of those indices were used
3 for the older age classes. They apparently cut off the
4 index at age two. So, just the first two age classes.

5 I don't think the older age classes in the index were
6 used in the assessment. So, that was an issue. And
7 what we're saying is we need to probably take a step
8 back and figure out how we can use all the age classes
9 from the Connecticut assessment -- from the Connecticut
10 survey.

11 COMMITTEE CHAIR JACK TRAVELSTEAD:

12 David.

13 DAVID SIMPSON: Yeah. That's curious
14 and it's actually news to me. It may be different since
15 the new assessment beginning last year. But they do
16 always end the characterization of the Connecticut
17 survey by saying the spring and fall surveys generally
18 include a higher proportion of age two and older fish
19 than the other state or any FSC surveys. So, it's
20 curious that they make that observation but don't use
21 it.

22 JOHN BOREMAN: That was our point too.

23 In terms of the calibration --

24 COMMITTEE CHAIR JACK TRAVELSTEAD:

1 John, you need to be on the mike.

2 JOHN BOREMAN: That was our point too.

3 And in terms of the calibration coefficient, I'll defer
4 to the Center on that. But you're right, you have to
5 look at the age structure or they may be catching the
6 same biomass but different selectivity for sizes. And
7 I don't know if Nancy or Jim want to add to that.

8 COMMITTEE CHAIR JACK TRAVELSTEAD: Jim.

9 JAMES WEINBERG: Yeah. I was just
10 looking in the summary report on scup, first addressing
11 the use of the Connecticut survey. And I'd have to check
12 with Mark for the real details of this. But it says
13 that the indices of stock abundance from -- and they
14 mention a number of surveys including the Science Center
15 -- and they say Connecticut spring and autumn trawl
16 surveys were used in the model calibration. So, we seem
17 to -- maybe John could clarify what that means.

18 JOHN BOREMAN: Again, we -- I don't know
19 if Jessica called Mark or somebody sent that and called
20 Mark. Do you want to talk to that.

21 JESSICA COAKLEY: Sure. We double
22 checked this during the SSC meeting and all of the
23 indices that were included were truncated at age two,
24 so, they included the zeroes, the ones, and the twos

1 in the modeling exercise. The scup, that pot vent trap
2 survey, at the time that the Data Poor Stock Workgroup
3 model was done, that was not included in the modeling
4 exercise. And we've done updates for 2009 and 2010.

5 And we don't incorporate new methods and modeling
6 approaches in updates; so, when we do the next benchmark
7 on scup, that would be the time to re-evaluate the length
8 of the time periods that scup pot trap survey and whether
9 it's appropriate to include it.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 Okay. Steve Schafer.

12 STEVE SCHAFFER: Thank you, Mr.
13 Chairman. NOAA Fisheries Office of Science and
14 Technology definitely keeps track of the prices of scup
15 at the market. And you know, this is a great opportunity
16 for some relief for both the commercial and the
17 recreational sectors, especially the recreational
18 sector.

19 I'm not so certain what came first, the
20 pain or the gain. But you know, given the influx of
21 the economists into the SSC, it's a great opportunity
22 for us to establish how to maximize this resource for
23 the overall benefit of the nation. Would it be possible
24 for us then to look into the pure economics of bringing

1 this fish to market with the maximum profits for the
2 fishermen and the maximum enjoyment for the recreational
3 fishermen through increasing the quota?

4 JESSICA COAKLEY: Well, something like
5 that, that type of economic analysis would probably take
6 a good amount of time and we'd probably need to engage
7 some economists in putting something like that together.

8 And we obviously wouldn't have that available to you
9 right now for your decision process.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 Peter.

12 PETER DEFUR: Thank you, Mr. Chairman.

13 I have several points. Going back to the -- they're
14 couple of biology questions, one of which might be
15 answerable by either Jessica or John. This question
16 of whether or not scup are an important predator upon
17 other species is not a new question either in this
18 particular case or along the east coast for a variety
19 of fisheries or species. And I've looked at some of
20 the evidence on that in other cases, and I don't know
21 of any systematic scientific support for that.

22 So, it's possible the anecdotal
23 information indicates that an increase in the scup
24 population is taking a heavy toll on juvenile lobster,

1 but I'd like to see the evidence before we base a decision
2 upon that. I'm not sure that that's a valid point.

3 Second of all, the point is raised at
4 what proportion of the ecosystem should scup be. You
5 know, where do they fit in the big picture. And I don't
6 know of -- there's no information on that. So, the fact
7 that the scup population is increasing and we're not
8 sure what's going on at the older age class may mean
9 that as they move offshore they become prey for some
10 other species.

11 So, we are undoubtedly observing shifts
12 in the relationship among a variety of species. And
13 to assume that this presumably substantial increase in
14 the population is reeking havoc on the ecosystem, I think
15 is a bit of a stretch biologically.

16 I was also curious about the negative
17 relationship that Jessica pointed out on harvest versus
18 price. And if that's true, then even a -- and it's not
19 real potent -- a modest increase or 5 or 10 percent
20 increase in commercial landings is going to result in
21 -- you know, a measurable decrease in price, which is
22 going to be -- mean that the total value is going to
23 increase a very small amount.

24 If you run 17 million pounds at \$1.16

1 a pound and then decrease that from \$1.16 to 14 or 13,
2 even if you increase it by 10 percent, you come out with
3 a net gain which may be immeasurably small just looking
4 at the commercial side.

5 However, as John pointed out, an
6 increase to the rec side might have substantially
7 greater economic benefit because of the ancillary,
8 secondary benefits from recreational fishing. And
9 anybody who does it knows that they spend about \$20 a
10 pound on a fish.

11 And then a biology question that I have
12 maybe for John about whether or not we know what the
13 eggs per fish are as they age. I know that in a lot
14 of species the older fish will produce twice as many
15 eggs as the first two years of spawning females. So,
16 that's sort of a question about do we know that
17 relationship for scup.

18 So, I think that there's good reason to
19 look at an incremental increase and not try and hit the
20 -- particularly the total population as hard as we can.

21 Because once they're gone, we're going to be years
22 getting them back. And so, until we have a better
23 understanding of the population, Mr. Chairman, I think
24 a modest increase is far preferable and far more prudent.

1 But John, do we know the relationship
2 between eggs per female as age increases?

3 COMMITTEE CHAIR JACK TRAVELSTEAD:

4 John.

5 JOHN BOREMAN: I can't answer that
6 specifically. But generally I would say yes, there's
7 a relationship between the fecundity and size of a female
8 -- generally increases. But I'll defer to the Center
9 for the experts over there.

10 COMMITTEE CHAIR JACK TRAVELSTEAD: Jim.

11 JAMES WEINBERG: I think that general
12 relationship, we can assume that that's true. That if
13 it's not -- it's probably not a linear relationship with
14 growth, but exponential. And I think there is -- that
15 relationship does exist somewhere in the literature.

16 They're using reference points based on spawners who
17 recruit kind of analyses. And F 40 percent is based
18 on life history and spawning potential to the
19 population. So, I think that information does exist.

20 I don't have the numbers.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:

22 Rick.

23 COUNCIL CHAIRMAN RICK ROBINS: Thank
24 you, Mr. Chairman. I had a follow-up question for Dr.

1 Boreman. And this relates back to the SSC's ABC
2 recommendation and complimentary recommendations for
3 step-wise increases in actual catch. I'm trying to
4 recall the details of that discussion that went on for
5 many hours as the SSC deliberated this issue. But it
6 seems to me that I recall one of the concerns that came
7 up during that discussion was the fact that because the
8 assessment is based on a limited number of year classes,
9 it's ability to detect a negative movement in biomass
10 is limited because of that.

11 In other words, if biomass were
12 substantially mis-estimated, and we set quotas at a
13 level that was higher than it should be, and the biomass
14 reacted negatively, the update or the assessment may
15 not be able to capture that, would detect that change
16 in biomass.

17 So, I wonder if you could relate some
18 of that -- some of the concerns that the SSC had back
19 to the terms of the basis for recommending step-wise
20 increases in quota. I just want to make sure I
21 understand that recommendation.

22 JOHN BOREMAN: Yeah. You're basically
23 characterizing the conversation. And we have it in our
24 report too, that the assessment model is a lot more

1 sensitive to changes in recruitment. Like the first
2 two age classes, that those are the age classes that
3 are actually used in the model to generate subsequent
4 spawning stock biomass. They're a lot -- the model is
5 more sensitive to changes in those two age classes than
6 they are in total spawning stock biomass. So, it may
7 be a long time before drastic reduction in spawning stock
8 biomass shows up that we're able to actually say it,
9 in fact, is a true change in the spawning stock biomass.

10 COUNCIL CHAIRMAN RICK ROBINS: Just to
11 follow up, John, does that point -- is that one of the
12 key distinction between the ABC recommendation and the
13 issue of step-wise increases?

14 JOHN BOREMAN: It certainly is a factor
15 that we were thinking about and that reduces our
16 confidence in the assessment. It's actually capturing
17 the total dynamics of the stock. So, that would tend
18 for us to say use a more precautionary approach in
19 increasing the ABC -- or the TAC from year to year and
20 not jump all the way to this high value, which is based
21 on a degree of uncertainty.

22 COMMITTEE CHAIR JACK TRAVELSTEAD: Lee.

23 LEE ANDERSON: Thank you. I'd like to
24 get a little bit into the economics. I had not seen

1 that price elasticity stuff that Jessica -- until she
2 put it on the board. But a couple of things occurred
3 to me while seeing it. It was a time series data, so,
4 it was over 17 years. And that's a long run
5 relationship. And at that time, other things in the
6 market can change. So, we have to take that with a grain
7 of salt.

8 But I think a very important part of it
9 was -- as she pointed out, Peter pointed out -- that
10 even with that decrease total revenue went up. The
11 percentage decrease in price was less than the
12 percentage increase in demand, so, that the price would
13 go up.

14 But I think as far as policy is
15 concerned, what we have to remember is, when you start
16 to think in short run, we have a different issue. And
17 one is, the prices that we had in that model were annual
18 prices. But if they -- which means -- but it can average
19 over time and that's going to depend upon how much hits
20 the market in any one day, not in annual basis. So,
21 I would -- I would be careful there.

22 But I think the bottom line for the
23 commercial fishery is that in the short run it's going
24 to have a bigger effect on price than in the long run

1 because it just takes the market a chance to adjust it.

2 And so, in the long run, those numbers may be right.

3 But in the short run, you'll have a bigger effect --
4 which are used for a more incremental increase -- if
5 that's what you're concerned about.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Thank you. Dave Simpson.

8 DAVID SIMPSON: Yes. Just to that
9 point. I provided a table that the staff handed out
10 that you can look at that relates monthly prices and
11 landings and the relationship between the two. I just
12 printed out 2008, the most recent year available for
13 simplicity, but I looked at it over the last several
14 years, and the trend is similar.

15 And you can clearly see that, you know,
16 in the Winter 1 period when the trip limits are 30,000
17 pounds every two weeks the price is at its lowest of
18 the year averaging \$.76, \$.81, \$1.20 a pound, January,
19 February and March. If you in the longer term, it's
20 closer to \$.66, \$.68 a pound. And then in the summertime
21 when the -- when you're into -- you know the summer period
22 allocation, which is much lower and trip limits are much
23 lower, the price goes up to -- May is the low point
24 because there's (inaudible) typically. But then it's

1 \$1.52, \$1.95, \$1.55; \$2.15 in September, \$2.25 in
2 October, and then it drops right off again in November
3 as soon as we go to 3,000 pound 2,000-3,000 pound trip
4 limits. So, pretty clearly, within a year, you can see
5 these fluctuations of the volume of landings affecting
6 the price in a very negative way.

7 And initially I provided this because
8 I wanted to initiate a discussion of how we might want
9 to ease into trip limit increases in November so that
10 we don't kill the price immediately, you know, going
11 to 3,000 pounds from Connecticut. We're closed by then
12 because we've used up our quota otherwise we're at 50
13 or a hundred pound trip limits. And instead of going
14 to 3,000, we can go to -- you know, 500 or 750 or something
15 like that, we might be able to preserve some price in
16 value while the fish are still inshore.

17 I did want to point out in response to
18 what Dr. Anderson said right here you can see it on a
19 monthly level, and I'm sure it even acts on a daily level
20 the volume of landings is going to kill the price.
21 That's just how scup is.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Steve Schafer.

24 STEVEN SCHAFFER: Thank you. To what

1 Dr. Anderson said, thank you, Lee.

2 One thing that -- the end user, the
3 consumer, likes is consistency and that's one thing that
4 the person that's harvesting the fish likes also. And
5 then as a secondary and primary wholesaler and retailer,
6 I like it too. That makes things more profitable and
7 more predictable and I think that should be an overriding
8 goal in the end of all of this.

9 You know, this chart provided by David
10 is good, it's just a thumbnail, but it's a hint at
11 something that we could use in making decisions like
12 this and I'd like to see more of it and I appreciate
13 the reasonable and robust conversation that we're having
14 right now. Thank you.

15 COMMITTEE CHAIR JACK TRAVELSTEAD: We
16 have a couple of names from the audience I'd like to
17 call on now. And then when we finish that, I'd like
18 to come back to the Board and Committee and get a motion
19 on the table that will further discussion and then move
20 along from there.

21 UNIDENTIFIED: Put me on that list.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:
23 Okay. Jeff.

24 JEFF REICHLE: Thank you, Mr. Chairman.

1 Jeff Reichle from Lund's Fisheries. I find this whole
2 issue of price and value kind of amazing and I wonder
3 what the American public would think about this Council
4 sitting here trying to figure out how to make seafood
5 as expensive as possible for them, because that's
6 basically what we just talked about. And you know, I'm
7 in business to make money obviously. You know, that's
8 -- this is my business. That's how I make money.

9 But what, you know, what's the worst
10 thing that can possibly happen in my mind is we catch
11 twice as much fish, make the same amount of money on
12 them -- worst case, I don't believe that -- but we catch
13 twice as much fish, make the same amount of money on
14 them, and make fish cheaper to the ethnic markets that
15 used to support scup fishery that can no longer afford
16 to buy scup. So, you know, what we're talking about
17 holds absolutely no water with anyone in the commercial
18 industry to take a few minutes to think about, number
19 one.

20 And number two, I don't believe that
21 catching twice as much fish is going to -- is going to
22 reduce the price by half. It may in the short term,
23 but in the long term it won't.

24 One of the reasons we have so much more

1 market fluctuation now is because we don't have fish.

2 You know, the market opens. We have this is summer
3 flounder. We have it in black bass. And we have it
4 in scup too. The past couple of years hasn't been as
5 bad. The catches have spread out over the season. But
6 you know, first you have fish and then you don't because
7 the quota is gone.

8 So, you know, I beg the Council not to
9 manage -- not to try to micro-manage the fishery by what
10 you think the price will be in the end.

11 And you know, I'd also like to comment on this
12 whole thing about size. I mean -- you know, one of the
13 reasons the survey doesn't see a lot of large fish is
14 because the survey stopped, the surveying in certain
15 areas stopped. And several years ago when we did this,
16 that transit survey which for whatever reasons the
17 service has decided not to use -- you know, that very
18 much proved that there was much more scup available where
19 the survey was not surveying. And I think one of the
20 reasons the survey doesn't see enough big scup is because
21 they're not where they are. You can't catch something
22 that's not there.

23 I mean, you know, commercially we are
24 seeing big scup. And in fact, we quite often tell our

1 boats don't target big scup because the market doesn't
2 want them. You know, the major market -- you know, scup
3 is mostly in or at least historically was a pan fish.

4 Well, if you start landing nothing but two to five pound
5 scup, I defy you to show me a housewife that has a pan
6 big enough to cook that.

7 And you know, so, anyhow, I think that
8 we should be -- we need to be managing fish to restore
9 the stocks and to allow access to the stocks. And this
10 whole discussion of reallocation and price fixing --
11 you know, we shouldn't even be talking about that here.

12 Thank you very much.

13 COMMITTEE CHAIR JACK TRAVELSTEAD:

14 Thanks, Jeff. Jim Fletcher.

15 JAMES FLETCHER: Mr. Reichle brought up
16 a good point and I would like to explain it to every
17 member of this audience because the industry knows it
18 and apparently you don't. There are many ethnic groups
19 that when whoever is buying the fish goes in to buy,
20 historically, if there are six members in the family,
21 they would say I want six fish. Management has now tried
22 to do that and you do not change historical ethnic
23 activity in this manner, Council. They still go in the
24 market and say I want six fishes alike.

1 and help both the commercial and the recreational and
2 the American public. Put a fish on the market that is
3 as cheap, as whiting. And if you do not know -- for
4 your information -- and I challenge anybody in knowing
5 to go into the New York market -- the cheapest fish in
6 the New York market is whiting, but also the most volume
7 of any fish in the New York market is whiting. Give
8 some consideration to forgetting the experts and listen
9 to the people that are actually in the marketplace and
10 let it go to the maximum amount you can have. Thank
11 you.

12 COMMITTEE CHAIR JACK TRAVELSTEAD:

13 Thank you. Adam.

14 ADAM NOWALSKI: Thank you, Mr.

15 Chairman. Adam Nowalski. A couple of comments. I
16 think the first comment is let's not lose sight that
17 this is a potentially good situation to be in, that we're
18 here today discussing an increase. Okay. And while
19 the tone of this discussion at times is -- it's a good
20 position to be in. It's a position we haven't been in
21 in a long time on a number of species.

22 It's a good place to be and I'm happy
23 to be here. And the way we got here is after having
24 sat through the SSC meetings in Baltimore a few weeks

1 ago, I have to say I was very encouraged by what I saw
2 take place at that time. There was a significant amount
3 of time that was spent going in one direction. I think
4 the SSC came to a very good realization and I have to
5 commend them for what they did in making the decision.

6
7 Our job is to address scientific
8 uncertainty and now allow the managers to address
9 management uncertainty, which is exactly what we're
10 doing here today. If not for that realization at that
11 time, we wouldn't even be having these discussions.
12 So, I think they're to be commended for getting us to
13 that point.

14 I'd like to also add that based on the
15 discussions that have been had in previous years, the
16 Magnuson provisions indicate that the Council is
17 constrained to not exceed the recommendation of the best
18 available science, which has been deemed to be the SSC
19 in a number of cases, their recommendation. We're not
20 recommending an ACL. That will happen next year. This
21 is an ABC, total allowable catch recommendation that
22 we're at.

23 One thing I don't see on that board right
24 now is the ABC recommendation from the SSC of 51.7

1 million pounds as the maximum limit that you could go
2 up to. I'm not standing here advocating that, but I
3 do want to bring your attention to the fact that based
4 on where we've been, that the Council is constrained
5 by that recommendation. That would potentially be your
6 ceiling here, not the 35.63 million pounds that's on
7 there.

8 So, when you're considering what motion
9 to make on this, where the middle ground if you decide
10 to go there, that the ceiling is actually that ABC
11 recommendation from the SSC of 51.7 million pounds.
12 And that was the basis there was a discussion about the
13 15 to 20 percent recommendation that was in the Senator's
14 letter, 200 percent increase. If we're at 17 million
15 pounds and went to a 51.7 million pound level, that would
16 be a 200 percent increase from where we were and that's
17 where that number came from.

18 I encourage the Council again to listen
19 to the discussions that have been had here, specifically
20 from the commercial side about their concerns. I heard
21 at one point the concept of a recreational glut. There
22 can be no recreational glut. If somebody gets on a boat
23 and they catch 25 fish and the next time they go out
24 and catch 50 fish, that's not going to stop them from

1 fishing. Okay. They in fact are more likely to be more
2 encouraged to go out again next time. So, those
3 concerns are something the markets, recreationally and
4 commercially, will tend to take care of themselves.
5 Thank you very much.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Gene, did you have a question or comment to those points?

8 EUGENE KRAY: I have a question, Mr.
9 Chairman.

10 In looking at this table, Jessica what
11 is the -- or is there a rationale for the gap between
12 a TAC which is 15 percent and a TAC which is 41 percent?

13 Is there any rationale why that gap is so wide?

14 JESSICA COAKLEY: Well, the basis on
15 that upper bound, the TAC equal to MSY was the
16 recommendation from the Data Poor Stock Workgroup that
17 you shouldn't increase -- there shouldn't be rapid
18 increases in quota to meet the revised MSY. So, that's
19 where that 36 came from. The 26 and 24 million pound
20 TAC's, those were suggested based on a letter that New
21 York had written to the Monitoring Committee and there
22 they had suggested something on the order of 20 to 22
23 million pounds for a TAL would be a reasonable increase.

24 So, that's where those -- the 41 percent and 55 percent

1 increase came from. And then that 15 percent increase
2 is the staff recommendation. Those are the bases for
3 that range.

4 EUGENE KRAY: Thank you.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:

6 Arnold.

7 ARNOLD LEE: Yeah. Thanks, Mr.

8 Chairman. Arnold Lee, the consultant for commercial
9 fisheries for the Town of East Hampton. I think it needs
10 to be pointed out that in the commercial fishery the
11 winter periods are significantly different when it comes
12 to quota to the summer period. Now, in New York in the
13 summer period, fishermen are trying to make a living
14 on 60 pounds a day up to 200 pounds a day. And you know,
15 with the kind of quotas we have on some of the other
16 species available to them, 60 pounds a day just isn't
17 doing it. And so, it would be of very particular
18 significance to increase that summer quota for
19 commercial. I just point that out.

20 But also, more generally, when we're at
21 170 percent of the SSB goal, with that kind of abundance,
22 if we're not making significant increases in the total
23 allowable catch, then when are we going to do so, you
24 know? I think there's a credibility issue here with

1 management and I certainly would advocate what Pat
2 Augustine is recommending, a 26.5 million pounds TAC.

3 Thanks.

4 COMMITTEE CHAIR JACK TRAVELSTEAD:

5 Greg.

6 GREG DIDOMENICO: Greg DiDomenico,
7 Garden State Seafood Association. Just a few comments.

8 First of all, we support the TAC increase of 55 percent
9 and let me just explain why. After attending the Data
10 Poor Workshop and then attending the SSC right after
11 that, which was a year ago, I was supportive of last
12 year's SSC recommendation, was that 10-20 percent
13 increase. And quite frankly, that was something that
14 my members weren't overly pleased with quite frankly.

15 But I did have the benefit of being at the workshops
16 and explained to them why there was some concern about
17 going anywhere above that. And I agreed because it was
18 so short after this fishery was deemed to be not
19 overfished and recovered, and I could see at that point
20 there was some -- there was a very good reason for being
21 a little conservative.

22 And at this point, it's absolutely
23 justifiable from not only members of the SSC but
24 obviously the public, certainly the commercial

1 industry, that this 55 percent increase is acceptable.

2
3 And I wanted to make a -- just a quick
4 point about the issue of price and -- you know, what
5 the Winter 1 fishery should be or what the summer fishery
6 should be. One of the things that you cannot compute
7 by looking back or even looking forward, is that the
8 additional fish in the Winter 1 fishery will also allow
9 other boats to get into this fishery. So, if there is
10 a short-term impact on price, that's something that we
11 understand could happen and is somewhat acceptable.
12 But you can't calculate or you can't predict that
13 fishermen that haven't been going scup fishing for a
14 number of reasons, but this year will go because there's
15 such an increase, and the economic impact to him is
16 certainly much more greater than what it was last year
17 when he didn't go fishing. And if you give us the
18 additional fish, there are people that will go back into
19 this fishery at these levels and that impact to them
20 is immeasurable. Thank you.

21 COMMITTEE CHAIR JACK TRAVELSTEAD: Are
22 there any other comments from the audience? Yes, sir.

23 JIM HUTCHINSON: Thank you, Mr. Chair.

24 Jim Hutchinson, Managing Director of the Recreational

1 Fishing Alliance. I'm also here speaking on behalf of
2 the New York Sport Fishing Federation.

3 I know Mr. O'Shea stepped out, but to
4 go back on what Adam Nowalski had said, Mr. Schumer's
5 staff had asked me to drop that letter off and I'm glad
6 you read that, but I think that what's important is to
7 look at the spirit and intention of what's written in
8 that letter. As Adam had mentioned, the way I added
9 it up as well, if you went up to that 51 million pound
10 SSC recommendation for ABC, you are closer to 200
11 percent. So, I think that 15 to 200 percent increase
12 that was mentioned in that letter, you're splitting
13 hairs when you're mentioning what committee that Mr.
14 Schumer sits on or whether or not that it's a 200 or
15 a 197 percent increase.

16 I think what Mr. Schumer is asking is
17 similar to what Mr. Augustine said, what Tom Fote has
18 said, and what Mr. McMurray has said as well, that when
19 you look at -- when I speak on behalf of the recreational
20 fishing industry and our community in New York, we need
21 the highest TAL that we can get. We need the highest
22 possible quota.

23 Our industry is dying. And it seems
24 like you've heard that for so many years, but it's

1 absolutely true. We need that opportunity to catch
2 those fish that are available. It's a healthy,
3 sustainable fishery. We want more fish. We want more
4 fish for the future as well. So, I think if you look
5 at that 26.5 number, that's something that can certainly
6 help our industry.

7 And as you consider that too, it is
8 exciting what Adam had said, when you look at what the
9 Monitoring Committee had said, and what the SSC has said
10 about summer flounder, is well, when you consider that
11 this afternoon, I really hope that the Council can
12 considering going to the highest scientific amount that
13 we can get for the future.

14 We know that the economic concerns in
15 this country are grave. It's impacting our coastal
16 community. But if we can have more opportunity to fish
17 on these stocks which are now healthy and building, more
18 opportunity to fish on these stocks, we're going to be
19 a lot better off in our coastal communities.

20 I'd also like to just -- we always talk
21 about management uncertainty and precaution. The one
22 thing I'm afraid that I won't be around for tomorrow,
23 but the conversation for you folks, it's going to come
24 up about the status of the MRIP programs. I would ask

1 you to consider that Magnuson required that program to
2 be in place by 2009. The uncertainty that's hitting
3 my community and our community, the recreational fishing
4 industry, is that we don't have valuable science. We
5 don't have valuable data collection coming from
6 recreational harvest. We're two years now, two seasons
7 beyond what was required by Magnuson to have better data
8 collection done by NOAA Fisheries. The true
9 uncertainty is the fact that the numbers that I see,
10 if I relate from what happened in Connecticut with Dr.
11 Victor Grecco showing 300 to 400 percent over harvest
12 in that MRFSS data, that is 300 to 400 percent over what
13 is actually happening, that's destroying our industry.

14 So, we're going to go through another season of bad
15 MRFSS data.

16 The precaution that I'm asking the
17 Council respectfully to consider is make those higher
18 -- make those higher -- get the highest you possibly
19 can without doing damage to stock. But the real
20 uncertainty is what's happening in our data collection.

21 So, I do thank you for the time and I appreciate the
22 opportunity.

23 COMMITTEE CHAIR JACK TRAVELSTEAD:

24 Thank you. Yes, ma'am.

1 BONNIE BRADY: Hi. I'm Bonnie Brady of
2 Long Island Commercial Fishing Association. And I just
3 want to reiterate what some of the folks have said here.

4 First of all, when it comes to fish, market share should
5 -- I would respectfully say should not be really part
6 of the Council's decision. Market share is determined
7 by a lot of things, but more importantly -- most
8 importantly decide what is in the market over the long
9 term.

10 When you own a restaurant and you want
11 to feature a certain fish, you have to guarantee that
12 supply throughout the season. If you want to do a
13 signature dish and halfway through the season you're
14 unable to get that fish, it's a problem. And I know
15 in Montauk where my husband is one of the principals,
16 the biggest concern is getting a longest season possible
17 of fish.

18 From the commercial perspective, we
19 would really like to see the absolute limit that has
20 been chosen, the 55 percent increase. Obviously, the
21 SSC believes that it is a sustainable limit. And
22 frankly, in New York, which according to this scup
23 landings by state and month provided by Mr. Simpson,
24 New York is the second largest lander of scup. But in

1 New York, we have lost the early spring, early summer
2 market and the fall market because of such small quotas.

3 So, any help that you all could offer in that, we would
4 greatly appreciate.

5 Regarding the allocation issue. While
6 not wanting to get in a tussle with some of the members
7 in the audience, in the past as some of you might recall,
8 there was an issue where they wanted to change the
9 allocations, I would respectfully submit that when you
10 keep trip limits artificially low so that fishermen do
11 not target a certain fish and then say well you didn't
12 catch all your quota, you're kind of rigging it somewhat.

13
14 So, allow us larger trip limits. Let
15 us catch the fish first. And then if there's something
16 down the road perhaps. But I think the problem is, is
17 that we haven't been given effective trip limits in order
18 to be able to catch the fish that are out there from
19 the commercial perspective. And it's not just the
20 commercial guys. It's obviously the consumers. Thank
21 you.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Thank you. Yes, sir.

24 PAUL FORSBERG: Paul Forsberg, Viking

1 Fishing Fleet, Montauk, New York. On the recreational
2 side, I'd just like to if people -- go back in history
3 a little bit. The biomass on the scup fishery was
4 already going to the ceiling before we put any
5 restrictions on the recreational sector. We had no bag
6 limits. We had no seasons. But it was explained to
7 us that we must do this because everybody in fishing
8 has some blood. Well, we've been bleeding and bleeding
9 bad.

10 Now the biomass is going through the
11 ceiling somewhere around 200 percent, we really need
12 our fish back. I've laid off 25 people so far that are
13 related to this severe cutbacks in the scup industry.

14 These people that need these fish the most have been
15 cheated out of the fishery. They're minorities, people
16 of color, people with a limited income. Just take a
17 look at my boats.

18 Now, in the fall season when we're
19 allowed to have 40 fish for 40 days, and let's take away
20 a few weather days that we're going to lose, we have
21 about -- we use the biggest boat in our fleet that carries
22 up to 125 passengers and it's 80 to 90 percent full every
23 day we have weather -- right now, at this time of year,
24 we have 10 scup per person.

1 How high must the biomass get before we're entitled
2 to our full amount of fish returned to the recreational
3 fisherman? We're up to around 200 percent they tell
4 me. How high must it go before we get our share? Can
5 anybody answer that? Anybody? Thank you.

6 COMMITTEE CHAIR JACK TRAVELSTEAD: Any
7 further comments from the public? All right. Back to
8 the Council and I had Erling and then Pres.

9 ERLING BERG: Thank you, Mr. Chairman.

10 I've been listening here all morning and there's been
11 a lot said about prices of fish. But you know, the
12 Council really should not get involved in the price of
13 fish; that's not what we're here for. The fishermen
14 need to worry about that. If they think they can make
15 money by going fishing, they'll do that. If they don't
16 think they can make money, they're going to stay home.

17 And we just need to allow the fishermen to have enough
18 fish so they can rebuild the market that has been lost
19 over the years. Thank you.

20 COMMITTEE CHAIR JACK TRAVELSTEAD:

21 Thank you. Pres.

22 PRESTON PATE: Thank you, Jack. And my
23 comments are in the same vein. I was intrigued in
24 Jessica's presentation about how the price of dockside

1 value and the historical and predicted fluctuations
2 should affect the Council's final decision. And I
3 thought a lot about that during the rest of the
4 presentation at the expense of probably understanding
5 some of the other pertinent discussion that occurred.

6 But as I was formulating my thoughts, Jeff Kaelin had
7 an opportunity to stand up before I got to the mike and
8 he said exactly what I would have said. And I'd like
9 the record to show also that I also agree with Jim
10 Fletcher's comments, which may be a rare opportunity
11 for me.

12 But it's an intriguing idea and how
13 important the Council's role is in looking at our overall
14 market values. I don't think it certainly should --
15 I think it certainly should not be limited to dockside
16 value, which has been a lot of the focus here this morning
17 because the product regardless of the dockside value
18 is still on the market and is having some secondary,
19 tertiary and probably even higher level impacts on the
20 economy than just that one step.

21 So, I don't think we need to be
22 constrained by at this point concerns in the fluctuation
23 in the market as many have said. That's going to take
24 care of itself with the fishermen's interest. I don't

1 think the comments or the lack of concern about dockside
2 is justification for necessarily jumping to the highest
3 amount available in the recommendations for the TOC,
4 but it shouldn't be a matter that significantly
5 constrains our decisions either. Thank you.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Howard.

8 HOWARD KING: If there's no further
9 discussion, I would like to make a motion.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 Proceed.

12 HOWARD KING: In making this motion, I
13 don't think we can squeeze any more information out of
14 this situation today. The volume price information has
15 been interesting, but not up to the Council to resolve
16 today. I think allocation is an issue for the future
17 where socioeconomic is involved, but today, we just
18 need to set a TAC.

19 And so, having heard all that we have,
20 I would move that the Council adopt a TAC of 24.1 million
21 pounds for 2011.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Howard, that's on behalf of the Council; correct?

24 HOWARD KING: Yes, I said the Council.

1
2 COMMITTEE CHAIR JACK TRAVELSTEAD: And
3 is there a second to that motion from the Council?

4 LEE ANDERSON: Second.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:
6 Seconded by Lee. And a like motion from the Board?

7 RICK COLE: So moved.

8 COMMITTEE CHAIR JACK TRAVELSTEAD: All
9 right. Is there a second from the Board?

10 RED MUNDEN: Second.

11 COMMITTEE CHAIR JACK TRAVELSTEAD: Red
12 Munden seconds the motion. So, we have a valid motion
13 on both -- on behalf of the Committee and the Board.

14 Discussion on the motion. Pat Augustine.

15 PAT AUGUSTINE: Thank you, Mr.
16 Chairman. I would like to move to amend the motion,
17 both from the Council and the Board before we have any
18 discussion on it. I would like to amend both motions
19 to have a TAC of 26.5 and a TAL of what was it 22, Jessica?

20 JESSICA COAKLEY: Yes.

21 PAT AUGUSTINE: With a TAC of -- TAL of
22 22 for the fishing year 2011 for scup.

23 COMMITTEE CHAIR JACK TRAVELSTEAD:
24 Okay. The motion is to amend the motion to raise the

1 TAC to 26.5?

2 PAT AUGUSTINE: For both the Council and
3 the Board, Mr. Chairman.

4 COMMITTEE CHAIR JACK TRAVELSTEAD: And
5 it's seconded by Erling Berg and Tom Fote for the Board.
6 Comments on the amended motion? Dave Simpson.

7 DAVID SIMPSON: Yeah. I'm concerned
8 about raising the TAC as high as we're considering.
9 And the whole dilemma is this allocation. And the
10 discussion has centered around price, but my reason for
11 bringing it up is not directly related to the price.

12 It's that price is the demonstration that we have a
13 problem in our allocation and that is the Council's
14 business.

15 The Council created this situation by
16 allocating a winter period far in excess of a summer
17 period and a commercial allocation of 78 percent to 22
18 percent recreational.

19 So, we have a situation where there are
20 30,000 pound trip limits in January and February when
21 the fish are worth \$.60 or \$.70 a pound and we have a
22 ten fish trip limit on a party boat and an abbreviated
23 season. That just points out the huge disparity we have
24 in equity and access to this resource.

1 I think originally the allocation of TAC
2 rather than TAL was to provide a motivation to address
3 discard problems, particularly in the winter fishery.

4 I don't see in the time series where that really has
5 come to fruition. It looks to me like the ratio of
6 landed discarded is not radially different than it was
7 before this amendment. And so, I have a problem of
8 knowing that we probably need to about double the
9 recreational allocation from 2.7 or so million fish to
10 5.5 or so, which would only be a 15 percent increase
11 in the TAC.

12 But in order to get them any satisfaction
13 at all, we have to increase the entire allocation across
14 the boards which we know -- you know, they'll end it
15 in the winter, it will be worth less than it is now even.

16 It will jeopardize the stock more than I'm comfortable
17 doing, but I'm forced into the situation that to address
18 the 50 and hundred pound trip limits that we deal with
19 in the summertime because of this FMP.

20 And the shamefully low fishing
21 opportunity that the public has in terms of recreational
22 fishing to provide any relief to them at all, I'm forced
23 to consider a higher TAC. I don't know that I would
24 go to 26.5, perhaps 24.1, but I think we've pushed this

1 problem off with this FMP for a number of years, that's
2 initial mistaken in my opinion decision to allocate 78
3 percent of this resource to the commercial fishery and
4 only 22 to the recreational, and so much of it to the
5 winter period. Fourteen states, even Massachusetts,
6 New York, Rhode Island is a bigger place, and Connecticut
7 certainly forcing them to land fish in the wintertime
8 when they're worth less and taking away their ability
9 to shift some of those landings to the summertime when
10 they're worth more.

11 And it's different people. There is not
12 the same opportunity to go fishing offshore in February
13 that there is to fish inshore in fish pots or something
14 with very low bycatch mortality in the summertime.

15 I know I've rambled on, but this is the
16 heart of the problem; this allocation is broken and I
17 don't see a way for the Council to fix it.

18 COMMITTEE CHAIR JACK TRAVELSTEAD:

19 John.

20 PAT AUGUSTINE: Mr. Chairman, may I
21 respond to my having changed that by amending the motion
22 or do you want to wait until --

23 COMMITTEE CHAIR JACK TRAVELSTEAD: Go

24 ahead. Go ahead.

1 PAT AUGUSTINE: Thank you, Mr.
2 Chairman. It just seems to me after the debate and
3 discussion we had and clarification by Dr. Boreman on
4 the ABC equals MSY at 35, that sends us a signal we should
5 not be reaching out that far.

6 However, on the other hand, when you look
7 at the options that were put forth by the Monitoring
8 Committee, that seems logical and reasonable.

9 And to follow along with that, this
10 concern about the 78/22 split, whatever that is, in terms
11 of commercial versus recreational, that can't be handled
12 today, tomorrow or the next year or two. That requires
13 an FMP change. It seems to me that until we get that
14 done, we're faced with what we have.

15 In the meantime, I don't believe that
16 we must penalize or continue to penalize one sector over
17 another, or penalize either one for that. As with
18 clams, as I recall in the FMP when the allocation was
19 brought forth to increase the quota or keep the quota
20 at 5.4 million bushels, the clam industry came forward
21 and said well we don't want it. And we said well that's
22 just the way it is. You control the market so you'll
23 produce what you will and you'll have to fend off the
24 competition.

1 So, I don't see any difference one specie
2 of fish to another specie of fish or animal. It just
3 seems to be that we're at a point in time where we're
4 again squeezing someone for the wrong reason. Mr.
5 King's motion was a good one. But how much more value
6 is staying a 24 million pounds than going to 26.5? We've
7 had several years now where we've constrained,
8 constrained, constrained. Remember, this is for a one
9 year quota.

10 The Omnibus bill that we discussed and
11 passed yesterday may take a year and-a-half or two.
12 That gives us a three year running opportunity to set
13 course for three years. So, why are we afraid to catch
14 what's available to us and take the pressure, the
15 economic pressure, off any sector if not both sectors.
16 I am concerned.

17 Jeff Reichle said, well, we'll handle
18 the market. That's not our concern. So, I really think
19 we have to look at it from an overall point of view.

20 Our decision is a business decision. It's a fishery
21 management decision. What are we doing with the stock.

22 What are the implications of the effect on other species
23 of fish as I mentioned earlier.

24 So, I would defend the 26.5. If I felt

1 Thank you. John.

2 JOHN MCMURRAY. Thanks. Just a
3 clarification question. What's the percentage
4 increase of the 24.1 million pounds?

5 COMMITTEE CHAIR JACK TRAVELSTEAD: 24.1
6 is a 41 percent increase. The 26.5 is a 55 percent
7 increase.

8 JOHN MCMURRAY: Okay.

9 COMMITTEE CHAIR JACK TRAVELSTEAD: Dave
10 Pierce.

11 DAVID PIERCE: When I look at the plot
12 of spawning stock biomass and recruitment over time is
13 Figure 3 in Jessica's memo to the Monitoring Committee,
14 and I see what I've seen before in previous documents,
15 and that is that we have a superb situation. A situation
16 I never thought I would be facing in my career as a
17 fisheries manager and light of previous assessment
18 information on scup. The spawning stock biomass is very
19 high. It's way above the target that we have set for
20 ourselves. Recruitment has been above average
21 certainly for quite a long time, and then therefore,
22 biomass rises. So, I can't pretend that figure does
23 not exist.

24 Yes, I realize there's uncertainty there

1 and the uncertainty has been very well described by the
2 SSC and by those involved in the Data Poor Workshop.

3 But it's there in front of us. We know we're not
4 overfishing. We know we're not overfished. We know
5 we are way above the target subject to the uncertainties.

6 The motion to substitute -- well, the
7 motion to amend to go with the 26.50 to me is very
8 sensible. The overfishing level is 67.53 million. The
9 SS ABC is 51.7 million. The TAC as provided to us by
10 the Monitoring Committee, this one in particular, the
11 26.50 is a 55 percent increase in the total allowable
12 catch. That's one-half the SSC recommendation.

13 To me, that's a lot of accounting for
14 any uncertainty -- additional uncertainty that may
15 exist. I think it's a reasonable amount of additional
16 allocation -- additional amount of fish
17 -- not allocation.

18 I very much support the position or the
19 views stated by David Simpson a little while ago. Our
20 problem really is the allocation between the commercial
21 and the recreational. We need to increase the
22 recreational, it's much too low.

23 To benefit the recreational fishermen
24 -- well, we get more benefit for the recreational fishery

1 with the 26.50 versus the lower number. so, the 9
2 million increase over status quo, which is what happens
3 if we go with this 26.50, is modest. I think it's a
4 step in the right direction. It is consistent with all
5 of the recommendations that have been provided to us
6 regarding catch levels we should try to achieve. I
7 support it.

8 COMMITTEE CHAIR JACK TRAVELSTEAD:

9 Thank you. Roy.

10 ROY MILLER: Thank you, Mr. Chairman.

11 I favor the original motion and let me explain my
12 reasoning in this regard. I do think an increase is
13 allowable based on the information that's been presented
14 to us. However, in the initial part of our discussion,
15 I noted with interest the caveats expressed by Dr.
16 Boreman and some others regarding the survey indices
17 and comparability of the two vessels and also the
18 truncation of the age classes used in the assessment.

19
20 And for those reasons, I support a
21 conservative increase I think on the order of 41 percent
22 is reasonable. Whether 55 percent is equally
23 reasonable, I can't say, but the 41 percent gives me
24 some comfort.

1 I also want to add that I had the vain
2 hope over the years, recent years, that restoration of
3 the scup stock would result in the appearance of some
4 large scup once again in Delaware Bay. That is yet to
5 materialize. I haven't seen that since I was a boy.

6 So, therefore, I was hoping that if we could build this
7 stock high enough maybe the scup would come back to their
8 historical range in the numbers that used to be there.

9 Now, perhaps global warming or climate
10 change precludes that from ever happening again. But
11 nonetheless, I think 41 percent is a reasonable increase
12 and I'm comfortable with that. Thank you.

13 COMMITTEE CHAIR JACK TRAVELSTEAD:

14 Chris.

15 CHRISTOPHER ZEMAN: I would prefer a
16 situation where we actually set the TAC at an increase
17 in 55 percent but then we set the TAL at 20 million.

18 And the reason why is: we have several situations here
19 that I think we need to be concerned about. And that
20 one is bycatch and discards, which are usually
21 unreported. We have very poor observer coverage for
22 at-sea discards. And right now, the bump up between
23 catch and landings is really like roughly 15 percent.

24 I'm expecting that that bycatch should be high. And

1 if we go with the 55 million TAC and the 22 million TAL,
2 if we have discards, that could push us up a lot higher
3 than 26 million. And then, we're coming up to the MSY
4 TAC of 35 million.

5 Secondly, we're now moving toward this
6 whole new realm of pound-for-pound paybacks. I don't
7 want to see a situation where scup is really abundant,
8 it's being fished, but then we set low recreational TAC's
9 and TAL's that we can't comply with and end up with
10 overages that we have to pay back pound for pound. I
11 want to see some sort of -- if that's the approach here,
12 I recognize that we are fishing way lower than MSY.
13 So, is it appropriate for a pound-for-pound payback if
14 we exceed a TAC or TAL that is roughly half of MSY?

15 There has to be some sort of situation
16 here where we can incorporate some sort of buffer so
17 that if we -- if we set the -- if we set the TAC at 26,
18 if we see that that 20 million TAL, there has to be some
19 sort of buffer that no pound-for-pound payback is
20 required, because there really is no need for it.

21 So, if there's interest in this Council,
22 I'd like to see that alternative go forward. If not,
23 I'm going to be -- I'm going to have to go with the 41
24 percent increase. That would be my preference of the

1 two.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Jessica.

4 JESSICA COAKLEY: Yeah. I do want to
5 point out that the TAC's and the TAL's as they're
6 calculated, they're coupled. Those discard estimates
7 either under the 24 or the 26 are specific to that TAC
8 value. If the effect that you're looking for is to end
9 up with a TAL that's 20 million pounds, then that first
10 motion would be what you would need to go with to get
11 that effect.

12 CHRISTOPHER ZEMAN: I don't find those
13 discard estimates reliable.

14 COMMITTEE CHAIR JACK TRAVELSTEAD: Tom
15 Fote.

16 TOM FOTE: I look at Jack and I look at
17 Rick Cole and a few of us that have been sitting around
18 here when we did this back in '92 and '94. And when
19 we set the recreational and actually did the
20 distribution of stock, it had to do with that we were
21 going to greatly reduce the bycatch fishery, and that's
22 why we rewarded the commercial fishery with an increase
23 in the quota -- because of what we would see in this
24 progress of us rebuilding the stocks. That was the

1 thinking in 1994. Well, it's 17 years, close to 17 years
2 difference, and that bycatch has not really changed.
3

4 I don't agree with my good colleague from
5 New Jersey that sits on the Council in the fact that
6 we've been trying to do this and all we do is promote
7 recreational failure. By setting quotas way below
8 where they can be harvested, you're setting up the
9 community to failure because they're going to start over
10 harvesting because there's more fish out there.

11 You're basically basing your quotas on
12 -- on having a small amount of fish because you're
13 underestimating what's out there. And then when the
14 estimate shows what your data is showing that it is that
15 greatly increased, and you set up the conservation
16 equivalency based on that low quota because that's what
17 you're saying the stocks really are, you're setting us
18 for failure. That's happened a couple of times over
19 the last couple of years.

20 And Chris was right in the point that
21 in fact that I heard this pound-for-pound things just
22 really drove me up the wall. When we start talking about
23 using the MRFSS to basically do pound for pound, that's
24 like using fairy tales. But that's another discussion

1 for further along.

2 I support this quota because as Dave has
3 pointed out -- and he remembered right where these quotas
4 came from and how the split came up -- is the only way
5 I can get relief for the recreational. I mean, and
6 truthfully, the commercial fishery, as Jimmy Ruhle and
7 many captains that have come over the years -- I'm trying
8 to think of the guy from New York that said if we
9 basically

10 -- and this is in about '94 or '96, so, maybe you can
11 remember, Jack -- that said if we basically did away
12 with the discard in the scup fishery, that's the only
13 regulation we ever needed, because the market will
14 basically only support so many fish and the recreational
15 is a minute character in this fishery.

16 The other thing is, we've talking about
17 marketing. And this really drives me nuts because
18 what's the way we basically conducted this fishery?
19 We pushed a lot of people out of the fishery as far as
20 consumption both recreationally and commercially.
21 When you set these low quotas, they basically don't
22 realize where to fish. It's like they don't realize
23 how to flyfish any more and that's when they -- now,
24 they always look for fish that can be fileted and that's

1 why they got away from scup.

2 I remember when I used to eat fish, it
3 was pan-fried fish. I still eat bluegills and very few
4 people in fresh water want to eat bluegills. They want
5 to eat fish they can basically filet up. So, we've
6 changed their eating habits and this way we changed the
7 market habits.

8 And we basically don't have a fishery
9 as many of the commercial fishery has pointed out. If
10 you don't have a permanent market and a permanent source
11 coming in, over the long period of time, people get out
12 of the fishery. And that's really the problem here.

13 And Dave has pointed out, we need to set those winter
14 trip limits differently than we do. It's different here
15 and everything else. We can't do that today.

16 So, the only choice I have today is by
17 going to a bigger quota, which if the commercial
18 fishermen they can't get money for, they're not going
19 to go out and fish anyway. But I know the recreational
20 fishermen will basically maximize the small part of the
21 quota they have. Thank you very much for your patience.

22 COMMITTEE CHAIR JACK TRAVELSTEAD: Mr.
23 Chairman, I think we're ready to vote on this. We've
24 had some excellent discussion and a lot of good points

1 made, so, I'll turn it over to you.

2 COUNCIL CHAIRMAN RICK ROBINS: Thank
3 you, Mr. Chairman. Is the Council ready for the question?

4 The motion is move to amend to raise TAC to 26.5 million
5 pounds in 2011 resulting in a TAL of 22 million pounds,
6 commercial quota of 17.16 million pounds and
7 recreational harvest limit of 4.84 million pounds.

8 (Motion as voted.)

9 {Move to amend to raise TAC to 26.5 mil lbs. in
10 2011 resulting in a TAL of 22.00 mil lbs.

11 (commercial quota of 17.16 mil lbs and recreational
12 harvest limit of 4.84 mil lbs.)}

13 COUNCIL CHAIRMAN RICK ROBINS: All
14 those in favor, please raise your hand?

15 (Response.)

16 COUNCIL CHAIRMAN RICK ROBINS: Nine in
17 favor. Opposed, like sign.

18 (Response.)

19 COUNCIL CHAIRMAN RICK ROBINS: Keep the
20 hands up, please. Nine opposed.

21 UNIDENTIFIED: I voted the wrong
22 motion. It was supposed to be the next motion.

23 COUNCIL CHAIRMAN RICK ROBINS: Okay.
24 We've had a mistake. Let's try this again.

1 Is the Council ready for the question?

2 All those in favor, please raise your hand.

3 (Response.)

4 COUNCIL CHAIRMAN RICK ROBINS: Eight.

5 Opposed, like sign.

6 (Response.)

7 COUNCIL CHAIRMAN RICK ROBINS: Nine.

8 The motion failed.

9 COMMITTEE CHAIR JACK TRAVELSTEAD: The
10 motion having failed the amendment, there's no need for
11 the Board to vote. So, that takes us back to the main
12 motion which is to set the TAC at 24.1 million pounds
13 in 2011 resulting in a TAL of 20 million pounds, a
14 commercial quota of 15.6 million pounds and recreational
15 harvest limit of 4.4 million pounds.

16 COUNCIL CHAIRMAN RICK ROBINS: Okay.

17 Is the Council ready for the question? Chris.

18 CHRISTOPHER ZEMAN: I'd like to make a
19 motion to amend to set the rate of the TAC to 26.5 million
20 pounds in 2011 and setting the TAL at 20 million pounds
21 and then the breakup appropriating that according to
22 the allocations.

23 COMMITTEE CHAIR JACK TRAVELSTEAD:

24 That's a motion on behalf of the Council. Is there a

1 second to that motion?

2 PAT AUGUSTINE: Yes, Mr. Chairman, for
3 debate purposes. And may I make the same motion for
4 the Board. I want to know where the 20 million is coming
5 from.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Okay. We have a second to the Council motion. We have
8 Pat Augustine has made the motion on behalf of the Board.

9 Is there a second to the motion on behalf of the Board?

10 Is there a second to the motion on behalf of the Board?

11
12 (No response audible.)

13 COMMITTEE CHAIR JACK TRAVELSTEAD: Dr.
14 Pierce seconds the motion on behalf of the Board. So,
15 the motion to amend now is to see the TAC at 26.5 million
16 pounds and keep the TAL at 20 million pounds. David
17 Simpson.

18 DAVID SIMPSON: I appreciate what is
19 being attempted here, but isn't this contrary to the
20 FMP and so, therefore, out of order?

21 COMMITTEE CHAIR JACK TRAVELSTEAD:

22 Joel, is the motion in order?

23 JOEL MACDONALD: I just had a sidebar
24 with Jessica and Rick and the discard information that

1 is used to calculate the TAL when you have a specific
2 TAC, it's based upon information provided by the
3 assessment, that is deemed to be the best available
4 scientific information; therefore, I would advise that
5 the motion is inconsistent with that particular National
6 Standard. And you could -- you know, it's up to the
7 discretion of the Chair whether to rule it out of order
8 or not; but I think you have a basis if you so choose.

9 COMMITTEE CHAIR JACK TRAVELSTEAD: I'm
10 going to rule the motion out of order based on that
11 advice. So, we are back to the main motion. Tom.

12 TOM FOTE: You know, I sit here year
13 after year and don't even get a chance to vote on motions
14 that I've made. I wish one year that we'd go to the
15 Commission first and then the Council. And if the
16 Council doesn't agree with it, it's shut down. We
17 should go on record -- the Commission should go on record
18 what it wants to vote on. And just because it can't
19 carry, we should have a chance and opportunity to vote.

20 This is a democracy I think and a vote should be counted.

21
22 The motion might fail because the
23 Council doesn't carry it and then we don't have a choice,
24 but at least we should go on the record of how we feel

1 on that because I would like to know how my other
2 commissioners would have voted on that motion.

3 I mean, I've said every year why do I
4 come to this meeting because when I make a motion --
5 and it's been over a couple of years now -- and you second
6 it, we never even get an opportunity to vote on that
7 motion. I get, well, it's already been decided, you're
8 out of luck. And that I don't think is how we have a
9 joint plan here. And I don't care if it fails, you have
10 vote going on, but at least we should have an opportunity
11 to vote.

12 COMMITTEE CHAIR JACK TRAVELSTEAD: Tom,
13 I'm only using the procedure we've used sitting around
14 this table for the last ten years. And you know, if
15 we want to have a future discussion about changing how
16 we proceed, what our procedures are, that's fine.

17 TOM FOTE: To that point. We changed
18 it one day. I didn't agree with the change. And we've
19 been sitting here doing it. And I wouldn't care if it
20 didn't happen year after year, but it's been now
21 happening year after year. So, something is wrong.
22 Just the opportunity to vote and that's all I'm asking
23 for.

24 COMMITTEE CHAIR JACK TRAVELSTEAD: Mr.

1 Chairman, the motion is on the table.

2 COUNCIL CHAIRMAN RICK ROBINS: Thank
3 you. We're now back to the main question. Move that
4 the TAC be set at 24.10 million pounds in 2011, resulting
5 in a TAL of 20 million pounds, commercial quota 15.6
6 million pounds and recreational harvest limit of 4.4
7 million pounds.

8 Is the Council ready for the question?
9

10 (Motion as voted.)

11 {Move that TAC be set at 24.10 mil lbs. in 2011
12 resulting in a TAL of 20.00 mil lbs. (commercial
13 quota 15.60 mil lbs and recreational harvest limit
14 of 4.40 mil lbs.)

15 COUNCIL CHAIR RICK ROBINS: All those
16 in favor, please raise your hand.

17 (Response.)

18 COUNCIL CHAIRMAN RICK ROBINS: Twelve.
19 Opposed, like sign.

20 (Response.)

21 COUNCIL CHAIRMAN RICK ROBINS: Five.
22 Abstentions, like sign.

23 (Response.)

24 COUNCIL CHAIRMAN RICK ROBINS: One.

1 The motion carries. Chris.

2 CHRISTOPHER ZEMAN: With all due
3 respect, I don't have my Robert's Rules of Orders book
4 with me, but I'm not sure exactly how I would do to have
5 a reconsideration of an appeal. And just with this
6 point in mind is that if I look at the estimate and yet
7 see recommendations, it says here commercial discard
8 estimates are imprecise and represent a considerable
9 portion of the total catch. I don't know in what way
10 that my motion or recommendation to substitute to create
11 a larger buffer to incorporate that uncertainty can be
12 ruled out of order and not something germane to this
13 discussion.

14 COUNCIL CHAIRMAN RICK ROBINS: Chris,
15 I think the Commission needs to take action before we
16 consider that question.

17 ACTING BOARD CHAIR A.C. CARPENTER: For
18 the Commission, all those in favor of the same motion,
19 please raise your hand.

20 PAT AUGUSTINE: Do we have an
21 opportunity to caucus, Mr. Chairman, or not?

22 ACTING BOARD CHAIR A.C. CARPENTER:
23 Yes.

24 PAT AUGUSTINE: Maybe we need it and

1 maybe we don't need it, but I think New York does.

2 ACTING BOARD CHAIR A.C. CARPENTER:

3 We'll need a 30-second caucus.

4
5 (Brief pause.)

6 ACTING BOARD CHAIR A.C. CARPENTER: Are

7 we ready for the vote now?

8 UNIDENTIFIED: Yes.

9 ACTING BOARD CHAIR A.C. CARPENTER:

10 Thank you. Remember it's one vote per states. All in
11 favor or the states in favor, please raise your hand.

12 (Response.)

13 ACTING BOARD CHAIR A.C. CARPENTER:

14 Eight in favor. All opposed, same sign.

15 (Response.)

16 ACTING BOARD CHAIR A.C. CARPENTER:

17 One. The abstentions?

18 (Response.)

19 ACTING BOARD CHAIR A.C. CARPENTER:

20 One. Null votes?

21 (No response audible.)

22 ACTING BOARD CHAIR A.C. CARPENTER: The

23 motion carries for the Commission.

24 COMMITTEE CHAIR JACK TRAVELSTEAD:

1 Before we move on to other scup issues, I want to ask
2 Jessica and Toni to respond to Chris' issue.

3 JESSICA COAKLEY: Hey, Chris, I think
4 what the issue is, the discards estimates, you're right.

5 They are highly imprecise and that's one of the concerns
6 that the SSC raised. However, the Omnibus isn't in
7 place yet, so, we don't have a mechanism in the plan
8 to allow you to account for the imprecision of the
9 discards when you set your catch level. So, in a future
10 year, even though you would still apply the discard
11 estimate that you get out of those projections, you could
12 buffer from your ACL to your ACT to address that
13 imprecision to get an ACT, and then that estimate would
14 then be used to be deducted from the ACT to get you to
15 your TAL.

16 So, those pieces will be available in
17 the future. But the way it's configured right now,
18 those TAC/TAL calculations are coupled, they're part
19 of the same projection for both the landing component
20 and the discard component, and they are the best
21 available information that's available to set that TAC
22 -- that TAC/TAL combination.

23 COMMITTEE CHAIR JACK TRAVELSTEAD:

24 Toni, do you have anything further?

1 TONI KERNS: And then the only period
2 where we'll have pound-for-pound paybacks would be the
3 summer commercial period where the Commission divides
4 the quota up to the states. And the only place where
5 we would have a state have a pound-for-pound payback
6 is if -- and that quota is set based on the TAL and the
7 percent share of the summer period and then each state
8 gets a percent of that.

9 So, it's based off of that 20 million
10 pounds. And the only time that they have to pay back
11 is if we actually exceed the summer period's total
12 allocations. If we don't exceed that summer period's
13 total allocations, then the state does not have to pay
14 back pound for pound.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:

16 Chris.

17 CHRISTOPHER ZEMAN: It just seems that
18 there is flexibility in the (inaudible) for me to make
19 a wider buffer between my catch and landings level even
20 before we do an ACL/AM's. I think that's absolutely
21 clear. And I think that's been done in situations where
22 like for example today where we have an MSI -- I mean,
23 an MSY of 35 million pounds and we're proposing a TAC
24 of 40 -- of 24 million or 26 million? You're saying

1 that I don't have the discretion to make a motion to
2 say that the buffer between catch and landings is too
3 small?

4 COMMITTEE CHAIR JACK TRAVELSTEAD:

5 That's what we're saying, yes.

6 Any further comments on this issue?

7 Pres.

8 PRESTON PATE: I certainly don't want
9 to prolong this, but maybe for a point of clarification.

10 I gathered from the comments that Joel made that the
11 data used to guide the SSC recommendation was the best
12 scientific data available relative to discards and that
13 was properly used in setting the various alternatives.

14
15 That appeared to me to be a little bit
16 inconsistent with what Jessica just said. I think she
17 was saying that were the procedures that we approved
18 yesterday in the Omnibus bill available to us today,
19 we could take that further out, uncertainty, into
20 account at the decision to consider management
21 uncertainty.

22 So, my question is, if that's true, can
23 it be taken into account in both places? I see that
24 properly being applied as a scientific uncertainty when

1 the SSC develops its recommendation and not proper to
2 use as a part of management uncertainty when the Council
3 sets its TAC. I think that's --

4 JESSICA COAKLEY: It's actually both.

5 The discards can be taken into account and goes under
6 scientific and management uncertainty but in different
7 ways. The discard information feeds into the model and
8 drives the estimates of mortality and all of those other
9 components. And so, there's uncertainty in the
10 estimates and in the mortality -- the contribution to
11 total mortality in the modeling side. But then on the
12 management side, the imprecision around the projected
13 estimates that you're using contributes to management
14 uncertainty.

15 So, the answer is it could be addressed
16 in both places but for different reasons.

17 COMMITTEE CHAIR JACK TRAVELSTEAD:

18 David.

19 CHRISTOPHER ZEMAN: In applying that
20 same logic then, we should just be setting the MSY at
21 35.63 million pounds and we have no authority to then
22 change that, because that's the best available science.

23 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat.

24 PATRICIA KURKUL: I'll try. I think

1 the answer, Chris, is that there is a specific process
2 in the regulations today and we need to be consistent
3 with that process. So, even if the motion hadn't been
4 ruled out of order, I would have advised the Council
5 that based on the process that's currently in the
6 regulations, that's not best available science and the
7 Agency would have had a hard time supporting that
8 recommendation. So, you have to be consistent with the
9 process that's currently required.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 David.

12 DAVID PIERCE: Yes, Mr. Chairman. When
13 staff prepares the explanation as to the reasons for
14 the vote that we just took, I'm curious as to how it
15 will be framed, specifically, we have a number that is
16 far less than what was given to us by the SSC. We
17 discussed that.

18 Are we going to frame the difference
19 between what the SSC gave us and what we have adopted
20 that's based on the Monitoring Committee
21 recommendation, is that going to be framed as management
22 uncertainty? Or is it going to be framed as additional
23 scientific uncertainty that was not accounted for by
24 the SSC?

1 I have to explain this to people back
2 home. So, it will be helpful if at some time we could
3 make it clear as to what accounts for this major
4 difference. Because it's going to raise questions
5 about the SSC. I mean, I like what the SSC did. I think
6 it was an appropriate step for them to take. But still,
7 how will it be framed?

8 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat.

9 PATRICIA KURKUL: I'm not trying to
10 answer for Jessica, just trying to provide some
11 perspective from the discussion. It seemed to me that
12 towards the end of the discussion anyway what got lost
13 in the recommendations from the Data Poor Work Group,
14 the SSC and the Monitoring Committee that we needed to
15 proceed cautiously and incrementally increase the TAC.
16 And 41 percent, arguably, is maybe even more than an
17 incremental increase. And if you look at the
18 information that's in the binder, it's actually the
19 highest levels in the entire time series that's
20 provided. So, I think we need to sort of get back to
21 the caution that was provided to us through the three
22 technical committees.

23 DAVID PIERCE: So, if I may, Mr.
24 Chairman.

1 I appreciate what you said and I agree
2 with Pat to a large extent. But still, we did not adopt
3 the SSC recommendation for an ABC. We went far the lower
4 than the ABC, which to me smacks of management
5 uncertainty, not scientific uncertainty, since again,
6 I still don't know how to bring this back home. Thank
7 you for your patience. But I'm -- it's -- it doesn't
8 ring true.

9 COMMITTEE CHAIR JACK TRAVELSTEAD: We
10 still have a number of scup issues that we can accept
11 motions on. We'll need one on RSA, and then possession
12 limits, fish size, GRA's and escape vents if you want
13 to make any changes there.

14 Are there any motions? Let's start with
15 RSA. Is there a motion on RSA? Gene.

16 EUGENE KRAY: Thank you, Mr. Chairman.
17 Yes. I move that the Council adopt a 3 percent quota
18 for the Research Set-Aside Program.

19 COMMITTEE CHAIR JACK TRAVELSTEAD: And
20 that is on behalf of the Council. Seconded by Peter
21 DeFur. Is there a like motion from the Board? That's
22 right, we don't need it from the Board; do we. Pres.

23 PRESTON PATE: Jack and Gene, just a
24 matter of maybe refinement a bit. Should that say

1 -- should that be up to 3 percent?

2 EUGENE KRAY: I meant to say up to. I
3 meant to say up to 3 percent.

4 COMMITTEE CHAIR JACK TRAVELSTEAD: The
5 motion is on the board. Any discussion on the motion?
6 Yes, Tom.

7 TOM MCCLOY: Thank you, Mr. Chairman.
8 The RSA program has done a wonderful job of funding
9 some very important projects such as NEAMAP, in
10 particular. And I think we all around this table will
11 agree that NEAMAP needs to continue. However, from New
12 Jersey's perspective, NEAMAP should be funded by an
13 appropriation from Congress or some other long-standing
14 continuing funding source as opposed to relying on the
15 research set-aside.

16 The research set-aside has additional
17 problems that are created for the states. I don't want
18 to get into any other details. At this stage of the
19 game, I'm sure it's been talked about by our
20 representatives at the Research Set-Aside Committee.

21 I know we've had informal discussions with National
22 Marine Fisheries Service. And I know the Commission
23 has even discussed the issue.

24 So, from our perspective, the only way

1 apparently to obtain the consistent funding for NEAMAP
2 and other important projects like that is something
3 other than research set-asides. From my perspective,
4 you apparently need to create a crises in order to have
5 that occur. So, New Jersey will not be supporting any
6 research set-asides today.

7 COMMITTEE CHAIR JACK TRAVELSTEAD:

8 David.

9 DAVID SIMPSON: Even though we don't get
10 to vote, I appreciate the opportunity to comment. I
11 guess this does provide an opportunity to ask how much
12 money RSA provides, generates, relative to how much is
13 needed and I made this comment at the Commission meeting
14 a couple of weeks ago.

15 I think we need to get to the place where
16 we're generating the money first and then we're
17 soliciting the research and deciding what to fund. This
18 will be a 40 percent roughly increase in RSA. And I'm
19 wondering if we really need that much to fund quality
20 research for the coming year.

21 And again, depending on when this stuff
22 is landed, it can be worth anywhere from 50 or 60 cents
23 to 2.50 a pound. So, if there's any insight the staff
24 can provide, I'd appreciate it.

1 COMMITTEE CHAIR JACK TRAVELSTEAD: Any
2 comments? Apparently not. Pat.

3 PAT AUGUSTINE: Other research
4 set-aside, Mr. Chairman. Did the Committee when they
5 discussed what the application and usage of the research
6 set-aside for each one of the species, did they agree
7 or discuss that this RSA for scup would be used for
8 scup-related research or did the discussion with the
9 Research Set-Aside Committee ever get on that topic?

10
11 In general, the research set-aside for
12 each of the species that are available have been used
13 for various projects and not limited to working on
14 projects that relate to that species. Was there any
15 discussion about that, Mr. Chairman, that we could --
16 the Council could share?

17 JESSICA COAKLEY: Well, the Research
18 Set-Aside Committee didn't meet to discuss these issues
19 for specifications. But Pres may know something about
20 what the Research Set-Aside Committee discussed
21 yesterday.

22 PRESTON PATE: We did not discuss that
23 yesterday, although we did approve the list of
24 priorities for funding for the next year's cycle. But

1 a general issue that Pat has brought up is one that has
2 been discussed in previous Research
3 Set-Aside Committees. And I think the approach is
4 trying to as much as possible make sure that the 3 percent
5 that is created by the sale of scup go to projects that
6 are related to the management of scup. And if you go
7 through the list of species and it's the same thing.

8 Now, it's not exactly that precise
9 because we do have some more general projects that come
10 up from time to time and one that recurs which is NEMAP
11 that take money from the sale of all the species that
12 are involved in the Research Set-Aside Program.

13 The issue that Dave has raised about
14 generating the money first and then applying those
15 revenues to the research project is one that we think
16 has a great deal of benefit. It was a matter that was
17 identified in the annual review of the RSA Program as
18 an area where the program could be potentially improved.

19
20 There are some pretty complicated issues
21 associated with achieving that goal, but I think there
22 is enough support for it that I did, Dave, that we'll
23 continue to discuss it and work with the folks that
24 conduct the auction and in the Science Center to make

1 that type of improvement. So, I appreciate your
2 comments on that.

3 PAT AUGUSTINE: Thank you, Mr.
4 Chairman.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:
6 Thank you, Pres. David.

7 DAVID SIMPSON: And I guess related to
8 the issues that have been brought up here. The NEMAP
9 survey is not used in the assessment? It is summarized
10 very broadly in Table 34. I'm sure it isn't used yet
11 because it's only two -- it's three years old. They'll
12 be collecting their fourth year of fall data this year.

13
14 One of the things they don't show is the
15 age structure that they're able to sample, and that's
16 been identified as one of the monitoring needs. So,
17 it will be good, I think, for the RSA Committee to take
18 a look at that. I'm sure it's available. And is it
19 going to actually help with the assessment down the road
20 and that would be an important part of deciding to use
21 scup RSA for NEMAP in the future.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:
23 Gene.

24 EUGENE KRAY: Thank you, Mr. Chairman.

1 There have been -- since I've been on the RSA Committee,
2 and it's quite a number of years, there have been a number
3 of discussions of long-term funding. And I have gone
4 on record opposing continuing long-term funding.

5 Don't get me wrong. I think NEMAP is
6 fantastic and I support NEMAP. But --I even made one
7 suggestion that we shut off the funding, that we not
8 fund NEMAP, to put the pressure on Congress or wherever
9 to make it happen. Obviously, I was outvoted.

10 But -- so, we -- and this is true for
11 any long term. The focus of the RSA as I was led to
12 believe when I first got on the Committee seven or eight
13 years ago was to fund short-term, one-year kind of
14 projects, not continuous. And NEMAP is not the only
15 one. We have several others that go on for five or six
16 years, and then -- you know, it's a question of where
17 else is the money going to come from.

18 COMMITTEE CHAIR JACK TRAVELSTEAD: Tom.

19 TOM FOTE: I was out of the room when
20 Tom McCloy went into his discussion on this. But I --
21 you know, as an early supporter and voted for research
22 set-asides, they were done for a specific purpose, to
23 give the universities, the commercial fishermen, the
24 recreational fishermen, the opportunity to use their

1 quota to do research that they thought that nobody else
2 was doing to basically help them.

3 You know, I can remember when we turned
4 up at the for the commercial fishermen from Montauk and
5 did the side by side to prove that we were showing up.

6 Those were the projects and that's why everybody
7 supported it.

8 What you have done is taken a system that
9 most of us supported and corrupted. We were using out
10 -- quota now -- to pay for the failure of NMFS to do
11 what they're supposed to be doing with NEMAP. They pay
12 for SEMAP, there seems to be no problem doing the
13 Southeast Region. But when it comes to the Northeast
14 Region and it comes to the Mid-Atlantic, we wind up
15 getting the short end of the stick again.

16 And also, I got into this discussion at
17 the Commission meeting, people pointed out, well, this
18 is this and -- when we basically had -- I can remember
19 the early part of the 80's when New Jersey was doing
20 its own inshore survey, which was getting funded from
21 NMFS, which was part of the thing because the ships
22 couldn't do what they used to do and they wanted to find
23 out the inshore stuff.

24 So, this has been going for over 20

1 years, almost close to 30, that we've been funding one
2 way or the other what NMFS is supposed to be doing with
3 stock assessment. And they should be giving the money
4 to the states to do this.

5 Until that happens -- and then there's
6 a lot of other reasons why I don't like the way it's
7 being handled and things like that, that we basically
8 have -- there's some questions about how you basically
9 secure the quota after it's done. I can no longer vote
10 to support research set-asides. And the New Jersey
11 delegation is going to have a hard time doing that until
12 we clean up the system.

13 And if that is the message we have to
14 send then you have to go find someplace else to do this
15 until you basically set into what we basically started
16 out as, then I no longer will support research set-asides
17 just because of this reason. Because we -- it was like
18 well we make motions that have to be careful now whatever
19 you say in a motion because a moratorium doesn't mean
20 a moratorium and things like that at the Atlantic States
21 Marine Fisheries Commission.

22 I have to be careful when I say that we
23 set up a program, this is what we're going to do with
24 the program and the program gets corrupted until other

1 things that we didn't design the program for because
2 people at the Council level and the Science Center decide
3 well, we'll basically expand it here, we'll basically
4 expand it here, and we'll do what it's wasn't supposed
5 to do, and what it's supposed to is short-term research.

6 I know I spoke a lot, but I feel very
7 strongly on this because we misled the fishermen on what
8 their quota would be used for and now it's being used
9 in a different way than we basically sold it to them.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 There being no further comments, I think we're ready
12 to vote, Mr. Chair.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Chris.

15 CHRISTOPHER ZEMAN: I'm hearing the
16 same concerns from my constituents in my state and that
17 they're not seeing the tie between the RSA monies for
18 that individual fishery and actual projects addressing
19 that particular fishery. I think there should be --
20 there definitely should be RSA and I would like the New
21 Jersey delegation to support this, but there should also
22 be a tie to that money so that it does address the
23 scientific data needs for that particular fishery.

24 A portion of that should go for across

1 the board fisheries research, but in no way should a
2 hundred percent of that go to across the board fisheries
3 research.

4 So, consistent with that approach, I
5 would like to make a substitute motion here to move that
6 up to 3 percent of the TAL be allocated to the RSA in
7 2011 with 2 percent of that 3 percent or 66 percent be
8 specifically allocated to or is allocated to fishery
9 specific research of that particular fishery.

10 COMMITTEE CHAIR JACK TRAVELSTEAD: Is
11 there a second to the motion to amend?

12 (No response audible.)

13 COMMITTEE CHAIR JACK TRAVELSTEAD: Is
14 there a second to the motion?

15 (No response audible.)

16 COMMITTEE CHAIR JACK TRAVELSTEAD:
17 Seeing none, the motion fails for lack of a second.
18 Gene.

19 EUGENE KRAY: I'm sorry, Mr. Chairman,
20 in response to Dave's comment before, I left out one
21 thing. The discussion last year -- it was either last
22 year or the year before -- was the very point you're
23 making, get the money up first. And what we were
24 discussing what the possibility of shutting off funds

1 for one year and pushing it back so that then we would
2 always have the money. But that would mean a one-year
3 gap in whatever research is being done so that's why
4 we didn't do it. But those ideas had been discussed.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:

6 Pres.

7 PRESTON PATE: I didn't support Chris'
8 idea and that shouldn't be interpreted as disagreeing
9 with it. My lack of support at this level is that I
10 don't think it's proper to redesign the RSA Program
11 through motions on the individual species. If that's
12 a change in policy or a refinement of the program that
13 is already headed in that direction, then that's more
14 properly done at the RSA Committee.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:

16 Appreciate that, Pres. Good point. I think we're
17 ready to vote now.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
19 you. Mr. Chairman, we are back to the main motion.
20 So, the motion is move that up to 3 percent of the TAL
21 be allocated for RSA in 2011.

22 Is the Council ready for the question?

23
24 (Motion as voted.)

1 {Move that up to 3% of the TAL be allocated for RSA
2 in 2011 for scup.}

3 COUNCIL CHAIR RICK ROBINS: All those
4 in favor, please raise your hand.

5 (Response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Seventeen. Opposed, like sign.

8 (Response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: One,
10 2. Two. Abstentions, like sign. No abstentions.
11 The motion carries. Thank you.

12 COMMITTEE CHAIR JACK TRAVELSTEAD:
13 Other scup issues? Any motions? Yes, sir. John.

14 JOHN MCMURRAY: Thank you, Mr.
15 Chairman. In light of some of the concerns about the
16 allocation issue around the table, I would like to offer
17 the following motion:

18 Move to request the National Marine
19 Fisheries Service -- you going to put that up there,
20 Jan?

21 JAN SAUNDERS: I'm writing.

22 JOHN MCMURRAY: Oh, sorry. Move to
23 request the National Marine Fisheries Service
24 commission an economic study which would offer guidance

1 on the allocation percentages that will provide the
2 greatest benefits from the scup fishery; and that the
3 Council revisit the scup allocation to determine that
4 it both provides the greatest overall economic benefit
5 and to assure that all sectors participating in the
6 fishery share equally in the benefits of the stocks
7 recovery.

8 COMMITTEE CHAIR JACK TRAVELSTEAD: Do
9 you have that written out, John?

10 JOHN MCMURRAY: I do, but --

11 COMMITTEE CHAIR JACK TRAVELSTEAD: If
12 you could provide --

13 JOHN MCMURRAY: I don't have it printed
14 out. I have it typed out on the computer. But would
15 you like me to read it slowly again?

16 Move to request that the National Marine
17 Fisheries Service commission an economic study which
18 would offer guidance on the allocation percentages --
19 on the allocation percentages that would provide the
20 greatest benefits from the scup fishery; and that the
21 Council revisit the scup allocation to determine that
22 it both provides the greatest overall economic benefit,
23 and to assure that all sectors participating in the
24 fishery -- participating in the fishery share equally

1 in the benefits of the stocks recovery.

2 PAT AUGUSTINE: Point of information,
3 Mr. Chairman.

4 COMMITTEE CHAIR JACK TRAVELSTEAD:
5 Point of information, Pat.

6 PAT AUGUSTINE: It appears what Mr.
7 McMurray is trying to do is to try to move forward to
8 be able to create an addendum or amendment to the FMP
9 in order to finally address the allocation issue of
10 78-whatever.

11 And I'm just wondering, in the
12 development of the PDT, Planned Development Team,
13 whether or not the issue that he raises here will be
14 a part of their presentation to Council. If they would
15 do that to come up with some assessment as to what the
16 value would be or impact would be, negatively or
17 positively, on either fishery; is that not correct?

18 And if that's correct, that would almost
19 suggest the next thing. Mr. McMurray, maybe we should
20 talk about looking towards moving to create an addendum
21 or an amendment to the FMP where one of the primary goals
22 in that would be to address the allocation issue?

23 Remember what we did with summer
24 flounder in Amendment 12? We went to 16 and we ended

1 up with 25 different issues. Would that be easier, Mr.
2 Chairman, as opposed to going down this road and
3 discussing that?

4 COMMITTEE CHAIR JACK TRAVELSTEAD:

5 Well, I don't know. I think that the motion is pretty
6 straightforward. It's calling for a study to be done
7 that would supply new information to the Council and
8 the Board. I don't know how the information otherwise
9 would get in front of us.

10 But first, we need a second to the
11 motion? Is there a second to the motion? Seconded
12 by Steve Schafer. That's on behalf of the Council.
13 I guess, is there a -- I don't know that it's necessary,
14 but is there interest in the Board supporting this issue
15 as well? Tom Fote.

16 TOM FOTE: One of the discussions we had
17 years ago was, when we jumped these figures -- you know,
18 we went to 40 million pounds summer flounder quota and
19 go from where the levels we were because we had
20 state-by-state allocations of these fisheries, we would
21 look at how do we handle increases, keeping the quota
22 split the same at the base level, but any increase that
23 came along afterwards would be split up differently,
24 whether it was among the states, whether it was

1 commercial fishery, maybe equally distributed or
2 equally distributed but with the recreational. That's
3 maybe a way of looking at it when it goes to the increases
4 that go ahead of this. And we had a whole committee.
5

6 I know the Atlantic States Marine
7 Fisheries Commission had a committee to do that. I
8 don't know if the Council did. But looking at how do
9 we reallocate some of these to get out of the New York,
10 New Jersey summer flounder situation and a few of those
11 with New England, and we were looking to do it that way.
12

13 I think that might be a nice joint
14 committee to take a look at how we handle increases on
15 these quotas because we're finally seeing some increases
16 in the quota and how do we basically distribute those
17 increases to make up for the mistakes we've made in the
18 past, whether it was summer flounder or scup. And now
19 with the commercial and the rec, we (inaudible). I know
20 they were talking about how to do that in the commercial
21 side in other states and things like that.

22 So, I think that's a way of looking at
23 it, a start anyway. I think we need to look at the whole
24 subject, but at least this starts looking at when

1 increases in quotas come out, do we distribute it a
2 little differently than we did before.

3 COMMITTEE CHAIR JACK TRAVELSTEAD: Is
4 there a similar motion from the Board?

5 ACTING BOARD CHAIR A.C. CARPENTER:
6 From the perspective of the Commission, I think that
7 in the second part of this motion where it says the --
8 that the Council revisit, I think we need to insert the
9 Council and the Commission revisit because this is a
10 joint plan and it would require the Commission to go
11 through an addendum process and the Council to go through
12 an amendment process. So, I think if the motioner will
13 accept that as a friendly amendment, we can then proceed.

14
15 JOHN MCMURRAY: I'll accept that.

16 COMMITTEE CHAIR JACK TRAVELSTEAD:
17 Okay. John accepts it. And Dr. Schafer, do you accept
18 a change? Okay.

19 PAT AUGUSTINE: He's not on the Board.

20 COMMITTEE CHAIR JACK TRAVELSTEAD: that
21 was for the Council.

22 PAT AUGUSTINE: Oh, I thought you said
23 for the Board.

24 COMMITTEE CHAIR JACK TRAVELSTEAD: No,

1 we haven't had a motion from the Board yet?

2 PAT AUGUSTINE: Why not?

3 COMMITTEE CHAIR JACK TRAVELSTEAD: I
4 see a lot of hands going up. I have you on the list.
5 I'll get to you eventually.

6 ACTING BOARD CHAIR A.C. CARPENTER: Let
7 me explain that.

8 COMMITTEE CHAIR JACK TRAVELSTEAD: Go
9 ahead, A.C.

10 ACTING BOARD CHAIR A.C. CARPENTER: I
11 think we haven't had a call for a Commission motion
12 because it wasn't involved in that motion at that
13 particular point. I think now if the seconder -- if
14 the maker or the motioner and seconder agree to add the
15 ASMFC as part of the motion, now would be the time for
16 me to call for a motion on behalf of the Board.

17 JOHN MCMURRAY: Before we kick this over
18 to the Commission, I think there's some more amendments
19 to the language to be made on the Council side. So,
20 if we could take care of those first.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:
22 Nancy.

23 NANCY THOMPSON: Just for
24 clarification. I mean, you guys can do whatever you

1 want obviously that's relative to this motion, but
2 asking us to commission a study doesn't necessarily mean
3 that we're going to have the resources to do it. So,
4 just to let you know that you can follow through on this,
5 but it doesn't guarantee that we're going to be able
6 to follow through on our end.

7 COMMITTEE CHAIR JACK TRAVELSTEAD: Roy.

8 ROY MELLON: Thank you, Mr. Chairman.

9 I would be more comfortable with this motion if we were
10 to strike out the last part of it, specifically, where
11 it says and to ensure that all sectors participating
12 in the fishery share equally in the benefits of the
13 stocks recovery.

14 And the reason I'm uncomfortable with
15 that particular phrase is, it predisposes the outcome
16 of the economic study. In other words, if you're going
17 to share everything 50/50, then -- and that's determined
18 ahead of time, then why do the study. So, I would offer
19 as a friendly amendment to strike out that last portion
20 after benefit.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:

22 John, that's a suggestion to you I guess as maker of
23 the motion.

24 JOHN MCMURRAY: I would accept that

1 change. I understand why it's looked at that way. It
2 certainly wasn't my intent.

3 COMMITTEE CHAIR JACK TRAVELSTEAD: So,
4 you're agreeable to striking out the bold language
5 there?

6 JOHN MCMURRAY: Yes.

7 COMMITTEE CHAIR JACK TRAVELSTEAD:
8 Okay. Steve.

9 STEVEN SCHAFER: Yes, also.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:
11 Okay. We're in the process of perfecting this thing.
12 Lee.

13 LEE ANDERSON: That was my point,
14 exactly.

15 COMMITTEE CHAIR JACK TRAVELSTEAD: Lee,
16 thank you. David.

17 DAVID SIMPSON: Yeah. A couple of
18 things. One, I would dearly love to revisit the
19 allocation scheme, but this strikes me as going a little
20 further, quite a bit further than that, and probably
21 -- I mean, Joel could respond -- but it seems to run
22 into Magnuson issues to me that -- you know, if
23 allocation is fair and equitable. And it's already laid
24 out in the law the factors that are considered.

1 And this, to determine allocation that
2 provides the greatest economic benefit, I suspect it
3 would all go to one particular fishery to the exclusion
4 of some others. And while I think we need to do some
5 moderate tinkering, I'm not sure I'm willing to go down
6 that road of wholesale taking fish away from one group
7 and giving to another because they will derive better
8 economic benefit.

9 You can imagine if we do this to every
10 fishery, frankly, I'm not sure you'd have a commercial
11 fishery for any species on the coast if you were to take
12 this approach.

13 COMMITTEE CHAIR JACK TRAVELSTEAD: Is
14 there -- are we to the stage where we can get a like
15 motion from the Board? Tom.

16 TOM FOTE: I'm in the same category with
17 Dave. If we're going to look to review allocations,
18 I think we should just look at review allocations amongst
19 ourselves and decide -- not for economic reasons -- and
20 I'm not going to base it on a study that I know NMFS
21 is not going to fund and I'm going to be sitting here
22 three years waiting for the study to be done.

23 So, I simply say we should move forward
24 looking at revisiting allocations, and how do we do that,

1 and steps that we should basically take to make the other
2 decisions I'm talking about, state-by-state allocations
3 and everything else. So, I'd be more -- I couldn't in
4 this time support this motion as written.

5 So, I would like to make it a little more
6 along those lines if you're willing to do that, the
7 Council. That's just my suggestion. Because my
8 problem here is I'm not going to base on a study that's
9 going to may or may not happen. I think we need to do
10 the allocation -- look at the allocation and
11 redistribute some of it. And the fastest way to do that
12 is just not tie our hands on how do we do this.

13 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat.

14 PAT AUGUSTINE: And to that point, Mr.
15 Chairman. You almost took the words right out of my
16 mouth, Tom. As Dr. Thompson said, you can do it, but
17 the likelihood of it happening in the near future or
18 whenever is questionable. And we've had the right,
19 ability and authority as a Council to look at the
20 amendments that we presently have and the structures
21 we put in them and the constraints we put on them.

22 And one of the mechanisms that we have
23 is amendments and addendums. And it just seems to me
24 that that's the cleanest way to do it. And if along

1 the way, as the PDT is looking and staff is looking at
2 what options we might come up with and what data is
3 available, such as catch data and so on, and how
4 restrictions and quota have affected both the commercial
5 and the recreational, I think that's part of the staff
6 PDT background effort that they put into addressing the
7 information needs for an addendum or amendment.

8 And again, we can talk about allocation,
9 reallocation. But as soon as you get there, what's
10 going to end up is, is a debate at the Council level.

11 So, I would table that if that's the only way to get
12 it off the board and suggest that we today make a motion
13 to create an addendum to the scup plan with the preferred
14 options as one of the options to review allocation
15 issues. Thank you.

16 COMMITTEE CHAIR JACK TRAVELSTEAD: At
17 this point, we technically don't have a valid motion
18 because we do not have the Board offering a like motion.

19 So, everything is up in the air at this point. Tom.

20 TOM FOTE: Yeah. Can we take a
21 five-minute break for some of this stuff to check out
22 and basically get together and look at how we could
23 reword this motion to basically accomplish some of the
24 details?

1 COMMITTEE CHAIR JACK TRAVELSTEAD: Let
2 me hear from Pres first. He's got his hand up.

3 PRESTON PATE: Thanks, Jack. And
4 another suggestion that might get us off the dime. In
5 that it appears to me that this is an issue that might
6 be appropriate to assign to the SSC for review and they
7 could, based on the resources that they have available
8 for them already with the current makeup of the
9 committee, look at this in a global sense and determine
10 whether or not it's necessary to bring in some outside
11 expertise to pursue the idea that John McMurray intended
12 with his original motion.

13 COMMITTEE CHAIR JACK TRAVELSTEAD:
14 Let's take a five-minute break and maybe we can get some
15 heads together to figure out how to proceed.

16 (Break 10:53 a.m. to 11:04 a.m.)

17 COMMITTEE CHAIR JACK TRAVELSTEAD: If
18 you'll take your seats, we'll get started again. Okay.
19 Hopefully, we've had a chance to think about the motion
20 and John you have some changes.

21 JOHN MCMURRAY: Yeah. I'd like to
22 change the motion to read: move to request that the
23 National Marine Fisheries Service commission a study
24 which would offer guidance on the allocation percentages

1 for the scup fishery.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Okay. We've essentially discarded the previous motion.

4 We now have a new motion offered by John. I want to
5 make sure we get it up on the screen. It's not move
6 to amend, Jan.

7 JAN SAUNDERS: What is it?

8 COMMITTEE CHAIR JACK TRAVELSTEAD:

9 Simply just go back to the original. Now it's a brand
10 new motion. Everything that was after before is gone.

11 Okay. He's perfecting his own motion. Okay. The
12 motion is seconded by Peter --

13 PETER DEFUR: Second.

14 COMMITTEE CHAIR JACK TRAVELSTEAD: --

15 on behalf of the Council. Is there a like motion on
16 behalf of the Board?

17 TOM FOTE: Yeah.

18 COMMITTEE CHAIR JACK TRAVELSTEAD: Tom

19 Fote makes.

20 TOM FOTE: I don't want to wind up like
21 we did four years ago where you --

22 COMMITTEE CHAIR JACK TRAVELSTEAD: Is

23 there a motion from the Board? Is there a like motion
24 from the Board? Mr. Augustine.

1 PAT AUGUSTINE: I would like to make
2 that motion, Mr. Chairman.

3 COMMITTEE CHAIR JACK TRAVELSTEAD: Is
4 there a second from the Board? Second by Roy Mellon.
5 Okay. Now we have a motion. Comments on the motion?
6 Tom.

7 TOM FOTE: It's up the Council and
8 Commission to basically do reallocations. I don't know
9 what the benefit of the study would be put on the idea
10 of NMFS conducting a study. It should be the Council
11 and the Commission forming a joint committee to be taking
12 a look how do we do reallocations among ourselves. We
13 spent four years by amendment -- you know. Somebody
14 reminded me of the discussion we had four years ago and
15 we went through the whole process and we decided -- and
16 it got voted down by the Council -- how do we do
17 reallocations.

18 I think we need to form a committee
19 within the Council and the Commission of commercial and
20 recreational and staff and Commissioners and Council
21 members to take a look at this the same way we were doing
22 a couple of years ago when the commissioners -- all the
23 quotas started going down instead of going up. So, I
24 mean, I can't support it because I think it's just a

1 waste of time. I don't see a positive result. I don't
2 see a time frame where we'll actually make a change to
3 benefit anybody.

4 So, until you can show me a motion that
5 basically says in simple fact that the Council and
6 Commission will look at the reallocation of certain
7 quotas, how it basically does both between states and
8 between sectors, that's what I would support, something
9 to that effect. Otherwise, I think we're just wasting
10 our time here.

11 COMMITTEE CHAIR JACK TRAVELSTEAD:

12 Pat.

13 PAT AUGUSTINE: Yeah. Thank you, Mr.
14 Chairman. I had the benefit of passing by Dr. Thompson
15 out in the hall and we had a brief conversation about
16 what kind of a study this might be and she gave me some
17 details as to what she thought might work. And she also
18 indicated -- and I hope I'm not speaking out of turn,
19 Dr. Thompson, you might want to fill in -- indicated
20 that Dr. Boreman under his group might be able to do
21 this.

22 I was looking for -- and I hate to do
23 that -- but looking for a date certain as to if they
24 could do this, about how long would it take, and that

1 would be helpful to us concerning Mr. Fote's comment.

2 Could Dr. Thompson address that, Mr.
3 Chairman?

4 COMMITTEE CHAIR JACK TRAVELSTEAD: Yes.
5 Nancy.

6 NANCY THOMPSON: Well, yeah. I mean,
7 just because again we're being asked to do something
8 doesn't mean we're going to be able to relative to the
9 resources that are available.

10 Saying that, I thought about it
11 obviously in terms of what I thought it would take to
12 do it. My initial thought in talking with John was that
13 perhaps this might be a graduate student. Personally,
14 I think it would be an interesting undertaking. But
15 again, it's a matter of coming up with the appropriate
16 resources.

17 So, John and I had a bit of a discussion
18 about potential resources and avenues to go. So, it's
19 not that it's not a doable project. Of course, it's
20 also asking us -- in the original motion, it was asking
21 us to basically come up with metrics that would describe
22 the greatest benefit to the fishery. So, that's
23 obviously what's been removed, but it's still about the
24 allocation obviously between the two sectors.

1 I mean, it's doable. It's a matter of
2 figuring out how to get the resources to do it.

3 COMMITTEE CHAIR JACK TRAVELSTEAD:

4 Further comments on the motion? Frank.

5 FRANK BLOUNT: Yeah, thank you. I'm a
6 little concerned at the end of the motion where it says
7 guidance from the service. Because quite often we've
8 heard, and it's usually when it comes down to an
9 allocation decision, the service usually abstains
10 because they don't usually get involved in the
11 allocation battle.

12 I don't want to speak out of turn for
13 either Pat or George, but, so, I think they would need
14 some guidance on what exactly we're looking for as
15 opposed to them telling us what we think the allocation
16 should be.

17 But I do want to make a brief comment.

18 We talk about -- you know, the taking of fish from one
19 group to another and we looked at -- you know, how the
20 allocation was based and picked the year. There was
21 reasons for those years that were picked. And maybe
22 there were reasons there weren't. People thought they
23 were fair or unfair at the time. I think one thing we
24 have to look at, in New England we have a review for

1 the sectors. We also have a review for the allocation
2 split. And it's a five year. I hope I'm correct on
3 that. I think Pat can correct me if I'm wrong.

4 But I think we should look at from when
5 the plan went into effect what has the outcome been.

6 I mean, we've had all types of reasons why both sides
7 say their catches have been restricted or have not been
8 restricted. But I think you have to look at them. And
9 the plan has been in effect now for what almost ten years.

10 And what has the outcome been in that ten years. What
11 is the allocation for the last few years.

12 People will say the recs went way over
13 certain years. You know, they're not being penalized.

14 They didn't do anything they weren't told they would
15 -- you know, the regulations went into effect. They
16 were told what the bag size and season limit would be.

17 And whether or not they achieved the target or over
18 achieved that was an effect of the plan.

19 So, the effect of the plan for the last
20 ten years is probably a place to start on what the
21 allocation is. Because the actual allocation now is
22 not 78/22. It's somewhat completely different. You'd
23 have to look at what's been landed and come up to where
24 we actually are now to see if you are taking fish from

1 somebody or not. Thank you.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Other comments? Dave.

4 DAVID SIMPSON: I guess it's -- I missed
5 it at first, but now I appreciate it. Even the word
6 economic to describe study has been omitted, so, I really
7 wonder what the service is going to work on here and
8 how much it would benefit us. I'm relieved that it's
9 not there because I think it's just the wrong path to
10 head down with this species and others.

11 I think there's pretty clear guidance
12 from the Council's side in Magnuson of how resources
13 are to be allocated. So, at this point, I think this
14 is so vague that it won't be terribly useful, and for
15 that reason, I'll oppose it.

16 COMMITTEE CHAIR JACK TRAVELSTEAD:

17 Greg.

18 GREG DIDOMENICO: Greg DiDomenico,
19 Garden State Seafood Association. I'd like to oppose
20 this motion in three ways, but also comment what I'm
21 -- what first comes to mind is new motion, same notion.

22 And the notion I'm going to oppose in three different
23 ways.

24 First of all, it's contrary to National

1 Standard 5. Conservation and management measures shall
2 where practicable consider efficiency and the
3 utilization of fisheries resources, except that no
4 measure shall have economic allocation as its sole
5 purpose.

6 I'd like to oppose it in reality. This
7 issue stems from the inability to manage and account
8 for recreational landings. We're going to
9 -- I just talked to Adam here a little while ago and
10 was reminded -- I was reminded that we're going to have
11 another increase in scup and probably not increase the
12 bag size and season for the recreational folks. I don't
13 know whose fault that is, but it's certainly not the
14 commercial industry's fault. And it's steeped in the
15 issue of not being able to understand what their landing
16 is, or in some respect, not very adequately monitor their
17 landings.

18 Number three is what I'm reminded of and
19 somewhat a philosophical argument. And if you believe
20 that this is the direction we should go in, you
21 essentially fall into a trap that -- and I'm sure someone
22 has quoted this because it's come to mind, and I don't
23 know who it was -- but it's you realize or your consider
24 the price of everything and the value of nothing.

1 And if we're going to reallocate because
2 it's costs or you know a scup can drive a little bit
3 more money through the recreational fishery, you fall
4 into that trap. You fall into the trap that basically
5 ignores the fact that the commercial industry is fishing
6 for the non-fishing public. That's their access to this
7 resource. That's what we do. So, don't fall into that
8 -- fall into that trap of considering the price of
9 everything and the value of nothing. Thank you.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 Peter.

12 PETER DEFUR: Thank you, Mr. Chairman.

13 A couple of interesting notes about the motion.
14 Actually, it doesn't ask for the service to provide
15 guidance. It just says guidance. So, it asks NMFS to
16 do it and get guidance and that could be guidance from
17 a variety of stakeholder issues.

18 The motion no longer talks about
19 economics. And so, I think that there's a different
20 focus to it now, appropriately so. And you know,
21 there's going to be continued battles when we have more
22 fish about who gets the fish.

23 And I think it's one of the discussions
24 we've had today is whether or not the balance that's

1 listed in the FMP is still the correct one. I think
2 that's a good question to ask. So, I think this motion
3 seeks to address that question, which is an appropriate
4 one.

5 COMMITTEE CHAIR JACK TRAVELSTEAD: Jim
6 Fletcher.

7 JAMES FLETCHER: Reauthorized Magnuson
8 Act said benefits and restrictions would go equally.

9 Perhaps it would pay the Council to look at the present
10 allocation that we have and then any increase that you
11 could have made split that increase 50/50.

12 What frustrates me so much is, that
13 nobody comes in and says how much precaution is put into
14 the numbers that we're allocating. The Science and
15 Statistical Committee comes up with a number, but there
16 is no way to come out with the amount of precaution that
17 has already been put in that number. Then the Council
18 puts precaution on it, but they forget that the SARC
19 and the SAW used precaution too.

20 So, maybe rather than coming in to this,
21 we need to go back and look at the total number and where
22 it could be. And if we had gone to the 58 million pounds,
23 this discussion wouldn't be the one on flounders and
24 black sea bass if we had gone to the total number we

1 could harvest and stop throwing away the discards.
2 Utilization. Then this would not be necessary.

3 So, we need to relook at what we already
4 -- we need to ask the Science and Statistical, and the
5 SARC and the SAW, how much precaution did you put in
6 the numbers that you've given us. Thank you.

7 COMMITTEE CHAIR JACK TRAVELSTEAD: Lee.

8 LEE ANDERSON: Thank you. I have to say
9 that even the way this is worded you're going to get
10 some economics on this. If you're going to ask for
11 guidance on allocation, there's no way anybody can do
12 a credible study and not come up and say here's what
13 allocation is. You base it on the basis of this
14 criteria, this criteria. And one of the studies that
15 always comes up is you look at allocation according to
16 maximization of value.

17 They've done that in the Gulf of Mexico.

18 I sit on their SEB. And they have a lot of stuff like
19 that. I suspect they've done studies like this at the
20 Center. I think these aren't new. And I think it makes
21 sense to, but just make sure that you do allocate on
22 -- you look at the ways of allocation.

23 And there are different criteria. One
24 of them is maximizing the economic value. One of them

1 is maximizing something else or accomplishing other
2 goals. But if you're going to have to look at
3 allocation, you've got to have some criteria.

4 COMMITTEE CHAIR JACK TRAVELSTEAD:

5 Rick.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
7 you, Mr. Chairman. Just a few comments. I think this
8 is an improvement over the first motion just from a
9 procedural standpoint. I think the way something like
10 this would go forward if the Council and Commission
11 requested a study, information might be used to form
12 an action and that action would have to be developed
13 through the species committee here at the Council and
14 also the Commission through the Board. And so, you
15 know, just from a process standpoint, I think this is
16 an improvement.

17 And with respect to the funding, if the
18 Council made the request and it was not a successful
19 request and funding weren't available, I think we could
20 look to other avenues including our SSC to explore the
21 question.

22 I would submit too that the Council has
23 initiated a longer term process, a Visioning Project,
24 and we're just getting ready to get into that. And it's

1 inevitable that that is going to be an issue that comes
2 up and is addressed through the Visioning Project, that
3 is, questions of allocation because we're going to be
4 surveying all of our recreational and commercial
5 constituents.

6 And as we do that and look across all
7 of our managed FMP's, we're going to be -- we're going
8 to be looking at issues of desired outcomes within the
9 managed fisheries and allocations are bound to be an
10 issue in that discussion.

11 So, the Council has already initiated
12 a process. And I think we all recognize it's going to
13 take a while, probably an 18 to 24 month project, but
14 I think it's inevitable that allocations will be an issue
15 in that. And so, we have on a longer time table a project
16 that will be addressing this as well. So, I just wanted
17 to make that point.

18 COMMITTEE CHAIR JACK TRAVELSTEAD:

19 Thank you. Joel.

20 JOEL MACDONALD: Thank you, Mr.
21 Chairman. I just wanted to remind folks that some
22 believe that just because we're talking about a
23 reallocation in the scup fishery that it will happen.
24

1 I think what you have to bear in mind
2 here, and as Rick sort of points out, is we are going
3 to undertake a study of different options in the context
4 of the species committee investigation of possible
5 reallocation of the scup quota amongst -- or between
6 the recreational and commercial sector. That's going
7 to be a long and arduous process.

8 I see this study as informing that
9 process -- you know, giving it some information to work
10 with. The process will involve developing alternatives
11 for reallocation. But it may turn out that there is
12 no allocation alternative that is consistent with all
13 applicable federal law.

14 Greg pointed out National Standard 5.

15 I mean, National Standard 4 immediately leaps to mind.

16 I mean, you have to show that if you're going to
17 reallocate that it's fair and equitable. And there's
18 guidance on that in National Standard 4.

19 What this reminds me of is an exercise
20 this Council went through back I think in the 1990's
21 wherein under Amendment 5, the summer flounder plan,
22 the Council had been beat upon for years about the
23 state-by-state system of allocation of summer flounder.

24 And they went off and they looked to see if they could

1 develop a better system. And ultimately -- and they
2 did a lot of investigation on this. And I think the
3 Commission may have done the same type of study under
4 the aegis of Amendment 11. And the ultimately
5 conclusion was they couldn't come up with a better
6 system. And so, this may be the result here.

7 But people should keep in mind that a
8 reallocation is not a foregone conclusion. We have to
9 go through a very deliberative process to see if we can
10 develop something that is defensible. Thank you.

11 COMMITTEE CHAIR JACK TRAVELSTEAD:

12 Thanks, Joel. Nancy.

13 NANCY THOMPSON: Yeah. Thanks.

14 Obviously, this motion is very different from the
15 previous one. But if this is directed to us, obviously,
16 the Center as an agency, it's absolutely inappropriate
17 for us to be developing any advice or guidance relative
18 to allocations.

19 Generally, what we would provide say
20 from the Center's side is the landings obviously per
21 sector and they're already predetermined obviously at
22 this point. So, you know, the allocation issue is
23 something that you guys all have to weigh in on.

24 And so, you know, my view is that if

1 you're coming to us to commission a study, again, we're
2 not the appropriate folks to be following through on
3 any kind of -- providing any kind of advice or guidance
4 relative to allocations.

5 COMMITTEE CHAIR JACK TRAVELSTEAD: Tom.

6 TOM FOTE: We already have done a
7 reallocation of quota in one of the other fisheries and
8 it basically was acceptable. When we looked at the
9 bluefish fishery, the plan calls for an 80/20 split and
10 we have transferred unused recreational quota over to
11 the commercial for numerous years. Maybe it's going
12 to probably stop this year, but we've done that. We
13 found a system that was workable that people could
14 support. I can't see this motion doing anything.

15 Rick, I like that idea what you have that
16 a committee is going to take a period of time to do that,
17 but I wish that was a joint committee with the Commission
18 because we're going to have to do the same thing if we're
19 going to look at allocations and pass similar addendums.

20
21 I'm trying to think of a substitute
22 motion here that I could basically support. And what
23 I really am looking at is how do we basically deal with
24 increased quotas. How do we divide those increased

1 quotas? Because the outlook of the fishery -- and
2 that's between all sectors of the fishery, whether it's
3 between sectors of the commercial fishery because you
4 have this winter fishery and summer fishery. How do
5 we basically accommodate the changes that have happened
6 over the years and have the increase done with the
7 increase in quotas. And this way, you're not fighting
8 over what's established, but you're fighting now for
9 what's going to be increased, and the fishery has changed
10 because you've increased the fishery so it's not what
11 it was when you set up the quotas.

12 That is the motion that I would look to.

13 And I'm not a great perfecter of motions. I look for
14 somebody that does a little better wording than me.
15 But if somebody made a motion like that, I would second
16 that motion.

17 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat.

18 PAT AUGUSTINE: To that point, Mr.
19 Chairman. After listening to the discussion around the
20 table, and in particular Dr. Thompson's latest comment
21 about -- you know, management is our decision, what they
22 would produce would be nothing more than a compilation
23 of the documents that are already available to us,
24 landings.

1 So, in agreeing with Tom, about 20
2 minutes ago I think I suggested the way to get at the
3 issue would be to look at an addendum. And now that
4 you've brought it up again, Tom, it just seems to me
5 that for scup -- summer flounder, scup and black sea
6 bass, we could have a new amendment or addendum, I guess,
7 it could be an amendment that actually would address
8 only issues that included -- call it excess or quota
9 increases.

10 The question would be what action would
11 you have in there. And one of them I think we discussed
12 that was very interesting to a lot of folks was once
13 you reach your quota -- I'm sorry -- once you reach your
14 rebuild level, what do you do with the surplus? And
15 maybe it's divided 50/50 so you never attack the basic
16 78/22 when it comes to scup.

17 But I think we need that discussion.
18 And quite frankly, I can't support my own motion now
19 after we've had that discussion. Obviously, clear that
20 this will not -- well, we did that all day folks, if
21 you remember -- we made motions and seconded them and
22 didn't support them -- but I would move -- if we can't
23 move to vote on these, I would move to table them forever.

24 So, whichever way you want to go with it.

1 And then I would like to move that we
2 start the first step of creating an amendment. Mr.
3 Chairman, did I throw too much at you?

4 COMMITTEE CHAIR JACK TRAVELSTEAD: Yes.
5 Right now, we have a motion we're getting ready to vote
6 on. We've got a couple. I didn't hear any move to
7 table. I heard him talk about moving to table, but I
8 didn't hear a motion to table.

9 PAT AUGUSTINE: May I table the motion,
10 Mr. Chairman. I move to table the motion, Mr. Chairman.

11 COMMITTEE CHAIR JACK TRAVELSTEAD: Is
12 there a second to the motion to table?

13 JULE WHEATLEY: I'll second it.

14 COMMITTEE CHAIR JACK TRAVELSTEAD:
15 Seconded by Jule on behalf of the Council. Is there
16 a like motion --

17 PAT AUGUSTINE: For the Board.

18 COMMITTEE CHAIR JACK TRAVELSTEAD:
19 Augustine moves for the Board. Is there a second for
20 the Board to table? Mark Gibson seconds for the Board.

21 PAT AUGUSTINE: Thank you. Let's get
22 on with it.

23 COMMITTEE CHAIR JACK TRAVELSTEAD: Your
24 motion is to table indefinitely; correct?

1 PAT AUGUSTINE: That's correct, Mr.
2 Chairman.

3 COMMITTEE CHAIR JACK TRAVELSTEAD:
4 Okay. No comment on a motion to table indefinitely.
5 So, I think we take it right to a vote.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Right. Is the Council ready for the question? Move
8 to table the above motion indefinitely.

9 (Motion as voted.)

10 {Move to table the above motion indefinitely.}

11 COUNCIL CHAIR RICK ROBINS: All in
12 favor, please raise your hand.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Fourteen. Opposed, like sign.

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: Four.
18 Abstentions, like sign. The motion carries.

19 ACTING BOARD CHAIR A.C. CARPENTER: Is
20 there a need to caucus on the part of the Commission?

21
22 UNIDENTIFIED: Yes.

23 ACTING BOARD CHAIR A.C. CARPENTER:
24 We'll have a 30-second caucus.

1 (Brief pause.)

2 ACTING BOARD CHAIR A.C. CARPENTER: Are
3 we ready for the vote? All those in favor of the motion,
4 raise your hand.

5 (Response.)

6 ACTING BOARD CHAIR A.C. CARPENTER: All
7 opposed same sign.

8 (Response.)

9 ACTING BOARD CHAIR A.C. CARPENTER:
10 One. Any abstentions? Any null votes? The motion
11 carries.

12 COMMITTEE CHAIR JACK TRAVELSTEAD:

13 Before I call on you, it seems to me the best way to
14 proceed on the allocation issue is to bring it before
15 a joint meeting of the Demersal Committee and the Scup
16 Board. I don't think we're going to solve anything here
17 today to move it forward. I think we can call a meeting
18 of those two groups and initiate the discussion and see
19 where it takes us, and then bring something back to the
20 Board. I think debating a motion at this point on what
21 direction we're going to go is premature until we get
22 those two groups together and have some discussion.
23 Is there any objection to proceeding along those lines?

24 (No response audible.)

1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 Okay. Seeing none, that's what we will do then.

3 During the break, I was informed by staff
4 and Council that we actually do need a motion from the
5 Board on the RSA issue. So, I'm going to turn it over
6 to A.C. for that purpose.

7 ACTING BOARD CHAIR A.C. CARPENTER: Is
8 there a need for a caucus? All right. We need a motion
9 that would reflect the motion passed by the Council.

10 Pat Augustine.

11 PAT AUGUSTINE: Thank you, Mr.
12 Chairman. On behalf of the Board, I move that up to
13 3 percent of the TAL be allocated for research set-aside
14 in 2011 -- no, that's the one up there, I'm sorry.

15 I move that up to 3 percent of the TAL
16 be allocated for RSA in 2011 for scup.

17 ACTING BOARD CHAIR A.C. CARPENTER: Is
18 there a second to that motion. Second, Jack
19 Travelstead. Is there a need for a caucus? Is there
20 any discussion? Tom.

21 TOM FOTE: I'll keep it short because
22 of my comments before. We're not going to support this
23 motion.

24 ACTING BOARD CHAIR A.C. CARPENTER:

1 Thank you. All in favor of the motion, please raise
2 your hand.

3 (Response.)

4 ACTING BOARD CHAIR A.C. CARPENTER: All
5 opposed, same sign.

6 (Response.)

7 ACTING BOARD CHAIR A.C. CARPENTER: One
8 opposed. Any abstentions? Any null votes? The
9 motion carries.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 Okay. We're moving along. Are there any further scup
12 motions dealing with possession limits, fish size,
13 GRA's, escape vents. David.

14 DAVID SIMPSON: Yeah. I thought we did
15 need to address trip limits during the winter period.

16 I had heard some discussion during Winter 1 of a desire
17 to set a different limit. That one, I'd ask somebody
18 else to address for the Winter 2 period. I would --
19 the Commission sets Winter -- is it appropriate for the
20 Commission to set Winter 2 trip limits?

21 ACTING BOARD CHAIR A.C. CARPENTER:

22 Toni is nodding yes.

23 DAVID SIMPSON: I would move that for
24 the period November 1 through 15 that the trip limit

1 be set at 750 pounds.

2 ACTING BOARD CHAIR A.C. CARPENTER: Is
3 there a second to that motion. Seconded by Dr. Pierce.

4 We do need a clarification. Dave, let me ask, you're
5 carrying for the first 15 days of the season. Is it
6 your intention that it would go to the -- is it your
7 intention that it would then go to the 2,000 pounds for
8 the rest of the season or is this a step-wise process
9 that you're going to do.

10 DAVID SIMPSON: I intended that it would
11 fall back to what we've done in previous years, which
12 I'm vague on the details. I think the plan says
13 something about 2,000, but last year we increased it
14 to 3. So, maybe Toni can shed light on that.

15 TONI KERNS: That's why I want to
16 clarify. The plan says that if we have extra fish from
17 Winter 1 we rollover to Winter 2. And for every million
18 pounds of fish that we roll over, we increase that trip
19 limit by 1500 pounds. So, is the intent of this motion
20 to not increase with the rollover if there is rollover
21 from Winter 1 to Winter 2 to not increase that trip limit
22 by 1500 pounds from November 1 through November 15th,
23 but then from November 16th through the end of the year,
24 the trip limit would be 2,000 pounds with the increase

1 with whatever amount of fish was rolled over? Is that
2 your intent?

3 DAVID SIMPSON: That's exactly my
4 intent.

5 ACTING BOARD CHAIR A.C. CARPENTER: I
6 think we need, Dave, to perfect a motion to say from
7 November 16th through the end of the season or the end
8 of the period, your trip limit would be as the plan calls
9 for it to be calculated.

10 DAVID SIMPSON: Yeah. Sure, I'm happy
11 to make that motion. So, after 750 pounds, we'd say
12 from November 16 to December 31, the trip limit should
13 be set at 2,000 pounds, increased by 1500 pounds for
14 every million pounds rolled over from Winter 1 as called
15 for in the plan. That do it, Toni?

16 ACTING BOARD CHAIR A.C. CARPENTER: Is
17 the seconder in agreement with that amendment --
18 perfection of the motion? Dr. Pierce?

19 COMMITTEE CHAIR JACK TRAVELSTEAD: Is
20 there a like motion from the Committee? Is there a like
21 motion from the Committee -- Council? Pat Augustine
22 makes the motion, seconded by Dr. Kray. Is there
23 discussion on the motion? Red.

24 RED MUNDEN: Thank you, Mr. Chairman.

1 I would like to ask the maker of the motion to provide
2 the rationale for the 750 pound trip limit for the first
3 two weeks in November?

4 DAVID SIMPSON: Sure. I'd be happy to.

5 The rationale is that as you can see from the table
6 that the staff provided that I provided to them, there's
7 a precipitous drop in price that occurs between October
8 and November when we shift from the summer period to
9 the Winter 2 period. That's coincident with a real
10 spike in landings that occurs with these coast-wide 2
11 and 3,000 pound trip limits. And I believe if we
12 moderate the transition from summer to winter period,
13 we'll enhance the price for fishermen in the near shore
14 area that are still the ones who are seeing the fish.

15 The fish in the first two weeks in November are still
16 near shore. It still largely affects, you can see from
17 the table, the States of Rhode Island, New York and
18 Connecticut and Massachusetts. Very few fish are
19 landed anywhere else during the month of November. So,
20 I'm trying to keep the price from dropping from -- last
21 year or 2008 -- from 2 and a quarter a pound to 85 cents
22 a pound overnight.

23 COMMITTEE CHAIR JACK TRAVELSTEAD: pat.

24 PAT AUGUSTINE: Yeah. Thank you, Mr.

1 Chairman. I'm a little confused. On the one hand,
2 we're putting a lot of emphasis on keeping market share,
3 at least that's what I've heard the commercial folks
4 have said in the past, that as soon as the market --
5 product is not available, imports come in and displace
6 them. And it just seems to me here's a concern we're
7 showing that we're going to reduce their quota for a
8 short period of time to make sure that their price
9 doesn't drop because they have the availability of
10 product. I'm confused about that.

11 Why would we want to do that? Why would
12 we not want to leave the responsibility up to the
13 commercial fishermen to either fish for product or not
14 fish for product? I think I'd like to hear from the
15 industry on this part. Again, we're back at a point
16 where we're embedding price in the process. We're
17 saying that's the most essential thing. And the bottom
18 line in my mind is, if we're going to protect the U.S.
19 fishery for keeping it's market share, then I think we've
20 got to make as much product available to them and rely
21 upon them to marketing their product. If I'm wrong,
22 I wish someone of the representatives of the commercial
23 industry would come to the microphone and explain that.

24 Thank you.

1 COMMITTEE CHAIR JACK TRAVELSTEAD: Jan,
2 under the motion from the Council, you should show
3 Augustine and Kray as the maker and seconder of the
4 motion.

5 There were some hands up from industry.
6 Bonnie and then I think Greg.

7 BONNIE BRADY: I'm looking at the chart
8 provided by Mr. Simpson and I -- briefly we talked about
9 it. I know -- when was the market crash? September
10 2008? October? The beginning of 2008? Anybody know
11 just off the top? Seriously, I don't know when the
12 market crashed. 2008 was it? September? All right.

13 That had a bigger determine on price crashing than
14 anything else. For the guys that are fishing in
15 November when it opens, if they're near shore, they want
16 more versus less. Maybe it will be down a nickel, but
17 more, it still translates into more money, a lot of
18 money. I understand your desire to want to be able to
19 keep your fishery and have it a near-shore fishery, but
20 2,000 pounds at 40 a pound versus 750 pounds at 45 a
21 pound, they need more fish. Bottom line. And I don't
22 think what you're asking -- I think the intention is
23 very noble, but it's not going to achieve what you're
24 looking for. We need to keep the market open at the

1 biggest number we can, frankly. Thank you.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Greg, did you have a comment on this? Greg. You don't
4 have to if you don't want to. I thought I saw your hand
5 up.

6 GREG DIDOMENICO: What a great
7 situation to be in. Actually, from a New Jersey
8 perspective, this does not really impact us. I've
9 spoken with Dave about this previously and I think the
10 issue will be that the Rhode Island fishermen, this is
11 not something they would support. That's just
12 something that -- perhaps Dave -- I'm sorry -- Mark can
13 speak to.

14 MARK GIBSON: Well, I will oppose the
15 motion. I think we're going to have trouble -- given
16 the quota increase, we're going to have trouble catching
17 the quota. If we short these people that are planning
18 businesses already around the 3,000 pound increase, so,
19 I wouldn't support it. I think it's going to cause some
20 problems in the industry, at least in the Rhode Island
21 industry.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Thanks, Mark. Jeff.

24 JEFF REICHLE: Thank you, Mr. Chairman.

1 Jeff Reichle from Lund's Fisheries. You know, I can
2 see trying to keep some kind of level pricing when you
3 keep getting quota cut, but now we're talking about
4 raising quota and I think we need to let the market and
5 the fishermen when the fish -- how much the fish are
6 worth and what to sell their product for. Thank you.

7 COMMITTEE CHAIR JACK TRAVELSTEAD:

8 Thank you. Dave. Any other comments from the Council
9 or Committee? Seeing none, I think we're ready to vote.

10 Pat.

11 PAT AUGUSTINE: Mr. Chairman, I was
12 wondering if we could ask the commercial community what
13 they would recommend in terms of the change to ease the
14 status quo. I'm looking for some direction to help me
15 support my second or not support the motion that I put
16 up there. Is that doable, Mr. Chairman?

17 COMMITTEE CHAIR JACK TRAVELSTEAD:

18 Well, I don't see any hands from the industry.

19 PAT AUGUSTINE: How about Dr. Gibson,
20 would he be willing to offer something on behalf of the
21 Rhode Island group?

22 MARK GIBSON: I just did. I already
23 spoke.

24 PAT AUGUSTINE: Well, let it go.

1 COMMITTEE CHAIR JACK TRAVELSTEAD: I
2 think we're ready to vote, Mr. Chairman.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.
4 Move that for Winter 2 period from November 1 through
5 November 15 that the trip limit be set at 750 pounds;
6 from November 16 through December 31, the trip limit
7 will be 2,000 pounds, increased by 1500 pounds for very
8 one million pounds rolled over from Winter 1 as called
9 for in the FMP. Is the Council ready for the question?

10 (Motion as voted.)

11 {Move that for Winter II period from November 1
12 through November 15 that the trip limit be set at
13 750 lbs. From November 16 through December 31 the
14 trip limit will be 2000 lbs increased by 1500 lbs
15 for very one million lbs rolled over from winter I
16 as called for in the FMP.}

17 COUNCIL CHAIR RICK ROBINS: All in
18 favor, please raise your hand.

19 (No response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Opposed, like sign.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Eighteen, including Mr. Augustine. Let's see.

1 Abstentions.

2
3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: The
5 motion fails.

6 ACTING BOARD CHAIR A.C. CARPENTER:
7 Tom, would you like the Commission to take a vote on
8 this?

9 TOM FOTE: But thanks for asking.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:
11 Anything further on scup? Anything further on scup?
12 Greg.

13 PAT AUGUSTINE: I'm sorry, Greg. Go
14 ahead.

15 GREG DIDOMENICO: Greg DiDomenico,
16 Garden State Seafood Association. I had been
17 anticipating the scup quota to increase for several
18 months now and certainly hoping that it has like it has.

19 I've been in communication with several staff members,
20 Toni Kerns, Mike Arruchio, Jessica Coakley, regarding
21 what to increase the Winter 1 trip limit. You know,
22 how can we meet the increased quota by increasing the
23 Winter 1 trip limit.

24 Currently, the agency, the National

1 Marine Fisheries Service has a 30,000 pound possession
2 limit. The states have implemented a 30,000 pound limit
3 not to be exceeded in a two-week period. Judging by
4 the performance of the fishery last year, which
5 essentially closed -- the fishery opens January 1, we
6 caught 80 percent of the quota by April 22nd, I believe,
7 or April 19th, the fishery was closed April 22nd, and
8 then the entire fishery was closed a short time after
9 that, the end of April.

10 Clearly there needs to be either a --
11 well, certainly an increase in the trip limit and an
12 increase in the weekly -- or change in the weekly trip
13 limit. We would like to see a 30,000 pound trip limit
14 not to be exceeded in one week. And that would be the
15 final change. I think that will catch the quota and
16 have it remain open through the end of the Winter 1
17 period. Thank you very much.

18 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat.
19

20 PAT AUGUSTINE: Thank you, Mr.
21 Chairman. And thank you, Mr. DiDomenico. I would move
22 that we set the -- is there a motion up there -- I would
23 move that we set the weekly trip limit for Winter 1 at
24 30,000 pounds --

1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 30,000 pounds per week; is that what you --

3 PAT AUGUSTINE: Per week.

4 COMMITTEE CHAIR JACK TRAVELSTEAD: Per
5 week for Winter 1.

6 PAT AUGUSTINE: For Winter 1.

7 COMMITTEE CHAIR JACK TRAVELSTEAD: On
8 behalf of the Council --

9 PAT AUGUSTINE: On behalf of the
10 Council. Clarification, Mr. Chairman. Toni Kerns is
11 waving her hand at me.

12 ACTING BOARD CHAIR A.C. CARPENTER: All
13 right, Pat. It's move that we set the trip limit for
14 the Winter 1 period to 30,000 pounds per week?

15 PAT AUGUSTINE: Per week, yes, Mr.
16 Chairman.

17 ACTING BOARD CHAIR A.C. CARPENTER: For
18 the Board only?

19 PAT AUGUSTINE: For the Board only.

20 ACTING BOARD CHAIR A.C. CARPENTER: Is
21 there a second to the motion? Seconded by Dave Simpson.

22 And then a question.

23 DAVID SIMPSON: I second the motion.

24 I think that's the right thing to do. That's what the

1 industry wants. Clarification. This is actually a
2 landing limit 30,000 pounds per week, it's not a trip
3 limit, so it could be multiple landings that contribute
4 to the 30,000 pounds; is that right? So, we should
5 remove the word trip from that. Be the weekly landing
6 limit of 30,000 pounds.

7 PAT AUGUSTINE: Could you correct that,
8 please, so it does reflect what Mr. Simpson said.
9 30,000 pounds per week that could include multiple
10 trips.

11 ACTING BOARD CHAIR A.C. CARPENTER:
12 Strike out the words after 30,000 pounds. Correct.
13 Now we have a motion. Perfect.

14 PAT AUGUSTINE: Thank you.

15 ACTING BOARD CHAIR A.C. CARPENTER: Is
16 there a need for a discussion on the motion? Is there
17 a need for a caucus on the motion? I'll call the
18 question.

19 (Motion as voted.)

20 {Move that we set the weekly landing limit for
21 winter I to 30,000 lbs.}

22 ACTING BOARD CHAIR A.C. CARPENTER: All
23 in favor, please raise your hand.

24 (Response.)

1 ACTING BOARD CHAIR A.C. CARPENTER: All
2 opposed, same sign. Any abstentions? Any null. The
3 motion carries. Mr. O'Shea.

4 VINCE O'SHEA: Thank you, Mr. Chairman.
5 Just perhaps from my recollection and the prediction
6 on this trip limit was this would maintain the season
7 through the entire Winter 1 season, but that's what was
8 proposed with this. Thank you.

9 COMMITTEE CHAIR JACK TRAVELSTEAD: Any
10 further issues? Seeing, none, I think we're probably
11 ready to break for lunch, but we're going to come back
12 and get through sea bass and flounder in record speed;
13 since we're about two hours behind.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Jack,
15 before we break. I would like to make one introduction
16 and announcement. I'd like to welcome Russell Dunn.
17 Russell is joining us today. Russell is the National
18 Policy Advisor for Recreational Fisheries for NOAA
19 Fisheries. He'll be making a presentation to us on his
20 activities at the end of the bluefish meeting. And I
21 will encourage all the Board members that are able to
22 stay for that presentation to stick around, because it
23 will be a good opportunity for him to address us both
24 jointly. But again, welcome here today, Russell.

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RUSSELL DUNN: Thank you, Mr. Chairman.

COUNCIL CHAIRMAN RICHARD ROBINS: Why don't we plan on coming back at 1:15 from lunch. Thank you.

(Lunch break 11:47 a.m. to 1:17 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 22nd, day of September, 2010.

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MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
Room 2115 Federal Building
300 South New Street
Dover, Delaware 19901-6790

COUNCIL MEETING

17-19 AUGUST 2010

at

Holiday Inn, Historic District
400 Arch Street
Philadelphia, Pa 19106

(AFTERNOON SESSION)

WEDNESDAY, AUGUST 18, 2010

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1 [8:07 a.m.]

2
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COMMITTEE CHAIR JACK TRAVELSTEAD: We
5 are back in session. And moving on to black sea bass,
6 we'll start with Jessica's presentation and then open
7 it up for questions.

8
9 BLACK SEA BASS MANAGEMENT MEASURES FOR 2011

10 JESSICA COAKLEY: The information we'll
11 be talking about is behind Tab 8 in the briefing book.
12 Table 1 in the staff memo behind that tab gives you
13 a comprehensive overview of the management history.
14 Total allowable landings, TAL's, vary from a high of
15 about 8.2 million pounds in 2005 to a low of 2.3 million
16 pounds in 2009. That was the lowest in the time series.

17 The 2010 ABC, which was catch based, was
18 4.5 million pounds. In 2009, the commercial landings
19 were slightly over quota, and recreational landings were
20 more than double the recreational harvest limit.

21 The current commercial minimum size is
22 11 inches, and the recreational minimum fish size for
23 2010 was 12.5 inches, and that will be discussed again
24 by the Council in December at the -- the next time when

1 the Council and Board are convened to address
2 recreational management measures.

3 The last stock assessment for black sea
4 bass that was peer reviewed was the Data Poor Stock
5 Workgroup panel peer review. The assessment models
6 that resulted from that review were the statistical
7 catch at length model. So, instead of the age-based
8 models that we applied for scup, this is a length-based
9 approach.

10 Yield per recruit analysis was used to
11 drive the biological reference points. And this scale
12 model is not linked up to that AGEPRO projection program
13 that we used in scup and summer flounder. So, the
14 projections themselves were done internal to the model.

15 The Southern Demersal Working Group
16 updated that assessment using the same methods from the
17 peer review with data through 2009.

18 Black sea bass catch estimates are given
19 in this figure. The light blue and sort of tealish blue
20 are the recreational and commercial landings. You can
21 see from the figure that the recreational discards and
22 commercial discards, which are the upper two blocks in
23 this series, have increased over the time series as
24 management measures went into place.

1 One of the inputs into the statistical
2 catch at length model are length-based indices. This
3 is the Northeast Science Center's spring indices for
4 sea bass. The blue line is the -- gives the winter
5 offshore index, which is not input into the model, but
6 the spring offshore, which is the black line, is input
7 into the model and that's given in this figure.

8 The biological reference points that
9 were derived from that peer-reviewed assessment include
10 an F 40 percent, FMSY proxy of 0.42, and SSB MSY proxy
11 of 27.6 million pounds, and black sea bass is not subject
12 to a rebuilding plan at this time.

13 Total catch is the solid line. Fishing
14 mortality is the dotted line. And the red line in this
15 figure is the fishing mortality threshold rate of 0.42.

16 The fishing mortality in the most recent few years has
17 dropped below the threshold fishing mortality rates.

18 This figure gives SSB in recruitment.

19 Recruitment are the bars in the figure. With the
20 exception of the few large recruitments that occurred
21 in early 2000, the sea bass fishery has relatively steady
22 recruitment that's predicted by the model shown in this
23 figure.

24 SSB declined from the mid 70's until

1 about 2000, and SSB predicted from the model increased
2 and has leveled off around the BMSY estimate in recent
3 years.

4 So, in terms of stock dynamics. The
5 fishing mortality rates of the 60's and 70's ranged from
6 about 0.2 to 0.7, peaked in 1985 at 1.26, which is a
7 very high fishing mortality rate. In 2009, F was 0.29,
8 which is below the threshold rate of .42; therefore,
9 overfishing was not occurring on the stock in 2009.

10 SSB increased substantially from the low
11 80's and 90's levels. The 2009 SSB was 28.6 million
12 pounds. 104 percent of that SSB MSY proxy of 27.6
13 million pounds; therefore, the stock is not overfished
14 and the point estimate for SSB is just slightly above
15 the BMSY target.

16 The staff recommendation for 2011 was
17 an acceptable biological catch of 4 and a half million
18 pounds. That was the same ABC that was recommended in
19 2010 by the SSC. And the same basis was used for
20 recommending that. It was a catch-based
21 recommendation, not an F-based approach, and it was
22 consistent with the prior SSC approach.

23 The SSC looked at the information
24 available for 2011 and recommended an ABC of 4.5 million

1 pounds consistent with the prior year recommendation.

2 So, it would be a status quo ABC. It's less than the
3 overfishing limit of 7.64 million pounds. That
4 overfishing limit was derived applying that FMSY 0.42
5 and applying it to the current stock biomass. The
6 catch-based approach reflects concerns about the
7 reliability of the assessment results. They were
8 concerned about strong retrospective patterns in
9 biomass that were exhibited in the model and the fact
10 that the model -- the SSB that was being predicted from
11 the model in many of the survey indices that were input
12 in the model were going in different directions, so,
13 it appears the model might not have been capturing all
14 of those dynamics. So, that's the deviation of the
15 survey estimates and the model predicted estimates in
16 the most recent years.

17 Another concern was the potential for
18 stock structure for this fishery. Their movements
19 based on the tagging information that the Center had
20 done and Gary Shepherd had worked on that suggested fish
21 in the North Massachusetts fish are doing sort of a
22 southern offshore movement; whereas, fish in Virginia
23 and North Carolina are doing more of an inshore/offshore
24 movement. And there were concerns that the dynamics

1 in one region may not be influencing the dynamics in
2 another region and to a large degree.

3 So, specific considerations. The black
4 sea bass has an atypical life history. It's a
5 protogynous hermaphrodite. There's a transition, a sex
6 change, that can occur from anywhere from two to five
7 years old. There's that strong annual retrospective.

8
9 Similar to black sea bass, there is
10 uncertainty in stock status. There's a lack of
11 uncertainty estimation for the biological reference
12 points as well as the model output for the scale
13 assessment. The assessment also assumes a completely
14 mixed stock.

15 There is no uncertainty
16 characterization for the overfishing limit. And
17 similar to black sea bass, and this will apply to summer
18 flounder, there's concern about the application of the
19 trawl calibration coefficient between the Albatross and
20 the Bigelow and how that's going to affect the results
21 of the assessment and how that influences the
22 selectivity patterns in the assessment.

23 The Monitoring Committee met after the
24 SSC met and discussed the ABC recommendations. And they

1 recommended a TAC of 4.5 million pounds. They also
2 suggested if the scup fishery increased substantially,
3 that may increase recreational management uncertainty
4 because those fisheries tend to be coupled. So, the
5 effort for scup and black sea bass are interrelated and
6 that may affect the ability to constrain effort in this
7 fishery if there's a lot of effort being directed on
8 scup.

9 And you do want to know on that slide
10 I put ABC at the top, that's an error. That should say
11 TAC. So, the Monitoring Committee recommendation is
12 for a TAC.

13 They also recommended no change in the
14 other management measures for the plan, the possession
15 limits, minimum fish size, pot vent requirements, mesh
16 size requirements, and an RSA up to 3 percent.

17 The TAC/TAL commercial quota and
18 recreational harvest limit associated with that 4 and
19 a half million pounds as given here, so it would be a
20 3.6 million pound TAL, 1.76 commercial quota and 1.8
21 for a million pound recreational harvest limit.

22 This is the breakdown of the 2011
23 commercial allocations, initial allocations, based on
24 the commercial quota. You can find your individual

1 state and it will give you a feel for what that would
2 look like as an initial commercial quota. And the
3 research set-aside amount associated with the max of
4 3 percent would be that 108,000 pounds.

5 COMMITTEE CHAIR JACK TRAVELSTEAD: Dr.
6 Boreman, do you have anything you want to add on behalf
7 of the SSC?

8 JOHN BOREMAN: Jessica captured a lot
9 of what we thought were major uncertainties. But let
10 me say that this is a case where we do have an OFL estimate
11 from the assessment, but we still decided it was a Level
12 4 species because we felt the assessment really didn't
13 capture a lot of the key components of the life history
14 of this species. It uses a constant natural mortality
15 rate. In species where we know that it's probably --
16 it is different between the sexes just because of their
17 life history.

18 The retrospective pattern in the stock
19 biomass looks like a frayed wire. I mean, it's all over
20 the place. It's unpredictable and that causes us some
21 worry. I'm just looking at our notes here. And also,
22 this idea about there might be some stock structure
23 there. As Jessica said, we're starting to see tagging
24 evidence coming in now that suggests we may be dealing

1 with more than one stock in this management area. What
2 people are seeing -- what the reports that we're getting
3 from the New England area in terms of abundance of black
4 sea bass, we're not getting similar reports in the
5 Mid-Atlantic region down in Virginia, the Capes region.

6 And it's the tagging evidence shows that the movement
7 patterns in the two areas reflect sea bass may be
8 different. So, that's basically it.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:

10 Thank you. Questions of Jessica or Dr. Boreman? Pat
11 Augustine.

12 PAT AUGUSTINE: I was just going to
13 compliment Dr. Boreman on his expanding upon the
14 information that Jessica made available. I think the
15 SSC is leading us in the right direction. Your further
16 expansion of assessment is very helpful to have for us
17 to make our decisions on.

18 And when you're ready to make a motion,
19 Mr. Chairman, I'll be ready to do that.

20 COMMITTEE CHAIR JACK TRAVELSTEAD:

21 Thank you, Pat. Let's see if there are other questions.
22 Peter.

23 PETER DEFUR: Thank you, Mr. Chairman.

24 I've a question I guess for mostly Jessica about the

1 recommended TAC of 4 and a half million with the notation
2 about principally the excess pressure that's likely to
3 be exerted on the black sea bass because of the increase
4 that we approved this morning in scup. Is there
5 something other than we need to note that we're treading
6 on dangerous ground or is that extra fishing pressure
7 is not already incorporated into the 4 and a half million
8 TAC. Right?

9 I mean, we don't have -- we don't have
10 the framework that we approved yesterday otherwise we
11 would call this management uncertainty and have a
12 framework for acting.

13 JESSICA COAKLEY: Well, it is
14 management uncertainty for the recreational fishery.
15 And you're going to be discussing recreational measures
16 in December. So, the Monitoring Committee wanted to
17 note that so you're aware when recommendations are made
18 -- well, when they draft recommendations for you in
19 November and you make a decision in December, that there
20 are concerns about this coupling of effort that a lot
21 of party charter trips go out and target scup and sea
22 bass in conjunction. So, a large increase in scup
23 recreational quota, people are going to go out and fish
24 and encounter black sea bass at the same time. So, the

1 measures may not be as effective for sea bass.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 David.

4 DAVID PIERCE: Yeah. Jessica, just
5 remind me if you will that's constant catch. So, 2008,
6 we had 4 and a half million pounds; 2009, 4 and a half;
7 2010, 4 and a half; 2011, now could be 4 and a half.

8 So, stock is rebuilding. We are no longer overfished.

9 Overfishing is not occurring. Yet, we're going with
10 a constant catch -- constant land -- constant catch of
11 4.5 million pounds; correct? Am I right?

12 JESSICA COAKLEY: Well, you're mixing
13 TAC's and TAL's. In 2007, a 5 million pound TAL was
14 set in place. We don't have the TAC associated with
15 it because we weren't setting ABC's at the time. For
16 2008, it was a 4.2 million pound TAL. For 2009, it was
17 a 2.3 million pound TAL. That was the very large
18 decrease in quota that everyone I'm sure recalls. Then
19 for 2010, it was a 4 and a half million pound TAC, which
20 I believe was about 3.7 million pounds as a TAL. And
21 so, for this year, what's proposed is again a status
22 quo TAC of 4 and a half million pound TAC, but the discard
23 estimate has changed slightly. So, the TAL associated
24 with that would be 3.6 million pounds.

1 DAVID PIERCE: Okay. All right.

2 Thank you for that. All right. That's it.

3 COMMITTEE CHAIR JACK TRAVELSTEAD: Any
4 other questions? Any questions from the audience?
5 Amazing. Okay. Pat, you had a motion?

6 PAT AUGUSTINE: Yes, I do, Mr. Chairman.

7 Thank you very much. I move that black sea bass quota
8 be set -- could I have those numbers back up, please
9 -- the TAC/TAL as on the board -- the TAC set at 4.5
10 million pounds, the TAL at 3.6 million pounds,
11 commercial quota at 1.76 million pounds and the
12 recreational harvest limit 1.84 million pounds. And
13 I guess we'll take the research set-aside as a separate
14 motion. Thank you. That's my motion, Mr. Chairman.

15 COMMITTEE CHAIR JACK TRAVELSTEAD: Is
16 that on behalf of the Council and the Board?

17 PAT AUGUSTINE: Yes, it is, Mr.
18 Chairman.

19 COMMITTEE CHAIR JACK TRAVELSTEAD:
20 Thank you. We have a second from the Council, Red
21 Munden, seconds on behalf of the Council and the Board.

22 Okay. We have a workable motion. Comments on the
23 motion? David.

24 DAVID PIERCE: It's just unfortunate

1 that there can be no considered quota increase, a
2 meaningful quota increase. I continue to be concerned
3 about the approach of just constant catch for black sea
4 bass in light of stock status, again, recognizing there
5 is a lot of uncertainty. So, I will oppose the motion
6 for that and a few other reasons that I'm not going to
7 get into.

8 But I would like to ask a question of
9 Jessica that's related to the motion. And that is, I
10 wasn't here yesterday so I don't know what this Council
11 did relative to the Omnibus, the ABC's, the ACL's, and
12 the strategy you're going to be using in the future next
13 year for 2012. If indeed we find ourselves faced with
14 the same sort of SSC recommendation next year, constant
15 catch, is this Council and then ASMFC -- this board,
16 going to be faced with numbers that are far less than
17 what's on the board up there that will have to take the
18 4.5 and reduce it down considerably to account for
19 whatever strategies have been adopted by this Council
20 that will eventually be implemented through the Omnibus?

21
22 I just continue to wonder about
23 long-term impact of where this Council is going with
24 the Omnibus and what we find ourselves with because of

1 the lack of good scientific information and constant
2 catch strategy likely being employed next year as well,
3 we'll find ourselves far less available for the black
4 sea bass fishery, be it commercial or recreational?

5 I express this concern because of what
6 is happening in Massachusetts. As already noted by
7 Jessica, it's likely that stock status is different
8 north versus south. We don't know what it is because
9 the -- we have tagging information that suggests
10 different movement patterns. The assessment hasn't
11 tackled that issue yet. Maybe it never will be able
12 to tackle it.

13 But anyways, sea bass are incredibly
14 abundant in our waters, all sizes, large sizes as well
15 as small sizes, and this past season we had about a six
16 or seven-day season. Fish were extremely abundant.
17 Yes, there was a bit more effort, but they were extremely
18 abundant.

19 So, I'm thinking to the future as well
20 as 2011, and I foresee some real serious problems up
21 in our region, up in our waters specifically, if indeed
22 the Omnibus action you took yesterday is going to result
23 in numbers that are far less than this for 2012.

24 So, I'd appreciate the perspective

1 regarding what might -- what we might be faced with.

2 JESSICA COAKLEY: Well, the Council did
3 talk about this yesterday and they talked about it with
4 Dr. Boreman as well. So, I'm going to ask Dr. Boreman,
5 would you be willing to comment on that?

6 JOHN BOREMAN: Okay. A couple of
7 points. One, I believe our control rule now says that
8 if it's a Level 4 we cannot recant the status quo. We
9 cannot increase above that.

10 COUNCIL CHAIRMAN RICHARD ROBINS: John,
11 I believe that's only if there's no OFL estimate.

12 JOHN BOREMAN: Okay. Well, this time
13 we have an OFL estimate. And what we did at our SSC
14 meeting, just to see where are current recommendations
15 shake out, is we took that OFL estimate that we had and
16 we assumed a coefficient of variation around that
17 estimate because there wasn't one in the assessment.

18 We assume one of 100 percent, which we felt for the
19 amount of uncertainty in the assessment it's probably
20 appropriate that species. And by using that, we came
21 out with a P-Star of about 28 percent. And right before
22 we met here, I was looking at the preferred option for
23 our risk policy now for the Council.

24 And if you look -- and if the biomass

1 -- if you believe the estimate of biomass -- and I'm
2 not saying the SSC will have a super amount of faith
3 in the biomass estimate because that's where this strong
4 retrospective pattern is -- but if you assume that the
5 biomass is roughly now about BMSY level, which is --
6 the ratio is 1 -- then I -- then it looks -- looking
7 from the graph I believe it came out to somewhere --
8 the P-Star would be about between 30 and 35 percent.

9 So, if we went to the policy, the P-Star policy of the
10 Council, and we determined that the biomass was around
11 BMSY, which next year that may change, the landings would
12 be higher, our ABC's would be higher than the 4 and a
13 half million pounds.

14 COMMITTEE CHAIR JACK TRAVELSTEAD:

15 Hopefully that helps. Other questions? There's no one
16 on the list. Roy. And then Tom.

17 ROY MILLER: Thank you, Mr. Chairman.

18 Very quickly, Jessica, is there any indication from
19 the Wave data you have available for this year as to
20 how we're doing relative to this year's TAC? Does it
21 appear at all likely that there won't be any closures
22 this year?

23 JESSICA COAKLEY: Yeah. I haven't
24 looked at that information. And Toni just let me know

1 that the Wave 3 information isn't available at this
2 point. So, we don't have it.

3 COMMITTEE CHAIR JACK TRAVELSTEAD: Tom.

4 TOM FOTE: I was going to ask the same
5 thing about Wave information. Hopefully, we won't have
6 the same problem we had last year, that we'll have timely
7 data. I also have the concerns that Dave has, and that's
8 why I cannot support this motion. We're status quo,
9 status quo, status quo. It's too much. I can't justify
10 it in my head, so, I cannot support the motion.

11 COMMITTEE CHAIR JACK TRAVELSTEAD:

12 Comments from the audience? Seeing none, I think we're
13 ready to vote.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

15 The motion move the TAC be set at 4.5 million pounds
16 in 2011 resulting in a TAL of 3.6 million pounds,
17 commercial quota of 1.76 million pounds and recreational
18 harvest limit of 1.84 million pounds. Is the Council
19 ready for the question?

20 (Motion as voted.)

21 {Move that TAC be set at 4.5 mil lbs. in 2011
22 resulting in a TAL of 3.6 mil lbs. (commercial
23 quota of 1.76 mil lbs and recreational harvest
24 limit of 1.84 mil lbs.)}

1 COUNCIL CHAIR RICK ROBINS: All those
2 in favor, please raise your hand.

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Eighteen. Opposed, like sign. Abstentions, like
6 sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: One
9 Abstention. The motion carries. A.C.

10 ACTING BOARD CHAIR A.C. CARPENTER: For
11 the Board, is there a need for a caucus? Are the Board
12 members ready? All in favor of the motion before us,
13 please raise your hand.

14 (Response.)

15 BOARD CHAIR A.C. CARPENTER: All
16 opposed, same sign.

17 (Response.)

18 BOARD CHAIR A.C. CARPENTER: Two
19 opposed. Any abstentions?

20 (Response.)

21 BOARD CHAIR A.C. CARPENTER: One
22 abstention. Any null votes?

23 (Response.)

24 BOARD CHAIR A.C. CARPENTER: One null

1 vote. The motion carries.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Okay. Moving on to other sea bass issues. RSA. Mr.
4 Augustine.

5 PAT AUGUSTINE: Thank you, Mr.

6 Chairman. I move that the RSA for 2011 for black sea
7 bass be set up to 3 percent.

8 COMMITTEE CHAIR JACK TRAVELSTEAD: And
9 that motion is on behalf of the Council and the Board?

10 PAT AUGUSTINE: Yes, it is, Mr.

11 Chairman.

12 COMMITTEE CHAIR JACK TRAVELSTEAD:

13 Thank you. Is there a second to the motion on behalf
14 of the Council? Seconded by Dr. Kray for the Council.

15 Second on behalf of the Board? Red Munden seconds on
16 behalf of the Board. Comments on the motion? Tom.

17 TOM FOTE: I'll keep it brief. For the
18 same reasons I gave on scup, I'm not supporting this
19 motion on black sea bass.

20 COMMITTEE CHAIR JACK TRAVELSTEAD:

21 Thank you. Other comments? Comments from the
22 audience? Mr. Chairman, I think we're ready to vote.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Thank

24 you. The motion, move that up to 3 percent of the TAL

1 be allocated for RSA in 2011. This is for black sea
2 bass.

3 Is the Council ready for the question?
4

5 (Motion as voted.)

6 {Move that up to 3% of the TAL be allocated for RSA
7 in 2011 for BSB.}

8 COUNCIL CHAIR RICK ROBINS: All those
9 in favor, please raise your hand.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Seventeen. Opposed, like sign.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Two.
15 Abstentions, like sign. The motion carries. A.C.

16 ACTING BOARD CHAIR A.C. CARPENTER: For
17 the Board, is there a need for a caucus? Seeing none.
18 All in favor, raise your hand.

19 (Response.)

20 ACTING BOARD CHAIR A.C. CARPENTER: All
21 opposed, same sign.

22 (Response.)

23 ACTING BOARD CHAIR A.C. CARPENTER:
24 Two. Any abstentions? Any null votes? The motion

1 carries.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Thank you. Are there any other changes with respect
4 to sea bass? Minimum fish size, gear requirements?
5 Seeing none, I think we're ready to move to summer
6 flounder. Jessica.

7
8 SUMMER FLOUNDER MANAGEMENT MEASURES FOR 2011

9 JESSICA COAKLEY: Okay. The
10 information is behind Tab 9. Table 1 gives the
11 management history for summer flounder. Total
12 allowable landings have ranged from about 15.77 million
13 pounds in 2008 to a high of 30.3 million pounds in 2005,
14 which is the highest in the times series.

15 The 2010 ABC, which is catch based, is
16 25.5 million pounds. 2009 commercial landings were
17 slightly over the commercial quota. Recreational
18 landings were just slightly under. The current
19 commercial minimum fish size is 14 inches. The
20 recreational minimum size is state specific and it has
21 increased over time, and we will be discussing that again
22 in November or December.

23 The last peer-reviewed accepted stock
24 assessment occurred in June 2008 at SAW-47. The

1 assessment models that were approved were an
2 age-structured assessment program called ASAP. The
3 yield for recruit analyses were used to drive the
4 biological reference points and the AGEPRO projection
5 program was used to take the information out of the ASAP
6 model and project that forward to calculate -- to
7 calculate potential 2011 quotas and reference point
8 calculations.

9 The SAW-47 biological reference points
10 include an F 35 percent, FMSY proxy, which is 0.310,
11 and F 40 percent F target which was recommended by the
12 Southern Demersal Working Group of 0.255 and an SSB MSY
13 proxy of 132 million pounds, which is about 60,000 metric
14 tons.

15 UNIDENTIFIED: Can you go back one?
16 Can you go back one?

17 JESSICA COAKLEY: Yeah. And actually,
18 I didn't even hit the button so I don't know how it did
19 that. The stock is under a rebuilding plan and it's
20 to be rebuilt by January 1, 2013. The determination
21 whether it is or is not rebuilt would be based on November
22 1, 2012 SSB estimates, because we calculate our SSB --
23 it's a November calculation.

24 The assessment updated by the Southern

1 Demersal Working Group included data through 2009 and
2 applied the exact same methods and reference points from
3 SAW-47. Total catch and fishing mortality in this
4 figure, fishing mortality is the line with the squares,
5 for the most recent three years, fishing mortality has
6 dropped below the FMSY threshold of 0.310, which is that
7 dotted line, and total catch has declined from high
8 levels in the early part of the time series in the early
9 80's and has stabilized in recent years in response to
10 management.

11 SSC and recruitment. Recruitment are
12 the bars. As you can see, from the late 1980's there
13 has been a rapid increase in spawning stock biomass.

14 And it appears in the most recent year that spawning
15 stock biomass is continuing on an upward trajectory.

16 The 2009 recruitment is also a very high value, 2008
17 as well.

18 Information input into the model
19 includes trawl survey indices from the Northeast Fishery
20 Science Center. I'm just going to run through a couple
21 of these. But they all sort of give you the same feel.

22 That indices declined throughout the 80's, hit a low
23 point in the late 80's, early 90's, and then you've got
24 that general trend upwards in the more recent years.

1 Similar pattern for the Mass. and Rhode
2 Island trawl survey indices. That low point and then
3 an upward swing. The Northeast Fishery Science Center
4 and Connecticut end of year indices for the Connecticut
5 index, you see those two high values in the most recent
6 two years, these are some of the indices that contribute
7 to those recruitment calculations.

8 So, fishing mortality from 1982 to 1996
9 was very high. It ranged from about 1 to 2. Since 1997,
10 it was less than 1.0 and the 2007 F was 0.237, which
11 is below the threshold F of 0.31 and it's also below
12 the target F of 0.255 that was proposed by the Science
13 Commercial Working Group.*

14 Overfishing. Because of this,
15 overfishing was not occurring in the most recent year
16 and it hasn't occurred in the most recent three.

17 Spawning stock biomass increased
18 substantially from the low 1980's levels. 2009 FSC was
19 117.9 million pounds, that's 89 percent of the SSB MSY
20 proxy, 132 million pounds; therefore, the stock is not
21 overfished and it's continuing on its rebuilding
22 trajectory.

23 Recruitment at age zero. The 2009
24 recruitment was 82 million fish. It's the largest

1 recruitment that's been -- since 1986. The average for
2 the time series from 1982 to 2009 is 42 million fish.
3 This is nearly double the average.

4 Model estimates. Retrospective
5 patterns when the model estimates for the most recent
6 years change systematically when new year's data are
7 added. The retrospective pattern in fishing mortality
8 in SSB that previously placed this model has diminished.

9 However, there's a pattern in recruitment that's been
10 observed. So, the annual pattern over the last three
11 years for recruitment has ranged from over estimation
12 of recruitment by about 54 percent to an over estimation
13 of about 80 percent. So, what this means is, where the
14 model is estimating what these recruitments are, but
15 when you add in additional years data, those recruitment
16 values are coming down.

17 In terms of projections. There are some
18 functions that go into that for all of our projections
19 -- samples from the range of past recruitments. It
20 assumes the 2010 TAL is taken exactly and it does not
21 explicitly account for that retrospective pattern.

22 Southern Demersal Working Group and the
23 assessment update provided three sets of projections.

24 The first was that the threshold fishing mortality,

1 a projection of target fishing mortality rate, and then
2 a projecting at 75 percent of that threshold rate, which
3 would be 0.233.

4 So, the staff recommendation was
5 actually a recommendation for a range that the 2011 ABC
6 be set somewhere between 33.95 million pounds, which
7 would be associated with the F 40 percent target to a
8 lower value for ABC of 31.29 million pounds, which is
9 based on the 75 percent of FMSY, which is the .233 value.

10 The SSC reviewed all the information
11 available and they recommended an ABC for 2011 that was
12 based on the 33.95 million pounds. It was the upper
13 end of the range presented by staff. And the SSC
14 expressed concern about the retrospective pattern in
15 recruitment and the impact of that on the rebuilding
16 horizon.

17 Specific considerations that that
18 retrospective pattern is a recurring theme, both the
19 SSC and the Monitoring Committee were concerned about
20 that. There's also uncertainty in stock status because
21 a lack of uncertainty estimation for the biological
22 reference points. There's uncertainty in the estimate
23 of natural mortality. There's no uncertainty
24 characterization for the overfishing limits. And with

1 the other two species, there's concern about the
2 application of the trawl calibration coefficients.

3 The Monitoring Committee reviewed all
4 of this information as well as the SSC recommendations
5 and they recommended a total allowable catch for 2011
6 which would not exceed the maximum sustainable yield;
7 so, it's an upper limit on that TAC equal to MSY, which
8 is 32.26 million pounds. And this was based on concerns
9 over the retrospective pattern.

10 They felt the Monitoring Committee could
11 consider management uncertainty for the recreational
12 fishery in November when they develop recommendations
13 for the Council and Board and they recommended no changes
14 in the mesh size requirements, gear restriction minimum,
15 fish size, exemption programs. There's a supplemental
16 memo from North Carolina on that that was provided.
17 That those states not doing so already consider setting
18 aside 15 percent of their quota for bycatch and an RSA
19 up to 3 percent of the TAL.

20 So, these are the two recommendations
21 side by side: the SSC recommendation and the Monitoring
22 Committee recommendation. And there's a difference in
23 the two recommendations. And the reason -- and John
24 correct me if I describe this incorrectly -- but the

1 reason for that difference, when that F 40 percent target
2 was applied, which is the ABC recommendation, the
3 projections that were used incorporated those high
4 recruitment values in the most recent years as well as
5 it was projecting that the stock size in 2010 would
6 actually cross the SSC MSY threshold. So, it was
7 projecting you'd be a 70-some-odd thousand and
8 (inaudible) metric tons. I can only remember it in
9 metric tons. About 70-some-odd thousand metric tons.

10 Whereas the reference points for SSB MSY is 60,000
11 metric tons. So, the application of that F 40 percent
12 was to a higher stock size than SSB MSY and that those
13 larger recruitments in '08 and '09 contributed to that.

14 The MSY that's derived there is derived
15 directly from the reference points, and those are based
16 on sampling the long-term patterns of recruitment, so
17 the input to that is relative to SSB MSY stock size and
18 sort of a median recruitment pattern that you've been
19 put into that when you derive that.

20 So, those -- those are the differences.

21 It's about a little over a 1.5 million pounds
22 difference.

23 At this point -- well before I go on with
24 commercial shares, is there anything else, John, that

1 you want to add to the SSC -- what the SSC discussed
2 at this point?

3 JOHN BOREMAN: Yeah. I'd just point
4 out that the same situation occurred with scup because
5 we were then applying our 75 percent of F MSY to the
6 current stock size, which was well -- the estimate was
7 well above the SSB MSY level. And the same thing is
8 happening here.

9 The good news I guess in a way is if you
10 believe the current recruitment patterns, the high
11 recruitments in 2008 and 2009 relative to the time
12 series, the SSC feels the stock is probably rebuilt as
13 we speak even though we need another examination of all
14 the data to confirm that next year. But I think that's
15 why you're seeing the ABC above the MSY value.

16 Secondly, we spent some time looking at
17 our ABC recommendation and whatever recommendation we
18 came up with to make sure that if the Council follows
19 that recommendation, the stock would still have a very
20 high probability or high as we can get of being rebuilt
21 by the November 2012 time frame, which is required by
22 law, I guess.

23 So, we as a Monitoring Committee were
24 worried about this retrospective pattern in the

1 recruitment. So, we took the -- and AGEPRO approach
2 to doing some projections there in the meeting, and the
3 projections really don't account for everything, but
4 at least it was a first order projection of what it --
5 the 2009 recruitment was actually half of what -- what
6 is being shown in the model, would that affect our
7 outcome and the answer was no. If we cut that 2009
8 recruitment value in half, it still shows that the stock
9 would be rebuilt by the deadline with this ABC. So,
10 that gave us a little more confidence in recommending
11 that ABC value. We're not going to steer away from the
12 rebuilding trajectory.

13 And other than that, I mean, the stock
14 is in pretty good shape and probably a credit to the
15 Council that it's being rebuilt to this far. So, all
16 signs are still green on summer flounder.

17 JESSICA COAKLEY: Okay. Last few
18 slides. The approximate commercial shares. The TAC
19 equal to the ABC and the TAT equal to MSY in both of
20 these columns. So, those are your approximate state
21 shares, initial shares. This is before any RSA or
22 overages may have been applied.

23 And I did an approximation of
24 recreational shares. The big assumption in there

1 assumes 3 and a half pounds per fish, which is a pretty
2 large summer flounder on average. I'm not sure what
3 the actual value is going to end up being, but it's a
4 ballpark to give you a feel for what the shares may look
5 like by state. And that's about what the average fish
6 size has been across all the states.

7 And research set-aside under those two
8 values (inaudible).

9 COMMITTEE CHAIR JACK TRAVELSTEAD:

10 Peter. Wait just a second. Let me hear from Toni.
11 Go ahead, Toni.

12 TONI KERNS: I just wanted to add this
13 one last recommendation that the Monitoring Committee
14 had stated that the TAC shouldn't exceed the MSY to
15 reduce the likelihood of overfishing in 2011
16 specifically written out.

17 COMMITTEE CHAIR JACK TRAVELSTEAD:

18 Thank you. Peter.

19 PETER DEFUR: Thank you, Mr. Chairman.

20 Can you put the numbers back up. We're not facing an
21 untenable situation where we're recommending -- making
22 a recommendation against our own recommendation; are
23 we? Does either one of these options present us with
24 a position we're not supposed to be in in terms of

1 recommending a number in excess of MSY in one case or
2 making a recommendation against the SSC in the other
3 case?

4 JESSICA COAKLEY: No. The upper limit
5 that you're bound to would be the ABC, which is the 33.95.
6 Now, your Monitoring Committee has
7 provided --

8 PETER DEFUR: Which exceeds the -- I
9 mean, the MSY though.

10 JESSICA COAKLEY: It does exceed the MSY
11 and the Monitoring Committee had recommended
12 considering bounding the 2011 quota at -- or 2011 TAC
13 at MSY. But -- and you know, I just lost my train of
14 thought. I'm not sure where I'm going with this. You
15 know, what, let's pop over to John.

16 COMMITTEE CHAIR JACK TRAVELSTEAD:
17 John.

18 JOHN BOREMAN: Maybe I can help.
19 Overfishing is when the F exceeds the F MSY. And in
20 this case, the F rebuild is F 40 percent which is lower
21 than the F MSY value. So, we're not recommending
22 overfishing here. And because the stock size, if you
23 carry out the projections and you incorporate the recent
24 high recruitment, basically what we're saying is it

1 looks like the stock size now has exceeded SSB MSY or
2 BMSY and, therefore, applying -- you know, your F value
3 to that, you're going to get a higher landings that you
4 would under MSY catch ceiling.

5 So, we're not recommending anything
6 that's illegal I hope. If we are, then --

7 JESSICA COAKLEY: And just a tidbit.
8 The OFL which would be from applying that FMSY threshold
9 is 40.4 million pounds. So, you're looking at 6 million
10 pound to 7 and a half million pound difference from the
11 OFL in terms of those recommendations.

12 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat
13 Augustine.

14 PAT AUGUSTINE: Thank you, Mr.
15 Chairman. A question and then a motion when you're
16 ready. Jessica, would you flip back to the one where
17 -- the one before where the Monitoring Committee
18 recommended a 15 percent set-aside. Have any states
19 done that in the past or is it just a recommendation?

20 Those states not doing so, (inaudible). Is there
21 anybody who qualifies for that? I don't know if it
22 applies and that's why I'm asking the question. It's
23 up there.

24 JESSICA COAKLEY: There are some

1 states. I think New Jersey is doing it. Jack had his
2 hand up. Is New York doing it? No. Okay. Well, any
3 states that are doing it, your state fisheries director
4 should --

5 COMMITTEE CHAIR JACK TRAVELSTEAD: It's
6 not a compliance requirement of course. It's just a
7 recommendation of the plan.

8 PAT AUGUSTINE: Ready for your motion?

9
10 COMMITTEE CHAIR JACK TRAVELSTEAD:
11 Let's see if there are other questions. Tom.

12 TOM MCCLOY: I just wanted to add that
13 we also have a set-aside for bycatch, but it's only 10
14 percent, but it seems to be working fairly well.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:
16 Thank you. Other questions? Red.

17 RED MUNDEN: Yeah. Thank you, Mr.
18 Chairman. Relative to the set-aside of 15 percent of
19 the quota for bycatch, North Carolina sets aside 20
20 percent of it's annual commercial quota for a fall
21 fishery. Any landings of summer flounder that occur
22 between the closure of our winter fishery and the opening
23 of our fall fishery are deducted from that 20 percent.

24 So, we always address the 15 percent by the way our

1 rules are written.

2 COMMITTEE CHAIR JACK TRAVELSTEAD:

3 Thank you. Any questions or comments from the audience?

4 We're looking for a motion, I think. Mr. Augustine.

5 PAT AUGUSTINE: Thank you, Mr.

6 Chairman. Would you flip the next chart up so that we
7 can pick the numbers right off the --

8 For 2011 summer flounder, I move that
9 we accept the TAC at 33.95, the TAL of 29.48, initial
10 unadjusted commercial quota of 17.69 million, initial
11 unadjusted recreational quota of 11.79. That's my
12 motion, Mr. Chairman. We'll address the research
13 set-aside with another motion. That's for the Board
14 and for the Council.

15 COMMITTEE CHAIR JACK TRAVELSTEAD:

16 You're catching on. Thank you. Is there a second to
17 the motion on behalf of the Council? Seconded by Mr.
18 Berg; for the Board, Tom Fote. Comments on the motion?
19 Dave Simpson.

20 DAVID SIMPSON: I guess the difference
21 between the two recommended levels is about half a
22 million pounds; is that right, Jessica? It's a small
23 amount of fish. My only reservation about going the
24 higher level is -- well, there are two.

1 One is that I would like slow steady
2 progress on summer flounder so that we don't have to
3 backtrack. That's the most painful thing we do in
4 fisheries management when we have to cut the quota.
5 So, that's a concern. It does look like the projection
6 is that this November we will have reached the target
7 biomass and I think that's a very good place to be and
8 I don't want to jeopardize that. I know we have a couple
9 more years than that to rebuild, but it's a very good
10 place to be to be at your target ahead of schedule.

11 And again, my only reluctance is the
12 amount -- the half a million fish I would prefer to leave
13 in the water and make sure that we have the biomass we
14 need. The projections, the recruitment estimates
15 rather, it's been pointed out two or three times that
16 we usually over estimate those by 50 to 80 percent.
17 So, you know, it's good news, but we shouldn't get too
18 carried away with it. So, no strong opposition, but
19 my preference would have been the lower quota.

20 COMMITTEE CHAIR JACK TRAVELSTEAD:

21 Other comments? Rick Cole.

22 RICK COLE: I would have also preferred
23 the Monitoring Committee recommendation to a quota
24 that's equivalent to MSY. Here we finally got to a point

1 where we can fish at MSY after all these years, and now
2 we're actually discussing fishing over and beyond it.

3 But nevertheless, I think my real concern is the way
4 these two different quota recommendations have arrive
5 to us. Because the ABC recommendation that came from
6 the SSC is based on the assessment. And the assessment
7 puts a lot of emphasis or there's a lot of influence
8 on that 2009 year class, and the 2008 and 2009 year
9 classes. And it is questionable in my mind that that
10 year class is in fact as strong as we currently think
11 it was.

12 And I like the approach that came from
13 recruit analysis that the Monitoring Committee was
14 relying on that actually calculated the MSY -- because
15 of course, as you know, in that particular analysis,
16 they used an average recruitment level over a long-time
17 series. And I think that depicts -- gives us a much
18 better feeling for what actually -- you know, the
19 dynamics and recruitment in the stock are. And I feel
20 it's much safer to rely on that approach.

21 And I'm reluctant, as I say, here we
22 finally got the MSY and we're talking about fishing over
23 an beyond it, so, I can't support this motion.

24 COMMITTEE CHAIR JACK TRAVELSTEAD: Tom

1 Fote.

2 TOM FOTE: It always amazes me that when
3 the SSC says we need to go down or we can't do something,
4 the people that say the same thing is you're right, we
5 should be more conservative. When the SSC says we
6 should be more relaxed, they still -- no, they wrong,
7 they should be more conservative.

8 We're supposed to be listening to what
9 the SSC. I mean, we don't have no choice as I found
10 out in my votes when we try to go in the other direction
11 of the SSC. I'm willing to abide by what the SSC comes
12 out with, because that's what the law requires, that
13 we at least follow the guides. We can be more
14 conservative, yes. We can be -- we can be more
15 conservative. We can't be more liberal than that.

16 For a change, I'm going to be -- I'm going
17 to take what they say as good. I think -- I think we
18 all have seen the fish. And also, I remember that --
19 you know, a statement was made by the SAW that
20 recruitment doesn't seem to based on spawning stock
21 biomass. And if I'm wrong, somebody correct me. But
22 there was in that (inaudible). Because if you look at
23 some of the recruitment in the early years, it was just
24 as good as a lot of those years when we had double the

1 spawning stock biomass. I think this fishery is on a
2 way to recovery. I think we should have had a bigger
3 quota years ago. I mean, we're still forcing states.

4 And even with this reduction, what is it going to mean?

5 I mean, with the increase. Because we're going to be
6 so conservative when we do the recreational measures
7 because we're going to be so afraid of what we go over.

8 And on the recreational side -- you know, I'm going
9 to see maybe a couple of days added on one side of the
10 season or the other or maybe a half-inch reduction.

11 But this is going to be no windfall. It's not going
12 to get us back to where we could open up 30 days more.

13 It's going to be -- we're talking about maybe giving
14 four days, five days, or a small period of time. Because
15 everybody is afraid especially to go over because we
16 know the consequences there.

17 So, when it goes to our New Jersey Marine
18 Fisheries Council, they'll be more conservative than
19 they could be under the things. They've historically
20 been that. So, I'm looking to basically at least go
21 out with some positive note -- news saying that we've
22 actually followed the SSC. And this way when the state
23 gets more conservative and we get out marine fisheries
24 council, then it's up to them to do that. Thank you.

1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 David.

3 DAVID PIERCE: Yeah. With this
4 particular TAC 33.95, what fishing mortality rate is
5 that expected to create?

6 JESSICA COAKLEY: Yeah. It should be
7 at .255, yeah.

8 DAVID PIERCE: Okay. .255. Okay.
9 All right. Figure 13 in the document that you prepared
10 for us, Jessica, this is the document that went to the
11 SSC and the -- well, the summer flounder assessment
12 summary for 2010, Figure 13, look at spawning stock
13 biomass and look at 2010, 2011 and 2012 as projected.

14 And this is at .255. So, if indeed that particular
15 TAC equates to an F of .255, I look at the spawning stock
16 biomass trajectory and I have a great level of comfort.

17 I don't see much probability at all of our not being
18 where we need to be in terms of hitting our rebuilding
19 target on time. So, I support this motion.

20 COMMITTEE CHAIR JACK TRAVELSTEAD:

21 Howard.

22 HOWARD KING: Well, my comment was
23 coming before David made his comments. But just in
24 principle, I know there's not much difference between

1 the two. But in principle, I do have a little bit of
2 a problem with exceeding a TAC beyond MSY.

3 If I could ask John Boreman. If we look
4 at the history of retrospective analysis for recruitment
5 looking back, how much is that going to influence the
6 SSC's thought that rebuilding would occur sooner rather
7 than later?

8 COMMITTEE CHAIR JACK TRAVELSTEAD:

9 John.

10 JOHN BOREMAN: Well, this pattern has
11 only shown up in the last three years because the
12 assessment method was changed three years ago. And the
13 assessment method was changed in part to address a
14 retrospective pattern in spawning stock biomass and F.
15 Well, it correct for that, but all of a sudden, that
16 balloon popped out in a different area. Now, we're
17 looking at retrospective pattern in recruitment.

18 And we discussed this quite a bit at the
19 SSC, the importance of this pattern. There are some
20 warning signs there which is why we backed off from the
21 FMSY value of .31 back down to .255. But again, we did
22 some quick calculations at the meeting and assured
23 ourselves that we're probably still safe. It's
24 probably still a conservative estimate to allow the

1 stock to reach its rebuilding target even if we halved
2 that value, which the retrospective pattern said it
3 wouldn't be half, it would be somewhere about a little
4 bit less than -- it could be a little more than half,
5 somewhere between one-half and that value. So, we had
6 enough confidence in that to say that it was the ABC
7 based on an F .255 would still get us to our rebuilding
8 target by 2013 if not sooner.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:

10 Other comments? Any comments from the public?

11 PAT AUGUSTINE: Call the question.

12 COMMITTEE CHAIR JACK TRAVELSTEAD: The
13 question has been called.

14 COUNCIL CHAIRMAN RICHARD ROBINS: The
15 motion is move the TAC be set at 33.95 million pounds
16 in 2011. We're looking at a TAL of 29.48 million pounds,
17 commercial quota of 17.69 million pounds, and
18 recreational harvest limit of 11.79 million pounds for
19 summer flounder.

20 Is the Council ready for the question?

21
22 (Motion as voted.)

23 {Move that TAC be set at 33.95 mil lbs. in 2011
24 resulting in a TAL of 29.48 mil lbs. (commercial

1 quota of 17.69 mil lbs and recreational harvest
2 limit of 11.79 mil lbs).}

3 COUNCIL CHAIR RICK ROBINS: All those
4 in favor, please raise your hand.

5 (Response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Fourteen. Opposed, like sign.

8 (Response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: Four.
10 Abstentions?

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: One
13 abstention. The motion carries. A.C.

14 ACTING BOARD CHAIR A.C. CARPENTER: For
15 the Board, is there a need to caucus?

16 PAT AUGUSTINE: No.

17 ACTION BOARD CHAIR A.C. CARPENTER:
18 Seeing none, I'll call the question. All in favor,
19 raise your hand.

20 (Response.)

21 ACTING BOARD CHAIR A.C. CARPENTER: All
22 opposed, same sign.

23 (Response.)

24 ACTING BOARD CHAIR A.C. CARPENTER: Any

1 abstentions?

2 (Response.)

3 ACTING BOARD CHAIR A.C. CARPENTER: One
4 abstention. Any null votes? The motion carries.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:
6 Okay. That moves us to RSA. Mr. Augustine.

7 PAT AUGUSTINE: Thank you, Mr.
8 Chairman. I'd like to move that we set the research
9 set-aside for summer flounder for 2011 up to 3 percent.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:
11 Thank you. Is there a second to the motion? Seconded
12 by Kray and Berg. Comments on the motion? Comments
13 on the motion? Tom Fote.

14 TOM FOTE: Again, for the same reasons
15 that I voted against it for scup and black sea bass,
16 I won't vote for summer flounder. I won't go into the
17 details to keep the time short.

18 COMMITTEE CHAIR JACK TRAVELSTEAD:
19 Thank you. We're ready to vote.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.
21 The motion is move the -- Jack, who moved for the
22 Commission?

23 COMMITTEE CHAIR JACK TRAVELSTEAD:
24 Okay. We need a second. We need a second for the Board.

1 Dave Simpson. Okay. Now, we'll get it.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

3 The motion is move it up to 3 percent of the TAL be
4 allocated for RSA in 2011 for summer flounder.

5 Is the Council ready for the question?

6 (Motion as voted.)

7 {Move that up to 3% of the TAL be allocated for RSA
8 in 2011.}

9 COUNCIL CHAIR RICK ROBINS: All those
10 in favor, please raise your hand.

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Seventeen. Opposed, like sign.

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: One
16 opposed. Abstentions?

17 (Response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: One
19 abstention. The motion carries. A.C.

20 ACTING BOARD CHAIR A.C. CARPENTER: For
21 the Board, is there a need a to caucus? Seeing none,
22 I'll call the question. All in favor, raise your hand.

23 (Response.)

24 ACTING BOARD CHAIR A.C. CARPENTER: All

1 opposed, same sign.

2 (Response.)

3 ACTING BOARD CHAIR A.C. CARPENTER: One
4 opposed. Any abstentions? Any null votes? The
5 motion carries.

6 COMMITTEE CHAIR JACK TRAVELSTEAD: Any
7 further issues on summer flounder? Seeing none, we're
8 going to move to bluefish. But before we do that.

9 JESSICA COAKLEY: Jan, could you put up
10 the joint accountability slide, please, that was in the
11 other PowerPoint. Thank you.

12 JAN SAUNDERS: Do you remember the
13 number, Jeff?

14 JESSICA COAKLEY: You had it up.

15 JAN SAUNDERS: Yeah, but it went out.

16 JESSICA COAKLEY: Oh. Well, if you
17 just stop, I can -- I can find it, Jan.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.
19 This item on the board is an action item that was taken
20 up during the development and finalization of the
21 Omnibus Amendment. Yesterday, the Council approved the
22 Omnibus action. And one of the issues that relates to
23 the joint plans that was in the Omnibus that was approved
24 by the Council yesterday, was a -- essentially a

1 corrective step in the event that we find ourselves in
2 the situation on the management and the joint FMP's where
3 we have a disconnect in catch limits between the Council
4 and the Commission. We would have -- simply have a step
5 whereby we reconvene the two groups to review the
6 disconnect in catch limits.

7 And under the procedures and given the
8 fact that these are joint plans, we would ask that this
9 be considered and acted upon by the Board also. And
10 I would ask -- Jessica, can you read the language out
11 of the Omnibus there?

12 JESSICA COAKLEY: Sure. If the ASMFC
13 implements different total catch or allowable landings,
14 commercial quotas and/or recreational harvest limits
15 for summer flounder that differ from recommendations
16 made by the Council for federal waters, administrative
17 action will be taken to reconvene the Council and ASMFC,
18 Summer Flounder, Scup and Black Sea Bass Board at
19 earliest convenience to revisit the recommendations.

20 The intent of such action is to try and achieve
21 alignment of state and federal measures so potential
22 differential affects on federal permit holders
23 resulting from different catch levels is avoided.

24 COUNCIL CHAIRMAN RICHARD ROBINS: And

1 again, these measures were passed for the management
2 of fluke, black sea bass, scup and bluefish. And
3 consequently, we would ask that they be considered by
4 this Board and also by the Bluefish Board. And the
5 overall intent is simply to have a step in the FMP that
6 ensures that we have an opportunity to get back together
7 and reconvene to revisit any disconnects. Obviously,
8 we're managing public resources that we share in common
9 and we're trying to achieve collaborative management
10 throughout the management of these joint FMP's.

11 ACTING BOARD CHAIR A.C. CARPENTER: Did
12 I miss something? I just heard what the Chairman said.

13 But I think when, Jessica, you read the language, I
14 think it mentioned only striped bass -- I mean, only
15 summer flounder. Does it? Oh, all three species.
16 Okay. Thank you.

17 COMMITTEE CHAIR JACK TRAVELSTEAD: So,
18 at issue right now is the need for the Board to adopt
19 a similar motion as to what the Council adopted
20 yesterday; correct?

21 PAT AUGUSTINE: Point of information,
22 Mr. Chairman. I think that was Mr. Munden's motion
23 yesterday. Would you honor his motion, with this being
24 his motion on behalf of the Board?

1 ACTING BOARD CHAIR A.C. CARPENTER:

2 Well, I think -- I think Jack is correct. We need a
3 motion from the Board, so I'll recognize Mr. Munden to
4 -- for a motion.

5 RED MUNDEN: Thank you, Mr. Chairman.

6 So move a motion for summer flounder, scup, black sea
7 bass and bluefish that incorporates the language on the
8 board.

9 ACTING BOARD CHAIR A.C. CARPENTER: I
10 think the Bluefish Board has to take their own motion.
11 so, if you would just eliminate bluefish from your
12 motion, I think we can adopt that here.

13 RED MUNDEN: I concur with that.

14 ACTING BOARD CHAIR A.C. CARPENTER: Is
15 there a second to that motion? Seconded by Mr.
16 Augustine. Red, can you repeat your motion so we can
17 get it up on the board, we can get a copy of it. I think
18 you need the if in there.

19 RED MUNDEN: Mr. Chairman, I'm looking
20 for the exact language that we discussed yesterday which
21 is the language that was up on the board a couple of
22 minutes ago.

23 ACTING BOARD CHAIR A.C. CARPENTER:

24 Red, I think we've just added that to your motion. If

1 you'd look at your motion now.

2 TOM MCCLOY: Mr. Chairman, point of
3 order.

4 ACTING BOARD CHAIR A.C. CARPENTER:
5 Yes, sir.

6 TOM MCCLOY: This particular body can't
7 make a recommendation for the Atlantic States Marine
8 Fishery Commission. It can only make it for the Summer
9 Flounder, Scup and Sea Bass Board; am I correct?

10 COMMITTEE CHAIR JACK TRAVELSTEAD: I
11 think that's the implication of the motion.

12 ACTING BOARD CHAIR A.C. CARPENTER: I
13 think that's -- yes, I think that's the intent of this.
14 So, if you feel more comfortable that if the Summer
15 Flounder, Scup and Black Sea Bass Board -- but the Board
16 doesn't implement. The ASMFC actually implements.
17 So, I think the motion is technically correct.

18 ACTING BOARD CHAIR A.C. CARPENTER: Mr.
19 Fote.

20 TOM FOTE: It goes to the Policy Board
21 to approve an addendum to a plan or an amendment. This
22 is not an addendum or an amendment, so, it goes to the
23 Board.

24 ACTING BOARD CHAIR A.C. CARPENTER: I

1 stand corrected. Toni says that it is the Board that
2 establishes, so I think we do need the motion to read
3 that if the ASMFC Summer Flounder, Scup and Black Sea
4 Bass Board implements. Is everybody happy now? Can
5 we add the word jointly after reconvene? All right.

6 Now, Dr. Pierce.

7 DAVID PIERCE: The word implement seems
8 a bit strange. I thought it was adopt. What did we
9 do here today as a Board? We adopted the specific
10 numbers. We didn't implement anything. Maybe it's a
11 fine line, but adopt seems to be a better way to put
12 it.

13 And with that said, I wasn't here
14 yesterday. This is Option or Alternative J. I assume,
15 therefore, there are many other options relative to how
16 ASMFC, the Boards and the Council can reconcile
17 differences. I don't know what they are. Are there
18 any others or is this really the only one?

19 ACTING BOARD CHAIR A.C. CARPENTER: I
20 wasn't here yesterday either; so, I'll ask the Chairman
21 to reply to that.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
23 you, A.C. There are two options in the document. One
24 is no action and one is this action. This action was

1 crafted as an option throughout the development of the
2 Omnibus so that we would have the opportunity,
3 recognizing again the importance of the joint plans,
4 to get both bodies back together in the event that we
5 had the situation where we were disconnected in terms
6 of our key management measures. And again, it simply
7 provides for that joint meeting to occur if that -- if
8 that comes to pass so that we can try to review the
9 differences.

10 ACTING BOARD CHAIR A.C. CARPENTER:

11 I've been advised that Dr. Pierce is correct that the
12 Board approves, the Board does not implement. So, if
13 we can change that word as well. Red, if you'd agree
14 with that correction?

15 JAN SAUNDERS: Approve or adopt?

16 ACTING BOARD CHAIR A.C. CARPENTER:

17 It's approve. Is there further -- Vince O'Shea, please.

18 VINCE O'SHEA: Thanks, Mr. Chairman.

19 First, the obvious, and that is -- you know, there's
20 to the Commission financial implications of holding
21 another Board meeting in the future. So, I just want
22 to put that marker in.

23 And I guess the second would be maybe
24 a question to the service as what -- for the maker of

1 the motion, what happens to this motion if for example
2 National Marine Fisheries Service was to approve a
3 quota, a different quota? Thanks.

4 ACTING BOARD CHAIR A.C. CARPENTER:

5 Pat.

6 PATRICIA KURKUL: I don't think I
7 understand the question. A different quota from what
8 the Council recommended? This motion doesn't speak to
9 that at all.

10 ACTING BOARD CHAIR A.C. CARPENTER: Tom

11 Fote.

12 TOM FOTE: Well, that was my question.

13 If the Council and the Commission both approve specs
14 and it goes to the Regional Director and all of a sudden
15 we get disapproved, those specs, is she going to call
16 or he going to call a special meeting with us and pay
17 for that meeting for us to meet to try to rectify the
18 situation? Because that's not how it works. And they
19 could -- and they come back to the Council and tell the
20 Council to check the specs, the Council has to do it.

21
22 Now, how do we stand on that? I mean,
23 that's what I've been thinking while I'm sitting here
24 all this time, thinking about this motion. And I'm

1 saying -- because that was where the problem winds up
2 most of the time-- you know, where NMFS says well, we're
3 not going to approve this and not going to approve that.

4
5 It's not where the Council says it.
6 It's where the Regional Director says or they ask well,
7 can we approve this and they say -- the feeling of the
8 Regional Director is not. So, that's why I don't think
9 this is -- you know, I don't mind getting together
10 especially if the Council wants to pay for the Commission
11 to come to a meeting. But I also have a problem that
12 -- not only for the cost to the Council or the Commission,
13 but it's really the Regional Director. And so, maybe
14 the NMFS has to pay for the meeting.

15 ACTING BOARD CHAIR A.C. CARPENTER: Is
16 there any other discussion on the motion?

17 PAT AUGUSTINE: Call the question.

18 ACTING BOARD CHAIR A.C. CARPENTER: Is
19 there a need for a caucus on the motion? Howard.

20 HOWARD KING: Following up on Vince's
21 comment about the financial burden this might place on
22 ASMFC, administrative action doesn't necessarily mean
23 a face-to-face meeting; does it?

24 ACTING BOARD CHAIR A.C. CARPENTER: I

1 would think that there may be other options available
2 to us at some point in time. Seeing no further
3 discussion. Tom.

4 TOM FOTE: Since my questions weren't
5 answered, the questions I asked about the Regional
6 Director and what happens there, I guess I can't support
7 the motion in the present form.

8 ACTING BOARD CHAIR A.C. CARPENTER: All
9 right.

10 COUNCIL CHAIRMAN RICHARD ROBINS: A.C.,
11 before you call the question, if I can, just to clarify
12 that. This motion doesn't speak to the relationship
13 or actions between the Council and the Regional
14 Administrator, but rather simply between our two bodies.

15 That is, if we have a disconnection in key management
16 measures between the Council and the Commission that
17 we would get back together, not if a different action
18 were taken by the Regional Administrator.

19 TOM FOTE: Can I just follow up to that?
20 Then Rick, then that means you will not be calling us
21 to have a special meeting if the Regional Director
22 overrides the joint recommendations of the both Council
23 and the Commission?

24 COUNCIL CHAIRMAN RICHARD ROBINS: The

1 Council would not. Right.

2 TOM FOTE: Then I can support this.

3 ACTING BOARD CHAIR A.C. CARPENTER: All
4 right. With that point of clarification, are we ready
5 for the vote.

6 (Motion as voted.)

7 {Move that if the ASMFC Summer Flounder, Scup,
8 Black Sea Bass Board approves TAC/TAL, quotas, RHL,
9 that differ from MAFMC recommendations, then admin.
10 action to reconvene jointly at earliest convenience
11 to revisit recommendations.}

12 ACTING BOARD CHAIR A.C. CARPENTER: All
13 in favor, please raise your hand.

14 (Response.)

15 ACTING BOARD CHAIR A.C. CARPENTER:
16 This is a Board motion. One vote per state. Ten. All
17 opposed, same sign.

18 (No response.)

19 ACTING BOARD CHAIR A.C. CARPENTER: Any
20 abstentions? Any null votes?

21 (No response.)

22 ACTING BOARD CHAIR A.C. CARPENTER: The
23 motion carries.

24 COUNCIL CHAIRMAN RICHARD ROBINS: And

1 again, thanks to the Board for its consideration on that
2 issue related to the Omnibus. Thank you.

3 COMMITTEE CHAIR JACK TRAVELSTEAD: I
4 think that's all the issues for summer flounder, scup,
5 sea bass. Thank you to the staff, Jessica and Toni,
6 for their assistance in getting us through this. We're
7 going to take a five-minute break so staff can shift
8 out and then we'll take up bluefish.

9 (Break 2:36 p.m. to 2:54 p.m.)

10
11 BLUEFISH MANAGEMENT MEASURES FOR 2011

12 COMMITTEE CHAIR JACK TRAVELSTEAD:
13 Okay. We're back in session, I guess, this time with
14 the ASMFC Bluefish Management Board. And follow the
15 same procedures. We'll hear from Jim first and then
16 open it up for questions. Jim.

17 JAMES ARMSTRONG: Thanks, Jack. I
18 think I heard Pat say he wanted to move straight to the
19 motions. But, we've got to pay for it.

20 I'm not going to belabor the
21 specification process, but it does have a few unique
22 features as far as bluefish go. It starts with the
23 assessment update, in this case, the ASMFC Technical
24 Committee is the body that produces that.

1 It's not a Center product. And the
2 information is presented to the SSC and scientific
3 uncertainty is taken into account. And then it's passed
4 on from there after the ABC determination is made to
5 the Monitoring Committee. And at that point, the
6 Monitoring Committee takes into account management
7 uncertainty and determines the TAC/TAL and other
8 management measures.

9 And importantly, this includes a transfer
10 into the bluefish fishery. There's the ability to
11 transfer part of the TAL from its initial division of
12 17 percent to the commercial fishery and 83 percent to
13 the recreational fishery, but the recreational fishery
14 can move some of that back to the commercial fishery.

15 Following that, another feature of this
16 is that the final transfer amount and the final
17 commercial quota and recreational harvest limit are as
18 a rule making is done by the Regional Office where the
19 complete current year, that is, the 2010 year
20 information from MRFSS is then known and a more robust
21 projection of recreational harvest in the specification
22 year to be made.

23 And so, if any adjustments need to be
24 made to the transfer amount at that point, then they

1 are made after the proposed rule is published which
2 reflects the Council's and hopefully also the Board's
3 recommendations and the final rule.

4 So, the process here includes an initial
5 TAC determination that can be less than or equal to ABC,
6 which is provided by the SSC. We subtract discards to
7 get the TAL and then that's divided 17 percent commercial
8 and 83 percent recreational. And that percentage of
9 proportional allocation, initial allocation, is based
10 on the 1981 to 1989 time frame that's used as a reference
11 period for that.

12 Then estimated recreational harvest in
13 the specification year is done. And if that estimate
14 of recreational harvest is less than 83 percent of the
15 TAL, then that allows for a transfer to be made to the
16 commercial fishery with a maximum of 10.5 million pounds
17 resulting.

18 So, once that ceiling is hit, then
19 there's -- you can't transfer any more. And once that
20 transfer has been done, then you have a commercial quota
21 and a recreational harvest limit.

22 In terms of stock characteristics.
23 Bluefish unlike some of the other ones we're talking
24 about today, go throughout the coast from Maine to

1 Florida. They're pelagic and highly migratory. They
2 spend a significant period of time offshore and are
3 somewhat unavailable to both the fishery and survey
4 vessels -- or surveys.

5 And this results -- the migration up the
6 coast as the water warms over the course of the year
7 and no discrete spawning period results in the
8 production of multiple cohorts. We have strong
9 evidence that there are two, a spring and a summer
10 cohort. There may also be a fall cohort. It's thought
11 that the spring cohort is the most important one and
12 that that contributes to the year class strength.

13 We have landings going back to 1981.
14 Bluefish is one of the most popular sport fish on the
15 Atlantic coast. And as a result, we don't try to
16 characterize any fishery prior to the development of
17 the MRFSS data collection system.

18 So, we go back to '81. As you can see
19 here, back in the day -- back in the day, in the '80s,
20 the recreational fishery was enormous. And catch has
21 declined into the mid '90s when the stock appeared to
22 go below the biomass threshold. And rebuilding of the
23 bluefish stock was initiated and that terminated -- we
24 got our letter from the Regional Office congratulating

1 us for rebuilding the stock in October of last year and
2 that was based on two years of estimates of BMSY above
3 the biomass target.

4 So, you can see here, relative to the
5 recreational fishery, the commercial landings are
6 really incredibly stable for that kind of time frame.

7 And I can only attribute that to the flavor of the fish.

8 The stock assessment is brought to us
9 by age structured assessment program. It was first
10 blessed by the 41st SAW in 2005, and used by the 2006
11 and forward fishing years. And I use this fishery
12 dependent data for commercial landings and recreational
13 catch -- of that I said the commercial landings not the
14 commercial catch, that's because discards are very
15 difficult to estimate in the mixed species commercial
16 fishery, there's (inaudible) insignificant relative to
17 the total catch. Recreational landings and discards
18 are used.

19 28 indexes are used in the assessment
20 and these include a recreational CPUE. And then for
21 fishing mortality rate, it's estimated -- F at age is
22 estimated as the fully selected F or F -mult times
23 selectivity at age.

24 Current stock status for bluefish. As

1 I mentioned, stock was declared rebuilt, and not
2 surprisingly, it's also not overfished according to the
3 latest efforts overfishing is not occurring. Biomass
4 continues to trend up as since the mid '90s and fishing
5 mortality is generally trending down. it's a little
6 bumpier.

7 Biomass in 2009 was estimated to be about
8 156,000 metric tons compared to a biomass target BMSY
9 of 147,000 metric tons. It's above BMSY. F in 2009
10 was quite low, in the time series estimated to .1, that's
11 a fully selected F compared to the F target which is
12 90 percent of MSY .17 and FMSY threshold .19. Quite
13 low.

14 Another important finding of the
15 assessment update was that the 2009 year class of
16 bluefish appears to be very weak, the smallest on record.

17
18 So, here's the biomass trend starting
19 back in the early '80s bottoming out in the mid '90s
20 and then gradually but steadily for the most part coming
21 up to above the BMSY target in around 2008. There are
22 no uncertainty bounds on this biomass trajectory because
23 the ASAP model estimates uncertainty for spawning stock
24 biomass but not total biomass, which is used relative

1 to -- it's the measure that we use to compare to the
2 reference point for stock status.

3 Fishing mortality is estimated with
4 uncertainty as well, 95 percent confidence there. And
5 as you can see, it's been declining overall since the
6 early '90s at least, and is below and has been below
7 the F target, defined in the FMP and the red line, the
8 F threshold. It dropped rather precipitously last
9 year, like I said, the low in the time series.

10 Other important finding -- I don't
11 expect you to read it -- I can't frankly -- but what
12 we have here is the model estimate of a number at age.

13 And in January 1 the start of the fishing year. And
14 so, the first column we have is the recruits. As you
15 take an average number of that, it's about 24 million
16 fish born in a given year. And for 2009, we had about
17 8 million. So, that's the smallest one so far.

18 The low catch of age zeroes in the index
19 is what drove that as well as the low catch in the
20 fishery, the recreational fishery as well as the
21 commercial fishery. The index is -- tell on average
22 a -- the story that that was indeed a small year class.

23 You have four indexes suggesting that was a low year
24 class, but the Connecticut and SEMAC indexes differ

1 saying that it's a stronger year class. So, we'll know
2 soon enough, I supposed.

3 Sources of a scientific uncertainty.

4 Seeing the figures for retrospective analysis before
5 they're used to determine whether terminal year
6 estimates of a given model -- or population or parameter
7 are inaccurate or varied as more information comes in.

8 And you can see here that for SSB, spawning stock
9 biomass, it's fairly consistent. There's not very much
10 uncertainty as well in the model's characterization of
11 uncertainty in the fishing mortality.

12 And then here we have total abundance,
13 a bit more of the frayed wire look where you have
14 uncertainty in the terminal year, but when you look at
15 other things, are consistently over or under estimated
16 in this -- they're pretty evenly distributed. So,
17 there's uncertainty but not directional uncertainty.

18 Scientific uncertainty is the main focus
19 of the SS Committee. And they had comments about the
20 bluefish assessment. As you saw so far that the
21 scientific uncertainty that was characterized by the
22 model it's relatively low, but that doesn't tell the
23 whole story. In fact, it could be -- give the impression
24 that we know that we have a lot of confidence in model

1 outputs and that might not be the wisest conclusion.

2
3 A lot of scientific uncertainty is
4 unquantifiable. In developing an age-structured
5 model, one of the key inputs is the catch at age matrix,
6 and there's an age link key that is a key to developing
7 that. And when you don't have sufficient age samples,
8 you can't get a very robust age link key. A lot of times
9 you have holes in it.

10 And that seems to be the case with
11 bluefish. And we basically need -- we have a lot of
12 otoliths, I believe, but we don't have enough people
13 aging them. And so, the age link keys don't perhaps
14 catch the year class strength, and other things that
15 they're supposed to characterize. So, that's a
16 fundamental problem with this assessment.

17 There's also concern about the -- it's
18 the FSV Bigelow, the fishing survey vessel Bigelow,
19 which has replaced the Albatross, and this is across
20 the board for all species, the calibration coefficients.

21 And then also perhaps very important for bluefish, I
22 guess maybe for all the stocks we've talked about today,
23 the vessel is quite large compared to the Albatross and
24 so the near-shore portions or the inshore portions of

1 some of the near-shore strata cannot be sampled as they
2 were able to with the Albatross. And so, that changes
3 things a little bit. There could be fish inshore that
4 simply aren't getting -- the vessel doesn't have access
5 to.

6 Commercial discards are assumed to be
7 insignificant. That's an assumption, it may not be
8 true. The population of -- the population biomass, 40
9 percent of it is in this -- in the plus group, the catch
10 at age matrix consists of age zero through six-plus.

11 So, once they're six years and older, they're all lumped
12 into the same group. 40 percent of biomass consists
13 of these fish, but sample size is very low for them.

14 The weight at age that's used from the
15 period 2004 plus has been a constant weight at age.
16 And if there is an error in that, then it can be important
17 relative to the estimate of total biomass compared to
18 BMSY.

19 And anytime you're dealing with a stock where
20 the majority of the information is coming through MRFSS,
21 then any of the questions you have about the inability
22 of that data source become even more important. And
23 as I said, there's a certain period of time when the
24 fish are about three, four, five years old and they start

1 becoming very unavailable to the surveys and to the
2 fishery as well.

3 And it creates rather than a typical dome
4 shape or flat-top selectivity curve, we have a bimodal
5 curve, so you have a lot of fish that are either quite
6 young and a lot of fish that are quite old available
7 to the fishery, but -- well, that's available to the
8 fishery and that's unusual and well understood for this
9 stock.

10 Acceptable biological catch is a
11 reduction from the overfishing limit where the
12 overfishing limit is the catch at threshold.
13 Overfishing limit for bluefish is about 18,000 metric
14 tons give or take about less than a thousand metric tons.
15 So, that's fishing at FMSY.

16 The SSC determined that bluefish fall
17 into -- can be categorized as a Level 3 assessment.
18 There are -- there's precision estimated for biomass,
19 fishing mortality, recruits, but not for the overfishing
20 limit, that is the FMSY that you apply to -- that you
21 apply in the projection, the bounds on that in developing
22 the biological reference point or it's we were just
23 dealing with a sort of a point estimate there.

24 I already mentioned about the sample

1 size. Given that it's an F Level 3 assessment which
2 results in an F-based determination of ABC as opposed
3 to say a catch history basis for ABC, the stock
4 recommendation was for the SSC to consider a range and
5 F targets of .15 to .17, .17 being the FMP's F target.

6 The SSC ended up recommending .15, the
7 lower end of that range, for -- as the F target for 2011.

8 Basically, that F target, .15, has been the target ever
9 since the ASAP assessment was used for managing the
10 stocks. So, that's work so far and the SSC is looking
11 forward to it continuing to work.

12 Uncertainty is -- the model
13 characterization, the ASAP model uncertainty is carried
14 forward and the projection of total biomass when you
15 apply a range of F targets -- these numbers that you
16 can't barely read -- are -- range from .10, the real
17 (inaudible) for 2009 to FMSY the threshold. And if you
18 -- if you apply those and then look at the upper and
19 lower confidence limits, for 2011, you see -- you know,
20 again that very tight range as a result of the low model
21 uncertainty.

22 And you see that also -- possibly you
23 can't -- this dotted line here in the figure is the
24 biomass target. And even at -- applying fishing at OFL

1 in 2011, we don't have biomass going below that target.

2 So, that might get you a little -- feeling a little
3 cocky, and -- you know, do that.

4 So, the range in F targets that we've
5 -- these are the TAL's and TAC's and TAL's and then the
6 upper and lower limits on TAC's that come from those
7 different F targets. And like I said, the SSC
8 recommended .15. That, relative to the 2010 TAL, that
9 comprises a -- about a 7 percent drop. Okay.

10 In considering management uncertainty.

11 One of the things we could look back at is in the
12 implementation of uncertainty. In other words, you set
13 a TAL and then can you achieve it. And only once in
14 a ten-year time series have we exceeded the TAL. That
15 was in 2007 when there was an extraordinarily high
16 recreational catch. And the price we paid was that F
17 went screaming up from .15 to .16.

18 Now, this -- we consider management
19 uncertainty rather than scientific uncertainty. I
20 don't know if this is just my own way of looking at it,
21 but we exceeded the TAL but it would be to me, it would
22 be scientific uncertainty if we achieved what we sought
23 to achieve but then the model estimate of F was greater
24 than what we had set out to achieve. That would be more

1 scientific uncertainty.

2 So, this was more in the implementation
3 phase and it has to do with the loose hold we have on
4 the recreational fishery. The commercial fishery in
5 2007 came in about a million pounds under.

6 All right. So, again, the TAC was
7 exceeded once in ten years. Commercial fishery is
8 managed through a quota monitoring system, so we're
9 fairly confident that we can accomplish what we set out
10 to do with the commercial fishery. There's certainly
11 less oversight in the recreational fishery.

12 Another source of management
13 uncertainty is that we -- part of this process is doing
14 a projection of recreational catch in the specification
15 year and it's awfully hard to know what the recreational
16 fishery is going to do in the future.

17 If we look at our -- at our history here,
18 we have the extent to which we exceeded the recreational
19 harvest limit. In 2006, we show this one a little bit
20 above it. In 2007, that was the year when we went above
21 by a bit. Actually, a little shy of 2 million pounds.

22
23 And in the subsequent two years, we've
24 gone under. And last year we went way under.

1 Recreational catch in 2009 was -- of bluefish was quite
2 low. We were 6 million pounds under the recreational
3 harvest limit. That's probably what contributed to
4 that low F.

5 We take a three-year average of the
6 recreational landings and use that to project what we
7 think we're going to land in 2011, we get a 17,882,000
8 pounds of bluefish. If we take a longer average, we
9 get a lower -- slightly lower but not much different
10 number.

11 So, what do we do about this weak year
12 2009 year class. In 2011, these fish are going to be
13 two years old and that means, according to the link keys
14 anyway, they could be anywhere from 14 to 22 inches long.

15
16 If we really wanted to corral the
17 management system around them and protect them, we'd
18 be looking at a pretty big size range in bluefish. And
19 we've never had a protected slot or anything in bluefish
20 before. But, you know, if you wanted to go straight
21 at how to protect a year class, that would probably be
22 the way to do it.

23 The Monitoring Committee however felt
24 that beyond the F-based catch target, which they felt

1 was fairly precautionary, that further management
2 measures weren't warranted and they suggested that
3 additional information on the strength of the 2009 year
4 class would be forthcoming. And they -- and since this
5 is a relatively healthy stock with one bad year class,
6 that it would really take the occurrence of another i.e.
7 the 2010 year class to be bad, to really start to focusing
8 in this kind of thing.

9 So, the Monitoring Committee
10 recommended setting the TAC equal to ABC, not going any
11 further beyond that. The TAL then by the formula is
12 the TAC minus discards. So, TAC would be 31.7 for 4
13 million pounds and the TAL taking away 4.451 million
14 pounds ends up at 27.293 million pounds. This would
15 -- when we project recreational harvest -- this shows
16 up really well on my computer -- when we project
17 recreational harvest for 2011 taking a three-year
18 average, we end up with -- after the 17/83 percent split,
19 we end up with a remainder of 4.772 million pounds that
20 is left over on the recreational side that could be moved
21 back over to the commercial side.

22 And the Monitoring Committee felt that
23 what we tend to do year to year -- and this has been
24 the way we've been doing it -- is to try to maximize

1 opportunity within each sector. And so, you have some
2 expectation of the harvest in the recreational sector
3 and then you try not to be overly restrictive on the
4 commercial side. So, the maximum transfer was
5 recommended in that -- from that standpoint.

6 Other recommendations include status
7 quo possession limits of 15 fish and up to a 3 percent
8 RSA. So, in summary, we have F target equal to status
9 quo F .15, which corresponds to an ABC at F target of
10 31.744 million pounds, TAC set equal to ABC 31.744
11 million pounds. TAL is TAC minus discards. Transfer
12 the maximum amount allowed, currently is 4.772.

13 And as I mentioned at the very beginning,
14 during final rulemaking, if the new information that
15 is available warrants a reduction in that transfer
16 amount, then that can be made by the Regional Office.

17 So, the Monitoring Committee acknowledged that. And
18 also status quo possession limits, 3 percent RSA as I
19 mentioned. That's it.

20 COMMITTEE CHAIR JACK TRAVELSTEAD: Dr.
21 Boreman, do you have anything you want to add?

22 JOHN BOREMAN: Jim did a very good job
23 of summarizing our concerns about uncertainty. I just
24 want to emphasize this bimodal selectivity that has

1 shown up. I did a bluefish assessment back in 1983 and
2 I noticed that back then in the survey data, it's showing
3 up in the surveys and it's also showing up in the catch,
4 in the landings, that there's this -- this size like
5 between 20 and 40 centimeters or so, that the bluefish
6 disappear from the coast for some reason.

7 At least that's what the data is showing.

8 Maybe there's a refuge out there that they -- that they
9 go to. So, there -- it's modeled. It's part of the
10 assessment model, but there's no satisfactory
11 biological explanation of why this is happening.

12 So, that was a cause, a major cause of
13 concern for the SSC again that a lot of the population
14 biomass, almost half of the population biomass, is in
15 a plus age group for which there is very little
16 information available to track that -- to track that
17 age group.

18 And I hate to say it, but this is a case
19 where probably the MRFSS data is probably is a little
20 more uncertain than we would like to see it because of
21 the seasonal nature of this fishery, the pulse nature
22 of the way that it moves up and down the coast, how the
23 fishery is prosecuted versus how the MRFSS survey has
24 conducted it. We'd be trying to correct through the

1 MRIP program. But now these estimates probably just
2 add to the uncertainty of the estimates.

3 And while I have the floor -- I was hoping
4 that Dr. Pierce would still be here for this -- but I
5 do want to talk about getting information into the SSC
6 before our meeting. The last Council meeting or the
7 Council meeting prior to that, the Council approved
8 standard operating procedures for the SSC that -- based
9 on our recommendations. And one of them was, when does
10 information get to the SSC. And the current procedure
11 is no later than 15 days before our meeting.

12 If we're going to be discussing bluefish
13 or black sea bass at a meeting, then information that
14 the people from the outside, either industry or state
15 people or academics, they want -- if they have
16 information they want to share with the SSC, they need
17 to get it to us at least 15 days, if not longer than
18 that, before.

19 And the reason for that is all the SSC
20 members are there on a volunteer basis. We're not
21 working full-time. A lot of us and it gives us an
22 opportunity to digest that information.

23 But also prior -- a week after that, like
24 within ten days of our meeting, we have a joint

1 conference call with the Monitoring Committee and state
2 people who want to join in as well as the Center
3 scientists who are involved in the assessment.

4 And if we get information coming to us
5 that we would like to follow up on, this gives us an
6 opportunity to follow up and ask questions of the state
7 folks or the Center folks, relevant, that might help
8 us in interpretation of scientific uncertainty when
9 we're doing our spec-setting process at our meeting.

10
11 So, what's happened recently, I've
12 gotten letters as addressed to me or the SSC as late
13 as the morning of our meeting. And what can we do with
14 that information? Well, some of it -- you know, we're
15 able to share because it was an easy read, but some of
16 it was pretty complicated and a cause for some
17 difficulty.

18 So, at that point, some of that
19 information I chose not to share with the SSC because
20 we were just too late to get it out to the folks and
21 have them digest it and see how it entered into our
22 process.

23 So, next year, when we go through this
24 again, I would appreciate it. I don't mind getting the

1 letters and people want to share information they have
2 that's complementary or ancillary to the stock
3 assessment. That's fine. We're willing to look at it.

4 But get it to us in a timely manner so that we can digest
5 it and then have a -- give us an opportunity to ask the
6 assessment scientists -- you know, what they think of
7 the information if we have questions or the state people,
8 whomever, who's out on the water looking at the fishery
9 up close. That's all I wanted to say. Thanks.

10 COMMITTEE CHAIR JACK TRAVELSTEAD:

11 Thank you. Question of Jim? Tom, you were first on
12 the list.

13 TOM FOTE: When I look at a lot of these
14 figures and I think we're missing a few items that should
15 be included when we basically go through this. One is,
16 when we look at it, it's important to put the 50-year
17 average in there. Because we went through a lot of hard
18 times in '90 and '91 because we started just looking
19 at those years of '80s and through the '70s when the
20 bluefish was at the all-time high. And if you take the
21 50-year average, you wind up a lot of times looking at
22 the information that we're above the 50-year average.

23 So, I'm just -- for information.

24 Also, when you give the recreational

1 catch figures, it would be nice once in a while to look
2 at where the quota was set for the recreational sector
3 during that period of time and how much lower they were
4 than they were basically allowed to catch during that
5 period of time for the transfer of quota.

6 But a lot of times, we're always catching
7 at the max. This fishery for a number of years, going
8 back in the '90s, that's why we've been able to transfer
9 quotas, is not included in the details, and when we're
10 basically looking at where the catch is, but where they
11 could have caught too. It's just useful information
12 I like to look at once in a while, and I would appreciate
13 it.

14 JAMES ARMSTRONG: Just on your -- the
15 50-year thing, we can't go earlier than 1981 for bluefish
16 because it's a recreational fishery. So, we don't have
17 that information. We can look at the commercial catch
18 prior to then, but that's it. Relative to where we set
19 the Table 2 in the memo to the SSC and Monitoring
20 Committee contains the comparison of the recreational
21 target and recreational landings as well as commercial
22 target and landings.

23 TOM FOTE: To follow up, we do have the
24 information. NMFS does not want to recognize a lot of

1 the information which -- but when we basically went
2 before Congress back in '90 and '92, we used that 50-year
3 information.

4 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat
5 Augustine.

6 PAT AUGUSTINE: Thank you, Mr.
7 Chairman. A comment, question, and then the motion when
8 you're ready.

9 Jim, you noted up there that in the last
10 two years the recreational community has significantly
11 under-harvested. And I'm wondering what kind of
12 spawning potential credit to be added to the spawning
13 stock. If you have 6 million pounds of recreational
14 harvest that has not been harvested, is there anything
15 that's allowed for them -- maybe Dr. Boreman can respond
16 to it -- that adds to the population in view of the fact
17 that we say 2009 was not an exceptionally good spawning
18 year or year of the young. It just seem to me that
19 there's a disconnect there. And if you could kindly
20 join that for me, I'd appreciate it.

21 COMMITTEE CHAIR JACK TRAVELSTEAD:
22 John.

23 JOHN BOREMAN: Well, that underage will
24 show up in the assessment.

1 PAT AUGUSTINE: Okay.

2 JOHN BOREMAN: You know, that's where
3 they factor it in. Offhand, I can't tell you what impact
4 it would have. But they would factor that into the
5 assessment what was actually caught.

6 And to follow up to Jim's comment about
7 not wanting to go back before 1981 or so. I hate to
8 disagree with you, Jim, but I did. I mean, when I did
9 my assessment, I -- there's another survey out there
10 which was a national fishing and hunting survey that
11 did collect information on bluefish, but -- and that
12 goes back to the '60s. It was conducted every five years
13 in conjunction with the national census.

14 But that is a source of information on
15 that. And that was used both for bluefish as well as
16 striped bass to see -- at least get a sense of what the
17 recreational landings might have been back in the '60s
18 and the '70s.

19 And I agree with Tom that back in the
20 late '60s and early '70s, we were catching or the rec
21 fishery was catching a lot of bluefish out there.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Thank you. Roy Miller.

24 ROY MILLER? Thank you, Mr. Chairman.

1 Just to follow up on John Boreman's comment. Jim, how
2 comfortable are you, in fact, with the concept that this
3 stock is rebuilt when we look at the biomass estimates
4 that were available from for instance the early 1980's?

5 I mean, is this stock truly rebuilt or does it just
6 meet the technical definition of rebuilt? Because
7 recent estimates of biomass exceed BMSY.

8 JAMES ARMSTRONG: That does sort of
9 catch your eye, the size of the -- and I don't know how
10 to answer that question. I think that -- and I ought
11 to speak to the SSC, but I think there may be some
12 reservations from the SSC that it is, in fact, rebuilt.

13 But the encouraging thing is that we're seeing
14 continued -- one of those robust usually -- most robust
15 outcomes of an assessment is the trend -- you know, the
16 magnitude isn't always -- there's -- so, we've seen
17 increasing biomass for quite a few years now and that's
18 a good thing.

19 But, you know, I think it would be
20 interesting to run the -- run the assessment taking the
21 1980's out of there and see what happens and whether
22 it would come up with the same thing. But it -- the
23 assessment re-estimates those biological reference
24 points every time it's run, and it's been fairly

1 consistent. And that's as far as I'll go. I'd rather
2 -- to you in the hall about it or something.

3 COMMITTEE CHAIR JACK TRAVELSTEAD:

4 John, on that point.

5 JOHN BOREMAN: Yeah. I may be able to
6 go a little further. The competence bounds you're
7 seeing on the estimates of biomass are confidence bounds
8 based on the uncertainty in the modeling -- in the model.

9 The SSC feels that the confidence bounds are probably
10 a lot wider than that when you take in all the other
11 uncertainties that we point out in our list that are
12 not picked up in the model.

13 So, it's pretty fuzzy right now I would
14 think. We did talk about this a bit at our SSC meeting,
15 whether we're really at the rebuilding level or not.

16 And at this point, I think just looking at the biomass
17 plot would be uncertainty; the confidence bounds there
18 gives a false sense of confidence that we're -- that
19 we're at or above the rebuild level. At this point,
20 we're probably somewhere in the area, but that area could
21 be a big area around that -- around that target.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 Thank you. Pres. You didn't have your hand up? Okay.

24 Red.

1 RED MUNDEN: Thank you, Mr. Chairman.

2 Jim, do you recall when the last benchmark assessment
3 was done for bluefish?

4 JAMES ARMSTRONG: That was 2005.

5 RED MUNDEN: 2005?

6 JAMES ARMSTRONG: Yes.

7 RED MUNDEN: Do you know when the next
8 one is scheduled?

9 JAMES ARMSTRONG: I don't believe
10 there's one on the calendar right now. And the reason
11 is that the -- that things that need to be fixed and
12 there's quite a viable sources of uncertainty like the
13 age link keys really need to be -- you know, improved.

14
15 There needs to be a substantial increase
16 in the amount of aging that's done, so that -- because
17 that's -- that was basically the major problem that the
18 reviewers had in the last assessment. And I think --
19 you know, there's really -- we'd just be repeating the
20 last peer review without any significant changes in the
21 approach.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:
23 Nancy, on that point?

24 NANCY THOMPSON: Yeah. The next

1 assessment is tentatively scheduled for December of
2 2013. So, it shows up on the schedule now. But what
3 that means in terms of tentatively means that we have
4 to vet it through the NRCC and then make that final
5 decision.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Thank you. Chris.

8 CHRISTOPHER ZEMAN: I just had a comment
9 going back to the BMSY chart. It would seem that if
10 this fishery was at BMSY one would expect to sort of
11 start seeing that increase in biomass -- increased rate
12 of biomass at that point. We're not really seeing that.

13 It's just basically pretty staying much level. Is that
14 something that -- I guess the question is Dr. Boreman
15 -- but is that something that would be evidence that
16 maybe we have to reconsider our MSY?

17 JOHN BOREMAN: I'd have to think more
18 about that. I think as an SSC we need to talk about
19 that. But that's something we'd look at -- you know,
20 what is the model telling us versus what are we seeing
21 out there. And for several species like black sea bass,
22 the model telling us one story and the data are telling
23 us a different one.

24 Here, we need to go -- I don't want to

1 give you an answer off the cuff, but that's what we would
2 do. We would look at what are the data telling us, what
3 are the surveys telling us versus what is the model
4 trying to tell us. And do they -- are they both making
5 sense? Are they both giving us the same story?

6 COMMITTEE CHAIR JACK TRAVELSTEAD: Any
7 other comments? Questions from -- Pat, not yet. Let's
8 see if -- does the public have any questions or comments?

9
10 (No response audible.)

11 COMMITTEE CHAIR JACK TRAVELSTEAD:
12 Seeing none, Mr. Augustine.

13 PAT AUGUSTINE: Thank you, Mr.
14 Chairman. Based on the presentation and the
15 recommendation by the SSC recommending that F equals
16 0.15 for bluefish, I would recommend that we accept the
17 TAC for 2011 of 31.744 million pounds, a TAL of 27.293
18 million pounds.

19 And we'll address -- do you want me to
20 address the transfer now, or do you want to leave that
21 separate, Mr. Chairman?

22 COMMITTEE CHAIR JACK TRAVELSTEAD: Why
23 don't we do that separately.

24 PAT AUGUSTINE: Thank you.

1 COMMITTEE CHAIR JACK TRAVELSTEAD: It
2 always seems to --

3 PAT AUGUSTINE: That's my motion. I'll
4 do the research set-aside the same.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:
6 Okay. Is there a second to the motion on behalf of the
7 Council? Seconded by Gene Kray. And for the Board?
8 Red Munden. Comments on the motion? Comments on the
9 motion?

10 (No response audible.)

11 COMMITTEE CHAIR JACK TRAVELSTEAD: Any
12 comments from the audience?

13 (No response audible.)

14 COMMITTEE CHAIR JACK TRAVELSTEAD:
15 Seeing none, we're ready to vote.

16 COUNCIL CHAIRMAN RICHARD ROBINS: The
17 motion is move to adopt a TAC of 31.744 million pounds
18 and TAL of 27.293 million pounds for bluefish for the
19 2011 fishing year.

20 Is the Council ready for the question?

21
22 (Motion as voted.)

23 {Move to adopt a TAC of 31.744 million lbs. and TAL
24 of 27.293 million lbs. for bluefish for the 2011

1 fishing year.}

2 COUNCIL CHAIR RICK ROBINS: All those
3 in favor, please raise your hand.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Eighteen. Opposed, like sign.

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Abstentions, like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: One
12 abstention. The motion carries. A.C.

13 ACTING BOARD CHAIR A.C. CARPENTER: I
14 want to note that I'm not the Chairman of the Bluefish
15 Board for the Commission. I'm the Vice Chairman. Jack
16 Travelstead is the Chairman. So, I am just his proxy
17 here today.

18 Is the Board ready for a vote? Is there
19 a need for a caucus? Seeing none, all in favor, raise
20 your hand.

21 (Response.)

22 ACTING BOARD CHAIR A.C. CARPENTER: All
23 opposed, same sign.

24 (No response.)

1 ACTING BOARD CHAIR A.C. CARPENTER: Any
2 abstention? Any null votes?

3 (No response.)

4 ACTING BOARD CHAIR A.C. CARPENTER: The
5 motion carries.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:
7 Okay. I think we can then move to the transfer issue.

8
9 PAT AUGUSTINE: Mr. Chairman, as you
10 know, there was a lot of discussion about the impact
11 of what we agreed to in the Omnibus bill and concern
12 that we would end up transferring quota for recreational
13 and the possibility of ending up closing the season mid
14 way; but in any case, for this year, I will suggest that
15 we recommend a transfer of 4.772 million pounds.

16 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat,
17 why don't you take a look at the draft motion on the
18 screen and see if that --

19 PAT AUGUSTINE: Oh, good. Thank you
20 very much. May I? May I again, Mr. Chairman?

21 COMMITTEE CHAIR JACK TRAVELSTEAD: You
22 may.

23 PAT AUGUSTINE: Move for an initial
24 transfer of 4.772 million pounds from the recreational

1 fishery to the commercial fishery to achieve the maximum
2 transfer allowed with the understanding that the NERO
3 had the ability to adjust the final transfer amount
4 downward as needed when new information becomes
5 available. That's the motion, thank you.

6 COMMITTEE CHAIR JACK TRAVELSTEAD:

7 Thank you. Is there a second to the motion? Seconded
8 by Red Munden on behalf of the Council and Board? Okay.
9 Comments on the motion? Tom Fote.

10 TOM FOTE: Through the Chair because of
11 the conversation I just heard from Pat Augustine,
12 because I wasn't here at the Council meeting yesterday,
13 I'd like to ask the Regional Director when she takes
14 in consideration for this -- you know, the idea that
15 if we start showing early moves that we're going over
16 with the transfer quota, will she still shut down the
17 recreational bluefish fishery or will she make sure in
18 her consideration that she makes sure that that does
19 not happen with the transfer?

20 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat,
21 you want to respond?

22 PATRICIA KURKUL: I don't think I
23 understand the question. That this would happen, this
24 adjustment would happen in the same way that it has in

1 the last few years after we have the MRFSS data for 2010.

2 So, it would happen at the beginning of the 2011 fishing
3 year.

4 TOM FOTE: My question is, if you start
5 seeing the first couple of Waves showing an increase
6 in the catch where we could start going over that and
7 basically start using up that 4 million reserve, are
8 you going to shut the recreational fishery down as you
9 did with black sea bass because we're coming near to
10 reaching that quota? That's what I'm concerned over.

11 PATRICIA KURKUL: So, you're talking
12 about after the transfer occurs at the beginning of next
13 year and then after the recreational fishery has
14 occurred for a couple of three Waves.

15 TOM FOTE: Yeah.

16 PATRICIA KURKUL: Okay. We didn't shut
17 the black sea bass fishery down when it looked like we
18 were going over. The information we had showed that
19 it was already in fact over. And so, I can't tell you
20 what we would do next year based on whatever happens
21 in bluefish. But the amendment, the Council's
22 amendment, the Omnibus Amendment, won't be in place
23 until probably the middle of next year and won't actually
24 be in effect until 2012. So, we won't be using whatever

1 is in the Omnibus Amendment in the next year.

2 TOM FOTE: That was my concern. I mean,
3 if we're going to basically transfer 4 million pounds
4 of quota and half-way through the season we see that
5 the recreational community has basically reached that
6 with the 4 million transfer quota, then there would be
7 a problem of transfer and we're going have -- get --
8 we're going to have this conversation next year when
9 it is in place in 2012 when we go that far.

10 But that's my concern. If I don't have
11 to worry about this year, then I can support the
12 transfer. But I just wanted to make sure that was in
13 effect.

14 COMMITTEE CHAIR JACK TRAVELSTEAD:

15 Thank you, Tom. Red.

16 RED MUNDEN: Thank you, Mr. Chairman.

17 didn't our motions for the transfer of bluefish quota
18 last year contain similar language that authorized the
19 Regional Administrator to adjust -- to downward adjust
20 the transfer based on the new data?

21 COMMITTEE CHAIR JACK TRAVELSTEAD: They
22 did. That's precisely where this motion came from and,
23 in fact, that's how it actually came out. There was
24 an adjustment. Any other comments on the motion? Any

1 comments from the public? Seeing none, I think we're
2 ready to vote.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

4 The motions as has been read into the record already
5 by Pat Augustine for an initial transfer of 4.772 million
6 pounds.

7 Is the Council ready for the question?

8
9 (Motion as voted.)

10 {Move for an initial transfer of 4.772 million lbs.
11 from the recreational fishery to the commercial
12 fishery, to achieve the maximum transfer allowed,
13 with the understanding that the NERO has the
14 ability to adjust the final transfer amount
15 (downward) as needed when new information becomes
16 available.}

17 COUNCIL CHAIR RICK ROBINS: All those
18 in favor, please raise your hand.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Eighteen. Opposed, like sign.

22 (No response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Abstentions, like sign.

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: The
3 motion carries. A.C.

4 ACTING BOARD CHAIR A.C. CARPENTER: For
5 the Board, is there a need for a caucus? Seeing none,
6 I'll call the question. All in favor, please raise your
7 hand.

8 (Response.)

9 ACTING BOARD CHAIR A.C. CARPENTER: All
10 opposed, same sign.

11 (No response.)

12 ACTING BOARD CHAIR A.C. CARPENTER: Any
13 abstentions? Any null votes?

14 (No response.)

15 ACTING BOARD CHAIR A.C. CARPENTER: The
16 motion carries.

17 COMMITTEE CHAIR JACK TRAVELSTEAD: That
18 takes us to the RSA issue. Mr. Augustine.

19 PAT AUGUSTINE: Thank you, Mr.
20 Chairman. I would move that the 2011 research set-aside
21 for bluefish be set up to 3 percent.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:
23 Thank you. Is there a second to the motion? Seconded
24 by Dr. Kray for the Council.

1 EUGENE KRAY: For both. For both.

2 COMMITTEE CHAIR JACK TRAVELSTEAD: Is
3 there a second for the Board? Red Munden seconds for
4 the Board. Comments on the motion? Tom.

5 TOM FOTE: The same comment I've been
6 making all day, because of the transfer the way it's
7 -- the RSA the way they're being adopted right now, I
8 can't support it.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:
10 Thank you. Any other comments? Comments from the
11 audience? Okay, I think we're ready to vote.

12 COUNCIL CHAIRMAN RICHARD ROBINS: The
13 motion is to move to allow up to 3 percent of the TAL
14 to be used for research set-aside for bluefish.

15 Is the Council ready for the question?
16

17 (Motion as voted.)

18 {Move to allow up to 3% of the TAL to be used for
19 research set-aside.}

20 COUNCIL CHAIR RICK ROBINS: All those
21 in favor, please raise your hand.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Sixteen. Opposed, like sign.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: One.
3 Abstentions, like sign.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: One.
6 The motion carries. Thank you. A.C.

7 ACTING BOARD CHAIR A.C. CARPENTER: On
8 behalf of the Board, is there a need for a caucus?
9 Seeing none, I'll call the question. All in favor,
10 please raise your hand.

11 (Response.)

12 ACTING BOARD CHAIR A.C. CARPENTER: All
13 opposed, same sign.

14 (Response.)

15 ACTING BOARD CHAIR A.C. CARPENTER: Any
16 abstentions? Any null votes?

17 (No response.)

18 ACTING BOARD CHAIR A.C. CARPENTER: The
19 motion carries.

20 COMMITTEE CHAIR JACK TRAVELSTEAD:
21 Vince.

22 VINCE O'SHEA: Yeah. Thanks, Mr.
23 Chairman. I wanted to wait until after the Board and
24 the Committee made a decision on research set-aside.

1 But at the beginning of this discussion, I thought we
2 heard some pretty clear concerns from both Dr. Boreman
3 and from Jim Armstrong regarding the scientific gap if
4 you will and some potential negative signals, science
5 signals that we have in this stock.

6 And what's missing in my mind is sort
7 of what's our plan to try to fill those age and length
8 frequency gaps. And I noticed that in terms of Council
9 priorities we have bluefish down as one of our priorities
10 for RSA. But we just finished on Monday reviewing RSA
11 projects, there isn't a single project there related
12 to bluefish.

13 So, we have this ongoing debate about
14 the utility of RSA, the importance of RSA, concerns about
15 RSA; and on the other hand, I think we have a glaring
16 need for additional research. And I would just sort
17 of say that we have the Council and the Commission here
18 today say what's our state's plan to try to come up with
19 some of the work that's going to be needed to fill the
20 gap so that we can get a stock assessment.

21 We need to start talking about this now
22 because it's going to take a couple of years to get this
23 data going. So, that's sort of my question, Mr.
24 Chairman, if you've got any ideas about the best way

1 for us to address that. Thank you.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Mr.
3 Chairman, thank you. I would just point out a couple
4 of things related to the RSA priorities on bluefish,
5 and that is that we have specifically identified as
6 priorities the collection of size and age composition
7 of the fisheries. So, we have several elements in the
8 priorities that are stated for bluefish that are
9 relevant to this data gap.

10 And I was not party to the meeting this
11 week when some of the priorities were considered or
12 proposals were considered. But I would ask if Pres has
13 anything to add at this point. But I think -- you know,
14 we can discuss I think how to better communicate some
15 of these priorities or perhaps cast a wider net to ensure
16 that we get proposals brought forward that would satisfy
17 some of these research priorities. Pres.

18 PRESTON PATE: Thank you, Rick. And I
19 guess the comments that I made during the RSA Committee
20 meeting were opposite of casting a wider net. My idea
21 was to look at the list of annual research priorities
22 and get more focused on some of the ones that are going
23 to add most significantly to short-term needs like we
24 have for improving the data going into in this case the

1 bluefish stock assessment to more accurately reflect
2 what the most critical needs are instead of that laundry
3 list now that includes maybe 25 or 30 projects on it.

4 COMMITTEE CHAIR JACK TRAVELSTEAD: Jim,
5 can you comment on where we are with the size, ages data,
6 what's available and what's not?

7 JAMES ARMSTRONG: Well, with the
8 development of NEAMAP, we've certainly been collecting
9 a lot more ages, a lot more hard parts for aging I should
10 say. And a lot of the states do a fairly good job and
11 have banks of otoliths for aging. But in terms of what
12 actually goes into the assessment, I think that
13 primarily the sampling at length has been coming out
14 of North Carolina.

15 And the work has been in North Carolina
16 and then also most recently it's concentrated almost
17 exclusively at Old Dominion University. That's where
18 Dr. Cynthia Jones works and it's her lab. And she's
19 -- I don't -- I think she's developed -- and she announced
20 this at the SSC meeting -- a sort of a -- I don't want
21 to say it's a cookbook on how to age bluefish, but it
22 certainly is a product that would guide other agencies
23 if they could find the resources to start aging -- using
24 a uniform aging technique. And it also describes how

1 to validate ages. So that the same approach is taken
2 coast-wide to the -- to characterize ages coast wide
3 as opposed to this concentrated sampling that's done
4 in North Carolina and Virginia.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:

6 Vince.

7 VINCE O'SHEA: So, Mr. Chairman, is the
8 issue that we have all these samples and lengths and
9 they have to be aged so potential RSA would be for
10 somebody to get some quota, raise some money, and then
11 go get these things aged? Or is the issue that the
12 states need to collect more hard parts and lengths in
13 their fishery independent --

14 COMMITTEE CHAIR JACK TRAVELSTEAD: It
15 sounds to me like it's the former and not the latter.
16 You know, there's hard parts sitting somewhere that
17 aren't being aged.

18 VINCE O'SHEA: I just can't help but
19 think that that's a -- should be a relatively
20 straightforward RSA project to convert some pounds of
21 bluefish into blocks and get it done.

22 COMMITTEE CHAIR JACK TRAVELSTEAD:

23 John, on that?

24 JOHN BOREMAN: Isn't it both, though?

1 Isn't it a case where again we have this fine modal
2 selectivity so there's certain age groups out there that
3 are under sampled and we need to figure out first of
4 all where the heck are they and then go find them and
5 sample them and get some ages. So, I think it's a
6 combination of we have a backlog or there is a backlog
7 of otoliths at age, but there's also still that under
8 sampling of certain size groups.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:

10 Vince.

11 VINCE O'SHEA: I promise this will be
12 my last comment. So, the question then is who is in
13 charge of getting this done?

14 COMMITTEE CHAIR JACK TRAVELSTEAD:

15 Somebody is pointing at Nancy, but it seems to me the
16 states are equally responsible. Nancy, do you want to
17 comment?

18 NANCY THOMPSON: Yeah. I would say
19 that -- I mean, in terms of the RSA and the program,
20 sure, that's our responsibility. But it's not our
21 responsibility to submit proposals. And I think we need
22 to work with the ASMFC and the states to, as Rick
23 indicated, cast a wide net relative to participants and
24 proposals.

1 I don't think Rick was talking about
2 increase a wide net relative to priorities, but I think
3 in terms of getting people to submit proposals. So,
4 that's fine. I mean, if there are proposals submitted
5 to us, we'll clearly entertain them and submit through
6 the process.

7 COMMITTEE CHAIR JACK TRAVELSTEAD:

8 Thank you. The only other bluefish issue is the
9 recreational possession limit. Mr. Augustine.

10 PAT AUGUSTINE: Mr. Chairman, I thought
11 because it was probably looked at as being status quo,
12 I didn't think it needed a motion. But if you'd like
13 a motion, I would say that the quota for bluefish for
14 the season 2011 remain at a bag of 15.

15 COMMITTEE CHAIR JACK TRAVELSTEAD: I
16 don't think we need a motion if we want to keep it at
17 status quo.

18 PAT AUGUSTINE: That's what I thought.
19 That's why I didn't think you needed a motion.

20 COMMITTEE CHAIR JACK TRAVELSTEAD: Just
21 giving you an opportunity if you wanted to change it.
22 Red.

23 PAT AUGUSTINE: Okay. No, I don't
24 think we need it.

1 COMMITTEE CHAIR JACK TRAVELSTEAD:

2 Thank you. Red.

3 RED MUNDEN: Thank you, Mr. Chairman.

4 I'll make one more attempt at this. The Bluefish Board
5 -- I recommend that the Bluefish Board adopts similar
6 language as adopted by the Summer Flounder, Scup, Black
7 Sea Bass Board and the Council concerning disconnect
8 in harvest limits between the Council and the
9 Commission.

10 And if so, I would offer the motion, if
11 the staff will put it up, which I think they already
12 have ready for us.

13 COMMITTEE CHAIR JACK TRAVELSTEAD: It
14 is up, and it is needed, and if you want to check it
15 to make sure it's correct.

16 RED MUNDEN: What was that again, Mr.
17 Chairman?

18 COMMITTEE CHAIR JACK TRAVELSTEAD: The
19 motion is up on the screen if you want to check and see
20 if it's what you want.

21 RED MUNDEN: Yes, sir.

22 PAT AUGUSTINE: Second.

23 COMMITTEE CHAIR JACK TRAVELSTEAD: Pat
24 Augustine --

1 RED MUNDEN: That's my motion, Mr.
2 Chairman.

3 PAT AUGUSTINE: Second. And do we need
4 a like motion for the Council? Do you want me to do
5 that?

6 COMMITTEE CHAIR JACK TRAVELSTEAD:
7 That's all we need; right?

8 ACTING BOARD CHAIR A.C. CARPENTER: Is
9 there a need to caucus on the Board? This is strictly
10 a Board motion. It's not a Council motion.
11 Seeing none, I'll call the question.

12 (Motion as voted.)

13 {Move that if the ASMFC Bluefish Board approves
14 TAC/TAL, quotas, RHL, that differ from MAFMC
15 recommendations, then admin. action to reconvene
16 jointly at earliest convenience to revisit
17 recommendations.}

18 ACTING BOARD CHAIR A.C. CARPENTER:
19 All in favor, please raise your hand.

20 (Response.)

21 ACTING BOARD CHAIR A.C. CARPENTER: All
22 opposed, same sign.

23 (No response.)

24 ACTING BOARD CHAIR A.C. CARPENTER: Any

1 null votes? Any abstentions?

2 (No response.)

3 ACTING BOARD CHAIR A.C. CARPENTER: The
4 motion passes.

5 COMMITTEE CHAIR JACK TRAVELSTEAD:
6 Pres, you had your hand up earlier. Did I pass you by?
7 Okay. Anything further on bluefish.

8 PAT AUGUSTINE: No.

9 COMMITTEE CHAIR JACK TRAVELSTEAD:
10 Thank you, all. Back to you, Mr. Chairman.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
12 you, Jack. Thanks again to you and A.C. for running
13 today's meeting. We'll take a five-minute break, and
14 at that point we'll come back and Russell Dunn will have
15 a presentation for us. Russ is the National Policy
16 Advisor for the Recreational Fisheries.

17 But I'd like to invite the Board to stay
18 with us for that if members are able to give Russ a chance
19 to address us jointly. So, let's take a five-minute
20 break and let him set up.

21 I'd also like to acknowledge and welcome
22 Gordon Colvin. Gordon is going to be giving us an update
23 tomorrow on the MRIP program. Thanks. Let's come back
24 in five minutes.

1 (Break 3:55 p.m. to 4:08 p.m.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: At
3 this point, I'd like to welcome Russell Dunn. Again,
4 Russell is the National Policy Advisor for Recreational
5 Fisheries for NOAA. And Russ, as many of you probably
6 know, recently participated in the Recreational Fishing
7 summit. We had three Council members that attended on
8 behalf of the Mid-Atlantic Council reflecting the
9 significance of the recreational fisheries in our
10 region. And we look forward to Russ' presentation.
11 Russ.

12 _____
13 PRESENTATION BY RUSSELL DUNN

14 NATIONAL POLICY ADVISOR FOR RECREATIONAL FISHERIES

15 RUSSELL DUNN: All right. Thank you.
16 So, as Rick indicated, my name is Russ Dunn and I'm
17 the new National Policy Advisor for Recreational
18 Fisheries. It is a new position that was created in
19 April by Dr. Lubchenco and Eric Schwaab, the new A.A.
20 And so, I will jump into it.

21 I'm going to talk a little bit about
22 where the position came -- the impetus came from to
23 develop it, what the position does, and sort what we've
24 been doing in the intervening period between April and

1 now.

2 So, one of the first questions I
3 typically get is well, why bother? Why are we going
4 to -- why are we appointing someone to engage the
5 recreational community? And it's a pretty simple
6 answer generally. And that is, that is a large growing
7 constituency with substantial resource impact in a large
8 socioeconomic contribution. You can see -- I won't go
9 through the individual stats up there, but you can see
10 that it fits into all of those criteria.

11 So, Dr. Lubchenco, back in October of
12 '09, shortly after she started, had a realization that
13 the relationship between recreational community and
14 NOAA was strained so to speak, and she sat down with
15 others in the agency and developed what is referred to
16 as the Recreational Fishing Engagement Initiative. And
17 it had sort of five initial commitments.

18 The first of which was she put together
19 a team within NOAA including Gordon Colvin, who I think
20 most of you here probably know, Forbes Darby and Andrew
21 Weiner, to begin thinking about what needs to occur to
22 begin to improve the relationship and move towards a
23 real partnership with the rec community. And this also
24 included the engagement initiative also included

1 appointment of recreational coordinators in every
2 region.

3 And I guess on that handout, you can see
4 a list of who those folks are. I have to thank whoever
5 put this together because I haven't actually seen this
6 before. But it lays it out well.

7 She also -- the engagement initiative
8 also included obviously this position which I was
9 fortunate enough to be appointed to. And new leadership
10 within NMFS who will be open to dialog with the
11 recreational community. And that obviously is my boss
12 Eric Schwaab.

13 It also included appointment of the
14 MAFAC Recreational Fisheries Working Group, which is
15 not directly a part of MAFAC, but is an advisory body
16 to the MAFAC Recreational Subcommittee of MAFAC. And
17 we are working with that group to solicit input on
18 various fisheries initiatives.

19 And then finally, an additional
20 component was the Recreational Saltwater Fishing Summit
21 which occurred back in April. And I'll be touching on
22 that a little more in depth in the following slides.

23 So, as I said, this new position was
24 created starting in April. And the real intent here

1 is to develop a partnership over the long haul with the
2 recreational community and not just simply to improve
3 communications. Because that only is sort of one of
4 the steps that are needed. But it's really to address
5 the issues that are out there: to improve this
6 relationship; to solve problems; and as well as provide
7 policy input to Eric and Dr. Lubchenco as necessary.

8 It's really, as I guess the second to last bullet says,
9 it's to ensure that recreational issues are given the
10 appropriate level of consideration in the management
11 process.

12 So, as I mentioned, one of the
13 commitments she made was to hold the Recreational
14 Saltwater Fishing Summit. And the point of that was
15 really to initiate the conversation with the
16 recreational community to begin to develop this
17 partnership and identify what the real concerns were
18 instead of NMFS simply trying to sit back and ponder
19 what do we think your concerns are.

20 So, there were over a hundred
21 recreational constituents from across the country,
22 including the territories, and you can see the sort of
23 sectors within the recreational community that
24 participated there. And I won't go through them all.

1
2 As Rick said, there were a number of
3 folks from Mid-Atlantic Region there. Two off the top
4 of my head who were there, Bruce Freeman was there, Ray
5 Bogan was there. They both made presentations at
6 different points during the meeting.

7 So, we wanted to make sure that the
8 summit, as I said, was not NMFS perception of what the
9 recreational concerns were, but rather that we really
10 heard from the recreational community as to what the
11 concerns were.

12 So, what Gordon and Forbes, who really
13 were the brain trust behind the program, did was put
14 together a pre-summit survey which they sent out and
15 they got a very high return rate. And what they were
16 able to do with the responses was develop essentially
17 four themes which we call vision themes for a successful
18 future.

19 They ask essentially what do you think
20 management and the fishery would look like in 20 years
21 if it all went well. And so, to paraphrase the themes
22 that came back, it was those four sub-bullets there:
23 better communications, cooperation and increased trust;
24 improve quality, quantity and timeliness of data and

1 science. And data there is a very broad inclusive term.

2 It's not just catch and effort, but it's catch and
3 effort, fishery independent data, socioeconomic data.

4 Improve fishery management decisions based on a more
5 complete understanding of the socioeconomic
6 contributions; and improved access to the resource and
7 expanding recreational fishing opportunities.

8 So, these were the themes as expressed
9 by the participants themselves of what they saw as the
10 meaning of success to be.

11 So, within the workshop -- I mean the
12 summit, what we did is, we divided the participants into
13 I believe it was 15 tables. Each table got one of those
14 four themes. And what we did is ask them to identify
15 the challenges to achieving the vision as well as
16 solutions to the challenges which they identified.

17 And they did that with quite a zeal.
18 They came back with 34 different challenges for the four
19 themes together and 200 roughly solutions that were
20 identified by the participants themselves. These were
21 facilitated tables, but they -- our facilitators really
22 sat back in a neutral role.

23 Now, a number of those 200 solutions were
24 overlapping. And the easy one that comes to mind was

1 the need for increased representation on the fishery
2 management councils. That rippled through a whole
3 bunch of the challenges.

4 And finally, we asked the participants
5 to come back the next day and individually rank the
6 importance and priority of the challenges and solutions
7 which they had identified in the previous day. So, we
8 really got a scorecard as to what the priorities were
9 and the greatest concerns were.

10 So, the next couple of slides just touch
11 on what these priorities and concerns were. This first
12 slide are the overall top ranked priorities and actions
13 excluding categorization into the vision themes. So,
14 the top numerically ranked one was to integrate the
15 values of recreational fishing into the NOAA mission
16 statement.

17 Next was improving data. And that I
18 would say was a theme throughout every aspect of the
19 summit. Data, data, data, from every aspect from
20 everybody was we need better data.

21 Next was recognizing the uniqueness of
22 recreational fisheries and managing those to the best
23 economic advantage, greater representation of
24 recreational interests on the councils, and increased

1 recreational influence within the coastal and marine
2 spatial planning process.

3 So, the next two slides, I simply broke
4 down the top two from each by a vision theme. So,
5 obviously, these will be somewhat redundant with the
6 last slide there.

7 So, under the vision theme of improved
8 communications, cooperation and trust, it was
9 integrating recreational values into the NOAA mission
10 statement and recognizing the uniqueness of
11 recreational fisheries. Under better data and science,
12 it was better socioeconomic data and reprioritizing NOAA
13 funding, existing funds to improve data collection.

14 For improving recreational management
15 decisions, it was greater representation on the councils
16 and increased influence within the coastal marine
17 spatial planning process.

18 And then finally under improved
19 recreational access and opportunity, it was improved
20 data timeliness so economic data can be included in the
21 assessment of management actions and examining and
22 re-evaluating historical allocations to accommodate
23 expanding recreational fisheries.

24 So, in the last few months since April,

1 we've been busily at work. We have done a number of
2 things. You know, we've posted up all the materials
3 from the summit. We have a draft action agenda that
4 is in review with headquarters right now. And that is
5 essentially -- you can think of it as an implementation
6 plan for addressing the priorities that were developed
7 from the summit. And that should be available in the
8 near future. I don't want to put a time frame on it,
9 but.

10 Revising right now. NOAA's strategic
11 plan, the next generation's strategic plan, is in
12 development. The public comment period just closed on
13 that and we're working to ensure that recreational
14 considerations are appropriately addressed within that.

15 Council nominations I think was one of
16 the sort of early winds that came out of the summit.

17 Obviously, we gained a seat here on the Mid-Atlantic
18 Council. There was also an additional recreational
19 seat picked up in the Gulf of Mexico.

20 Additional funding was allocated to
21 improve timeliness and the scope of data collected.
22 That actually was specific to the Gulf of Mexico, the
23 for-hire survey, and that was really spurred along in
24 part and made possible by funding as a result of the

1 oil spill.

2 We're fast-tracking stock assessments
3 of certain species. We're working, Gordon in
4 particular is working to accelerate components of MRIP
5 and to improve the data. We're developing new
6 communications tools, addressing recreational concerns
7 in the catch share policy and I think we'll see that
8 out in the next couple of weeks most likely.

9 We are working on additional meetings
10 to continue to get input from the recreational
11 community. We worked to make sure -- with the White
12 House to make sure that recreational concerns were
13 addressed in the coastal marine spatial planning
14 process. And there has been a tremendous amount of time
15 spent in the Gulf of Mexico on outreach to the
16 recreational community, making sure we're hearing their
17 concerns, working with them to get -- to be involved
18 in cooperative research sampling fish that is helping
19 us determine what areas should be reopened or not. So,
20 it's been a busy period.

21 Some of the challenges, just to touch
22 on. I was thinking the other day about what are the
23 challenges that I and the agency face in this effort.

24 And I think a lot of it comes down to really the first

1 two bullets. It's simply the array of regional,
2 national, and international issues from all these
3 different directions.

4 As you can see, legislative, policy,
5 management, data, science, communications. There are
6 so many areas in which to work, we really have to focus
7 and that is where the results from the recreational
8 summit come into play.

9 There's also -- contributing to that a
10 set of factors are the magnitude, just the sheer scope
11 of the recreational constituency. It's geographic
12 distribution basically from Maine to Guam to Alaska to
13 the U.S.V.I. And the diversity of the constituency and
14 the issues within each region.

15 Obviously there is a very high level of
16 constituent mistrust with regard to the agency otherwise
17 this position would not have been created in the first
18 place. Constituent expectations are extremely high.

19
20 One thing I can say is I got a call the
21 other day that people were upset that I hadn't visited
22 in one particular place. And my response was, I'll get
23 there as quickly as I can. I've been on the road for
24 9 of the last 11 weeks. And so, it's not like we're

1 sitting idle. It is just there is a very high level
2 of expectation now that this position has been created.

3 As with any program, the available
4 agency resources are finite, so, we'll have to figure
5 out a way to maximize our efficiency. Some of the
6 solutions, there's no magic bullet here. It's really
7 just sort of old-fashioned hard work. It's improving
8 communications both internally within NMFS and
9 externally, and creating effective partnerships,
10 effective two-way communications within the fishery
11 service and NOAA making sure that it is not just a
12 priority of headquarters, but of the regions as well.

13 It's engaging collaborative efforts making sure that
14 recreational issues are given consideration during rule
15 making.

16 And as scientific programs are put
17 together, it's expanding beyond just NOAA or NMFS in
18 to work with other arms of NOAA such as the Sanctuary
19 Program, going beyond NMFS to groups like Fish and
20 Wildlife with their sport fishing and boating
21 partnership council. I'll be up there the week after
22 next. The 8th, I want to say of September, talking with
23 them about potential partnership opportunities.

24 And it really comes down to regular and

1 sustained communication with constituents to identify
2 the issues, the roadblocks, the solutions, where they're
3 seeing progress, where they're not, and what their
4 priorities are if they are remaining static or changing.

5 And then demonstrating a sustained commitment, you
6 know. Showing what we've been able to do and building
7 on that and showing that this effort will remain in place
8 for the long term and not just be a passing effort.

9 And that is really it. There is a little
10 video. I don't if people want -- of the summit -- I
11 don't know if people want to see it. It's about four
12 or five minutes. Want to do that. I'm not sure how
13 I start this. Anyone know how to start this? Oh, here
14 we go. Okay. Forgive my heliumesque voice on -- not
15 only here but on this video. It goes up and down about
16 three octaves.

17 (Video being played.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Russ,
19 thank you very much for that presentation. You
20 indicated that in your initial summit and discussions
21 with participants in the summit one of the outcomes was
22 the recreational community wanted to see the uniqueness
23 of recreational fishing recognized specifically with
24 respect to the treatment of catch and not wanting to

1 see recreational catch treated in the same way as
2 commercial catch.

3 Can you unpack that issue a little bit
4 for us, and were there any specific recommendations from
5 the management standpoint that followed from that?

6 RUSSELL DUNN: I wouldn't say that there
7 were specific recommendations, but my interpretation
8 of what that means is, is to look at potentially
9 different management goals, to potentially get away from
10 biomass focus of management toward managing more towards
11 abundance, age class, opportunity for the recreational
12 community. That's really -- that was my takeaway of
13 what was intended by that comment.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
15 you. Other questions?

16 TOM FOTE: As a participant of the
17 summit, it was very interesting and I think it was well
18 done. Of course, the follow up is always what happens
19 after the summit. One of the things we pointed out in
20 the Northeast Region, as you know, I go back to the days
21 of Dick Schafer and Dick Rowe when they were Regional
22 Director and guys like Tom Morrissey used to set these
23 recreational meetings because that was his job, bringing
24 the guys from New England, bringing the guys from New

1 Jersey, Connecticut -- I mean New Jersey, Virginia, and
2 basically holding us together once in a while and have
3 meetings.

4 I know that there is a designee at the
5 Northeast Region to basically reach out to us, but I
6 don't know if there's money to basically let him reach
7 out to us. We've said this a number of times. When
8 I look at the number of anglers between Maine and North
9 Carolina, which is covered by the two Councils, it makes
10 up almost two-thirds or half of the total number of
11 recreational anglers in the country. Yet, you have a
12 special regional person for Hawaii. You have a special
13 regional person for the west coast. And when you look
14 at the area that has the most recreational anglers, there
15 is not a program with the necessary funding to do that.
16

17 I mean, it used to be -- you couldn't
18 solve all the problems, but at least we'd get down with
19 the Regional Director with that regional person and have
20 those summits and bring things out in the open before
21 we got to Council meetings and Commission meetings.

22 And I really think that we need to move
23 ahead. And if you have a person designated, you need
24 to fund them and get them out to the recreational sector

1 for that region. Because as you said, you're on the
2 road 9 out of the last 11 weeks. You can't do it all.

3 And that's what those persons at the region are supposed
4 to do.

5 RUSSELL DUNN: I don't disagree.

6 Thanks.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Howard.

9 HOWARD KING: Yes. Thank you for your
10 presentation. This is a question directed to you, but
11 it would have some ancillary persons or agencies
12 contributing. As a facilitator of recreational fishing
13 and as a recorder of recreational fishing impacts, do
14 you think that NOAA NMFS with the benefit of MRFSS or
15 MRIP and maybe data from the American Sportfishing
16 Association would be able to estimate the impact on
17 recreational fishing in the Gulf due to the oil spill
18 at some point down the road?

19 I would think that the impact would have
20 been large enough that there would be a blip somewhere,
21 either in effort and catch and/or sales, and it may be
22 even at the manufacturing level. But do you think
23 you'll ever be able to report out on that?

24 RUSSELL DUNN: I think probably -- I

1 mean, I may actually ask Nancy to chime in in terms of
2 the biological end. I know she was involved heavily
3 with the sampling and whatnot and has a better feel from
4 her time as head of the Science Center down there.

5 I think in short the answer is yes, we'll
6 be able to at some point. We have -- we have been able
7 to look at data from the -- from ASA, that they're been
8 doing their regular economic surveys of tackle shops
9 and whatnot.

10 So, they are -- they have an estimate
11 already of what they think the sort of daily cost was.

12 I don't know that NMFS has sort of accepted that data
13 as its own. But the short answer is yes. I think we
14 will be -- I think the biological impacts are going to
15 take a number of years to really see what has happened.
16

17 You know, I just heard a new report this
18 morning that they've detected microscopic bits of oil
19 within the plankton. And so, what effect is that going
20 to have, who knows.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Nancy, do you have any comment on that?

23 NANCY THOMPSON: Well, I tend to agree
24 with Russ. My particular role was specifically in

1 setting up a seafood safety program. And clearly, some
2 of the species we were interested in are in fact
3 recreational species, dolphin fish for example. But
4 as far as the immediate impacts are concerned, there's
5 the immediate impacts and the long-term impacts. And
6 there's no question that NOAA is and has developed
7 research plans to address the questions that you're
8 asking, Howard.

9 But whether we're really going to
10 definitively be able to over the longer term say yes
11 there was an impact or no there was no impact, I honestly
12 don't know. Because, quite frankly, this event was
13 unprecedented and there is no comparative event. And
14 so -- but I know that those are the questions that NOAA
15 is very interested in and I know that we're making
16 investments to try to make those determinations.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
18 you, Nancy. Lee.

19 LEE ANDERSON: In answer to Howard's
20 question, I know there's a lot of research going on in
21 economics, because I've been approached to do some of
22 this work as well, and a lot of it has to do with
23 compensation.

24 If BP has to compensate, they're going

1 to compensate for two types of things. Short run: I
2 mean the guys who are out of work technically can't be
3 compensated. And there are people I know who are
4 working on that to get estimates of what is the short-run
5 loss in incomes, but also value of output lost.

6 And there are also studies that are
7 released: The thinking about can they say is there
8 going to be any long-term effect on fisheries. Will
9 there be a dip in productivity or something. That's
10 a bio-economic thing.

11 But I know that those things are going.

12 So, it doesn't just have to come from NMFS. BP has
13 got to do this and they have an incentive -- well, to
14 get it right according to their terms. So, there's
15 going to be people researching this on both sides,
16 lawyers for BP and their economic staff and lawyers for
17 the other side. So, I think we'll find some kind of
18 an estimate down the road that will least get us to
19 ballpark and we'll know how much BP had to compensate
20 people.

21 COUNCIL CHAIRMAN RICHARD ROBINS: John
22 Boreman.

23 JOHN BOREMAN: Even though I've left
24 NOAA and I'm back in academia, I still have some

1 lingering cynicism. Following up on Tom Fote's
2 comments. I was intimately involved in the mid 80's
3 when we went through this the first time. This is not
4 -- this has happened in the past with NOAA. Tom
5 Morrissey worked for me. I was his supervisor and it
6 was part of my job to set up that job as Recreational
7 Fisheries Coordinator. It was a joint position with
8 the Regional Office and the Center.

9 That's true. There were summits held
10 and Tom's job was to go out and get the folks to sit
11 down with Dick Rowe the Regional Director at that time
12 to talk about issues and carry it over to the Council
13 meetings.

14 But here we are again with the same
15 spirit. We're going to go out there and we're going
16 to bring the recreational fisheries community into the
17 fold and into the NMFS fold here.

18 The first obviously, if we're doing it
19 again it must have failed the first time to be doing
20 that, otherwise we wouldn't have had the train wreck
21 that we did before Dr. Lubchenco came onboard.

22 Is anybody going back and reviewing the
23 circumstances back then why it failed? Where did we
24 fall short? I would always say I loved to blame

1 leadership and the agency for just losing interest; but
2 in this case, I think it was a whole combination of
3 factors and somewhere along the line somebody lost the
4 commitment to keep -- to follow through on promised
5 actions or follow up in other ways.

6 But, is anybody looking at that to see
7 what can we do different this time so we don't wind up
8 in 10, 20 years from now in the third phase of this
9 bringing rec fish into the fold?

10 RUSSELL DUNN: I think it would actually
11 be more like the fourth, because I think I might be the
12 third actually.

13 In a formal sense no. I have done a
14 little bit of digging here and there, looking into what
15 had happened in the past efforts. And I think you're
16 right. I think it's that the folks who initiated the
17 effort moved on. Some of the folks involved, Bill
18 Price, at one point was in the similar position, retired.

19 That the positions ended up being sort of relegated
20 and moved within other divisions which were sort of
21 buried down the food chain. And I don't know what other
22 factors.

23 But I think that's actually a great idea
24 for me to look more deeply into what happened in the

1 past. I think there was a recognition that having the
2 position end up getting buried within the bureaucracy
3 was a contributing factor in the past, which is why this
4 iteration I now report directly to Eric instead of having
5 it go through -- the last one went through Chris' former
6 shop through SF, then through Sam, and then -- you know,
7 to the AA.

8 At this point, anyway, I circumvent all
9 of that and go right to Eric.

10 JOHN BOREMAN: Just as a follow up
11 though, you have no line authority in the agency so you
12 report and you advise on policy but you can't -- not
13 unless you get Eric's support -- as to marshal forces
14 within the agency to devote work to recreational
15 fisheries issues?

16 COUNCIL CHAIRMAN RICHARD ROBINS: Just
17 to follow up on this historical question, John. I think
18 as Russ pointed out, the one thing that came to the front
19 again and again in the summit was the issue of data,
20 and that's what comes before us here every time we're
21 writing decisions.

22 And so, it seems like the data
23 requirements, and particularly now in light of the new
24 accountability requirements, it will go forward under

1 the ACL/AM requirements of Magnuson are going to place
2 an increasing demand on that. So, I would envision that
3 that's going to require and demand an ongoing commitment
4 that that's going to be more intense than ever. So,
5 hopefully, that will be reflected in the agency's
6 actions. Peter.

7 PETER DEFUR: Thank you, Mr. Chairman.

8 Thank you for your presentation and your efforts on
9 behalf of the rec fishermen all over the country.

10 I think our Chairman raises an important
11 question; and that is, a lot of what we've talked about
12 in the last two days and I know what's going to -- well,
13 three days -- and what we are always discussing has to
14 do with funding. Because so many of our management
15 decisions depend upon being able to accurately and
16 confidently manage the fishery in such a way that the
17 ordinary people -- many of whom who are sitting around
18 this table or in the audience -- are able to know that
19 they're going to be able to go out there and catch fish.

20
21 And we can't do our work without the
22 information. And without that data, we can't do our
23 best for the recreational fishing community of the
24 nation; which means, that as we have increase data

1 demands on NERO and the Council staff, they have to have
2 the resources.

3 As we've talked about today before you
4 got here, we just don't know about certain basic
5 information about some of our most -- some of the most
6 popular recreational fishing stocks. We don't know
7 where they are and how many. And the only way to do
8 that is to go out and collect the data which costs money.
9

10 So, I know that the recreational fishing
11 community would like to see a commitment that the funds
12 are going to be available for the resources, for the
13 management to improve.

14 RUSSELL DUNN: Yeah. I think that that
15 was clearly a message that was received by NOAA. As
16 you saw, it was one of the top priorities at the summit
17 is to reprogram funds. I know that there's a
18 substantial fiscal commitment to the MRIP program. I
19 want to say it's 9 million. And we are always on the
20 hunt for additional monies. Certainly that data is now
21 a priority and I certainly don't see it diminishing in
22 any way as a priority in the foreseeable future.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Other
24 questions for Russ? Jim.

1 JAMES FLETCHER: Let me guess. You're
2 talking about recreational fishing. What about the
3 subsistence fisherman, the low income, the minorities
4 that used to fish off the banks, used to fish off the
5 piers, used to fish off the bridges?

6 If this Council and National Marine
7 Fisheries and NOAA by passing fish sizes that targeted
8 the largest, fastest growing females have totally
9 eliminated their ability to catch fish -- now, we're
10 talking about recreational fishermen here -- or you're
11 talking about recreational fishermen -- and I didn't
12 see one person in the film that would have recognized
13 the ethnic minorities that used to fish from the shores.

14
15 And my question to you is, where are they
16 or are they getting left out? Because you say 12 million
17 people. That 12 million people; I can show you figures
18 that it's supposed to be 65 million and of that 65 million
19 only 12 million fish from boats. So, I'm coming up with
20 a number that you're talking about recreational
21 fishermen that only fish from boats.

22 So, are your recreational fishermen
23 those who can afford boats or are your recreational
24 fishermen those that fish for food to eat and not play

1 with their food?

2 So, I guess my question to you, is your
3 recreational fishermen those that want to have hook and
4 release or your recreational fishermen those that want
5 to eat the food.

6 And I've heard a comment on the oil spill
7 down in the Gulf that it's never been done before. Well,
8 I would encourage these people that looked at the 90
9 million barrels of oil that came ashore on the North
10 Carolina, Virginia and South Carolina coast during the
11 second world war and never had any lasting effect.

12 Had no one not blown this thing up and
13 the news people not blown it up so much -- you know,
14 my question to the Center is where are the studies on
15 the second world war that happened on the Carolina,
16 Virginia and South Carolina beaches? So, that's
17 another thing that's got me upset on this. I'm sorry
18 it falls to you. But it comes up.

19 The other thing of it is, NOAA's talking
20 about what a good job it wants to do and the Council's
21 have done. And persistently, I have brought it up that
22 the chemicals that affect the ability of fish to
23 reproduce are taking away from both sectors.

24 NOAA was charged by Congress in 1972 and

1 1978 with monitoring the chemicals in the ocean and its
2 effects. They've not done it. And reports aren't
3 here. I bring it up to the Councils and they say it's
4 not part of my -- something that they can react to.

5 So, if we're going to look at what's
6 affecting recreational fishing -- because used to --
7 Tom Fote and a couple more people that were here would
8 say hey, the man fishing from the bank has a right to
9 do it. And Mr. Fote probably is the last man beside
10 myself -- and I'm a commercial fishermen representative
11 -- it's not my job to be here talking about recreational
12 fishing. But I don't talk about recreational
13 fishermen. I talk about low income people that fish
14 for food.

15 So, I ask you again, and I guess my main,
16 do your recreational fish for fun and hook and release
17 and throw them back or do your recreational people fish
18 for food?

19 RUSSELL DUNN: They do both. There are
20 lots of recreational fishermen who fall within I would
21 say what the NOAA jurisdiction is who fish for meat and
22 there are a lot of fish -- catch and release.

23 In terms of are quote/unquote "my
24 fishermen the guys who fish from bridges?" Well, I

1 would say yes and no. We certainly are not working to
2 exclude them, but the NOAA jurisdiction is really from
3 3 to 200 miles offshore.

4 Are we interested in having a safe and
5 healthy robust shore-based fishery? Absolutely are not
6 trying to exclude that or minimize that in any way.

7 But my real focus, given the mandate of
8 NOAA, has to be in the waters -- in the EEZ.

9 In terms of the clean water issues,
10 that's certainly one I have not ever engaged on, so,
11 I really do not have any ability to respond to that.

12 I can try and look into that. But I really -- it's
13 just not an issue that ever come across my plate.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Greg.
15 Tom, go ahead. Then I have Greg.

16 TOM FOTE: There was a few of us there,
17 especially the wide anglers and a few of us from the
18 Northeast that were talking about those shore-based
19 anglers and basically the impacts of regulations.

20 I mean, there's always a voice, and there
21 were some party and charter boats, that basically takes
22 subsistence fishermen out to fish to basically catch
23 fish like that. It was part of the discussion.

24 There was also tackle manufacturers

1 there. And they sell a lot of shore-based equipment.

2 I mean, one of the things that was interesting. I was
3 sitting at ICAST, and it was dramatic when we -- which
4 is the Tackle Trades Association -- I sit on the Board
5 of Directors now -- and basically looked at how the
6 absence of Gulf people were there at ICAST in July
7 because they weren't worried about buying fishing
8 tackle, they were worried about how they were going to
9 make a living.

10 It's going to be interesting also how
11 manufacturers who sell to the Gulf -- you know, because
12 they don't live in the Gulf, it's going to be very
13 difficult to prove by their sales that they didn't sell
14 20,000 lures that they could have sold if the Gulf had
15 fished that week and now they've lost economic. So,
16 it's a whole thing that's going to stretch through.

17 But yeah, there was some of us crying
18 for the shore-based thing. I want to reaffirm that.

19 They weren't ignored.

20 RUSSELL DUNN: And just for the record,
21 I don't have a boat, so, I'm one of the shore-based
22 anglers too.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Greg
24 DiDomenico.

1 GREG DIDOMENICO: Greg DiDomenico,
2 Garden State Seafood Association. Thanks for the
3 presentation, Russ, and look forward to working with
4 you in some way.

5 I picked out a few things from your
6 slides which were kind of vague. Goals from the summit.

7 I saw that there was the issue of somehow including
8 the value of recreational fisheries in the mission
9 statement. Council representation. Access.
10 Allocation.

11 And quite frankly, I'm sure I'm biased
12 about this, but my perception of those one, two, three,
13 four issues are really based about allocation. And I
14 don't think that's going to be your -- it's your goal
15 to take from the commercial industry. I do not think
16 that's going to be the outcome.

17 So, with that said, there were two
18 questions or two other issues. And Rick Robins asked
19 the question. This uniqueness of the recreational
20 fishery and the treatment of catches. Can you go over
21 that again and what your perception of that is? Because
22 I heard what you said about going away from biomass
23 fisheries or biomass, and what was your opinion of that?
24

1 RUSSELL DUNN: My interpretation of
2 what they stated there, and I think it was sort of Dick
3 Blain, in particular, was talking about from the
4 recreational perspective a need to focus more
5 on --

6 Oh I can't remember the phrase I used
7 -- I can't remember the phrase I used. Did you write
8 down what I wrote by chance? I don't know what I said.
9 Abundance, right.

10 -- abundance in age structure and
11 opportunity. Now, that is not necessary NOAA fisheries
12 speaking, that's the interpretation we have. And that
13 is actually part of the reason why we are interested
14 in having some follow-up meetings, discussions, whatnot
15 to the summit to try and sort of probe these issues a
16 little bit more because we don't have a real clear idea
17 of what that means. And frankly, in some cases, it may
18 be contrary to requirements within Magnuson to manage
19 to MSY.

20 And so, we need to get a better
21 understanding of what it meant and what some potential
22 ways of achieving whatever is meant would be.

23 GREG DIDOMENICO: Do you think that what
24 perhaps Dick Blain means is trophy fisheries, game fish,

1 larger fish?

2 RUSSELL DUNN: No.

3 GREG DIDOMENICO: -- think that's what
4 he means.

5 RUSSELL DUNN: Because in fact this came
6 up and I think it was Bob Hayes indicated that they're
7 looking for the whole broad age structure, healthy age
8 structure. Yes, absolutely, they want some large fish,
9 but they don't want all large fish. They want a good
10 distribution throughout the age classes.

11 So, I don't think it's all moving towards
12 a fishery all moving toward trying to get it just to
13 trophy fish.

14 And to go back to one of the things you
15 said that you don't think my goal is to take from the
16 commercial fishery. That's absolutely right. My role
17 is not to be an advocate for the recreational community
18 to the detriment of fishery policy and benefits to the
19 nation as a whole.

20 My goal is to make sure that when issues
21 concerning recreational fisheries are before either the
22 Council or the Fisheries Service that they are simply
23 given due consideration and then that the decisions are
24 made on a full range of information.

1 So, it is to elevate the profile to an
2 appropriate extent and make sure that the decision
3 makers have what they need before them.

4 GREG DIDOMENICO: That's very
5 comforting to hear. Appreciate it. Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Paul.

7 PETER FORSBERG: Paul Forsberg, Viking
8 Fishing Fleet, Montauk Point, Long Island, New York,
9 Tarpon Springs, Florida. We're the largest passenger
10 carrying fishing vessels on the east coast of America
11 and most likely the Gulf of Mexico, and the most
12 diversified. We have 11 boats in our fleet. Carry
13 about 18,000 people a year.

14 Up north, I think half the frustration
15 is not being able to catch any fish and keep throwing
16 everything back and not be able to keep anything. Up
17 north, I'd say 65 to 70 percent of our business is a
18 very low-income bracket person, mostly people of color.

19 They have to catch a certain amount of fish to pay for
20 their fare so they can come home and feed their families;
21 otherwise, they are shut out of the fishery.

22 Give you an example. Right now, we have
23 10 porgies per person, scup. When we have 10 porgies
24 per person, most of the time the boat stays tied to the

1 dock. When we get the spring season and the fall season
2 in Montauk, we get the fall season, we go to 40 fish
3 a person, the boat is full. We go from the smallest
4 boat to the biggest boat. Okay.

5 Now, they all get together these people;
6 they send one member of the family fishing; they share
7 the fish amongst them; they all chip in and send another
8 member of the family again. It's a ritual. This has
9 been going on for years.

10 Now, we also have a Florida operation.

11 Our Florida operation is basically a blue collar
12 worker. It's an upper bracket person income, but
13 they're a blue collar worker. They can't afford the
14 charter boat. They can't afford their own yacht. They
15 want to go fishing and catch some fish and take them
16 home. They have a reason so the guy can explain to his
17 wife why he went fishing and spent all his money.

18 People are frustrated. I'll tell you
19 what it is. The seasons are closed or shorter. They're
20 smaller and smaller and smaller. The people are
21 throwing these fish back. And they say why can't I keep
22 them. Every year, the season gets shorter and we're
23 throwing back fish that are supposedly overfished.

24 Right now we have the red snapper season

1 down below that is so short there's no sense in even
2 getting going on it. The new regulations are coming
3 out that they're going to shut down the gag grouper for
4 six months. Well, we know when the recreational
5 fishermen are shut down out of gag grouper, they are
6 also shut down out of red grouper. So, that means
7 there's no grouper because one fish swims with the other.

8 So, to make a long story short, up until
9 last week, I had 11 employees and 2 boats were working
10 out of Tarpon Springs, Florida. As of today, I have
11 zero employees in Florida and I have no boats in Florida.

12 Well, one is still there. The one boat is tied to the
13 dock and the other one is trying to do something out
14 of Montauk, New York. We took it up north. Whether
15 we're ever going to go back to Florida or not, I do not
16 know. It depends on the regulations.

17 But the frustration -- I hope you hear
18 it in my voice -- that's what the frustration is with
19 the recreational fishermen. And I'm dealing with two
20 segments of them. The guy that has a lot of money, he
21 has his frustrations too. He has his own yacht and so
22 forth. But these are the people that I'm dealing with
23 and that's the frustration they're getting. Thank you.

1 RUSSELL DUNN: Thank you.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Other
3 questions or comments? Okay. Again, Russ, thank you
4 very much for your presentation and we appreciate your
5 sharing this with the Council.

6 I would just ask too how the Council can
7 support you in your -- how the Council can support you
8 in your new position and mission.

9 RUSSELL DUNN: I would say that we need
10 to stay in more regular communication than we have thus
11 far, and that has been in large part my fault because
12 of the oil spill and related travel.

13 And so that I can stay apprised of the
14 issues that you're working on, which are of particular
15 interest to the rec community and how we can work
16 together and figure them out.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Again, thank you very much, Russ.

19 RUSSELL DUNN: Thanks.

20 COUNCIL CHAIRMAN RICHARD ROBINS: With
21 that, we're scheduled to meet until 5:30 today. And
22 if there's not objection from the Council, I would ask
23 if we could go ahead and take the update from the Science
24 Center on the 50th SARC, if Jim is able to give that

1 at this point in time. If there's no objection. That
2 way, we can make up a little bit of time. Jim are you
3 able to do that?

4 JAMES WEINBERG: Yeah. Jan, do you
5 have that?

6 COUNCIL CHAIRMAN RICHARD ROBINS: Fine.
7 Thank you. Jim, you're welcome to sit up here with
8 the remote if you'd like to.

9
10 50TH STOCK ASSESSMENT REVIEW COMMITTEE REPORT

11 JAMES WEINBERG: Great. Okay. Thank you.
12 I'll present this. I'll be focusing on the
13 species that were assessed and reviewed at SARC 50 that
14 are more important to this Council. So, the entire
15 presentation would probably take about an hour, but we
16 can do this easily in a half-an-hour now.

17 So, the SAW/SARC is a combination of the
18 production of stock assessments that are done primarily
19 at the Center, but as a working group process that's
20 for the entire Northeast Region. And the SARC stands
21 for the Stock Assessment Review Committee. And this
22 is an independent body of reviewers that are brought
23 into review the work that is done.

24 And the 50th means that this was the 50th

1 SARC. We have about two of these a year. So, some of
2 you may remember SARC Number 1. But anyway, it's been
3 going on for a long time.

4 This is just a brief recap about the
5 process. And this is a slide that I typically show when
6 I present this, and I update it for each of the meetings.

7 So, the first bullet is that the working
8 groups that were involved here were the Southern
9 Demersal Working Group, the Invertebrate Working Group,
10 and the Northern Demersal Working Group.

11 And as I said, these are comprised of
12 assessment scientists from the Science Center as well
13 as state biologists, people from universities, anyone
14 who basically has a good working knowledge of -- related
15 to the fish or the assessment or the fishery. They're
16 all part of the working group. And these meetings take
17 place starting about four or five months before the
18 actual peer review is done.

19 The second bullet is that this is -- once
20 the work is done, there's an external peer review. And
21 in this case, we have used the Center of Independent
22 Experts to provide the reviewers for us. And we have
23 no say over who we get. We simply specify that we need
24 experts that have particular training or expertise in

1 certain areas, and then they give us the names of the
2 people that we are getting. So, these people are
3 totally independent of the work.

4 And we've started now to include SSC
5 members as part of the review panel. So, the Chairman
6 of the review panel is from the SSC, either from the
7 Mid-Atlantic or the New England Council. And in this
8 case, we also had a member of the SSC as a peer reviewer.

9 The products that come out of this. We
10 have reviewer's reports as well as science reports and
11 you can find those at the addresses that are listed
12 there. And there's minimal management advice in these
13 reports. The main goal is to review the science and
14 then try to provide the SSC's with the information that
15 they will need as best we can for making ABC
16 recommendations.

17 So, the meeting took place -- the review
18 meeting took place the first week of June 2010. The
19 SARC panel is listed on the left. Chairman O'Boyle,
20 and then the panelists were Sullivan, Bell, Trzcinski
21 and Wheeler. And the species that were on for review
22 were monkfish, sea scallop and pollock.

23 And I'm going to present sea scallop
24 first and go through that. I'll go through all the

1 slides for sea scallop. Then I'll mention monkfish very
2 briefly. And I will not be talking about pollock. But
3 I will be presenting that to the New England Council
4 next month, so, you can come up to New England if you
5 want to hear that.

6 Now, I'm going to skip ahead to the
7 scallop assessment. Okay. These are the terms of
8 reference. I believe my presentation is in your binder,
9 so, for anything that's too small to read, you can find
10 this.

11 These are the standard terms of
12 reference for our benchmark stock assessments. And we
13 then modify them, tailor them. If there are any
14 specific things to that stock, we make modifications
15 to them. But this is basically the full suite of terms
16 of reference which include looking at all of the sources,
17 the input data for the stock assessment, including
18 landings and survey data, describing their uncertainty,
19 and then using those data to get estimates of stock
20 biomass, recruitment, fishing mortality rate, et
21 cetera. And then there comes the part of it that looking
22 at the reference points and making a stock status
23 determination.

24 So, there are two slides of terms of

1 reference. It takes a lot of time to do all this work
2 and then a lot of time for the reviewers to in detail
3 go through every bit and check off the list to decide
4 whether it was accomplished or not.

5 Now, the scallop assessment was a big
6 success in the eyes of the review panel. It's kind of
7 a double success because the stock is in good shape and
8 the reviewers liked the assessment, the way it was done
9 analytically.

10 So, I'll just review the landings
11 history. Is there a pointer on this? That's this?
12 Okay. I'll just talk. That's okay. Oh, here we go.

13 The landings of scallop have increased
14 a lot since the 1990's when everyone finally accepted
15 the fact that scallops grow a lot. If you wait to let
16 them grow before you harvest them, you can reap
17 tremendous rewards in terms of yield. And that kind
18 of signaled the change in mind set that everyone had
19 to let that happen.

20 And so, you can see that the landings
21 are approximately on the order of 25,000 metric tons
22 per year. They're taken from two regions, the
23 Mid-Atlantic and Georges Bank, and those are indicated
24 by the blue and red lines below. So, there are

1 substantial quantities of scallop taken from each of
2 those regions.

3 This is from the model that was done.

4 These are estimates of recruitment over time that have
5 occurred in the two regions, the Mid-Atlantic and
6 Georges Bank. And the recently for Georges Bank, the
7 last two or three years, the recruitment has been better.

8 And you can see before that, there was a bit of a
9 downturn in the recruitment on Georges Bank, that's the
10 light blue. And the Mid-Atlantic has been having good
11 recruitment for some time, for at least four years.

12 Now, in terms of the stock status. This
13 slide demonstrates that the stock is not overfished.

14 It's not only not overfished, but it's practically
15 right at the biomass target, exactly where according
16 to theory it should be.

17 So, the green dotted line at the top is
18 the biomass target. And that's in terms of the biomass
19 of scallops that are 40 millimeters plus in shell height.

20
21 And the -- as I was saying, the stock
22 biomass really increased during this period from a very
23 low period where everyone was arguing and trying to count
24 the meats and all that. And it's just been a huge change

1 in the whole perception of managing the resource.

2 The red dotted line represents the
3 biomass threshold where if the stock ever got below that,
4 it would be declared overfished. And you can see that
5 this stock is managed as a unit stock, so it's really
6 that black line that matters.

7 But just for -- out of interest, people
8 would like to know how much stock is in each of those
9 regions. And those dotted lines below that show the
10 amount of biomass in the Mid-Atlantic and on Georges
11 Bank. And in fact, each of those has roughly the same
12 biomass of scallops. And if one were to evaluate stock
13 status based on those, they're also about the biomass
14 threshold. But that's not the way the management is
15 currently set up.

16 And this slide is a similar slide and
17 having to do with whether or not overfishing is
18 occurring. And it's impressive the way this stock is
19 being assessed and managed because it's so close to
20 maximizing the output that you can get out of it.

21 Not only is the biomass right at the
22 biomass target, but the fishing rate that's taking place
23 is almost exactly at the overfishing level. You can't
24 hardly see it on this slide because there's a red dotted

1 line, but it falls almost exactly on top of the black
2 line which is the observed fishing mortality rate.

3 So, the estimate is telling us that
4 technically it's not -- it's just slightly below the
5 overfishing threshold. So, technically, overfishing
6 is not occurring but it's extremely close. And the
7 values of the actual estimate of that and the F threshold
8 are listed at the bottom of the slide.

9 So, as I said, there's a finely tuned
10 fishery. In the years I've been doing this, this is
11 the closest I've seen one being managed to its limits
12 this way. I guess the reason that that can be done is
13 because scallops do -- they're predictable in their
14 growth and you can get a lot out of them that way.

15 Now, here's a new sort of presentation
16 that Dvora Hart came up with. And the SARC really liked
17 this because they thought that it would be of use to
18 the Council and the SSC. And it's a way of presenting
19 the probability of overfishing as a function of the
20 fishing mortality rate. And also, the expected yield
21 loss as you fish at different levels.

22 So, if you look at the black line for
23 a minute, that's the probability of overfishing and that
24 increases as you fish at higher rates. So, that's --

1 okay -- that's just the black line going up. But then
2 this is the expected loss in yield, that if you fish
3 at higher rates. So, the loss is very high if you don't
4 fish at all. And then as you fish at higher rates, you
5 lose less. And then there's this area, this region
6 right in here that's telling you an ideal place to be
7 in terms of fishing mortality such that you're not losing
8 much yield and you're also -- you have a very low chance
9 of overfishing.

10 So, the SARC really like this approach
11 and they thought it would be useful to try to extend
12 this sort of thing to other stocks.

13 Then there are examples of projections
14 that are in the report. I'm going to skip right by this,
15 because the actual projection methodology that's done
16 for scallops is quite complicated. And as you know,
17 they have a spatial and time-based rotational management
18 scheme and showing an example of a projection like this,
19 it simplifies it too much. But that's another section
20 of the report.

21 Then these are the comments that the
22 individual reviewers had about this assessment. And
23 as I indicated, these are very positive, they're all
24 very positive. They thought the assessment was

1 rigorous, that new approach for quantifying the
2 uncertainties around the reference points relative to
3 exploitation levels is innovative, the projection
4 methods that are used are complex, but they're necessary
5 to accommodate this spatial fishery management. There
6 was some retrospective pattern, but it wasn't too big
7 of a concern.

8 Oh, this one, the last bullet, the MSY
9 estimate, depends on the assumption that increased
10 recent recruitment in the Mid-Atlantic due to increased
11 biomass levels basically if -- a question that came up
12 at the meeting was whether the increased recruitment
13 they're seeing in the Mid-Atlantic is in fact due to
14 a spawner/recruitment relationship.

15 But an alternative hypothesis is that
16 there have been temporary environmental factors that
17 have allowed recruitment to increase there. So, that
18 was kind of the only strong uncertainty that was
19 identified by the reviewers.

20 So, they went on to some
21 recommendations. And their first recommendation was
22 that the principal uncertainty concerns the current high
23 productivity levels and they suggested that somehow we
24 establish whether the high productivity depends on

1 temporary environmental factors. And then there were
2 a few other recommendation.

3 So, that basically is a summary of the
4 scallop assessment. And I could run through the
5 monkfish very quickly. You may want to stop here if
6 you have any questions or else I could go on.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
8 just a couple of questions real quickly. As you point
9 out, this has been a tremendous success story as a
10 management plan. I mean, the production in the fishery
11 has been increased probably four-fold over the last 15
12 years. And that's just been a tremendous increase in
13 production.

14 There are some questions I think about
15 recruitment in the Mid-Atlantic right now and we'll have
16 to wait and see how that plays out in the stock and with
17 respect to area rotation. But were there any
18 recommendations that came out of this that were related
19 to trying to improve the understanding of densities or
20 yields in open areas?

21 Because right now, it seems like the
22 level of understanding that we have of the resource and
23 access areas is very robust; and yet, right now, I think
24 the open area catch rates are well in excess to what

1 was projected for this year's catch rate in the open
2 areas, and that appears to be due to both abundance and
3 yield.

4 Were there any specific recommendations
5 about trying to get a better handle on the survey
6 coverage in those areas or open areas?

7 JAMES WEINBERG: I don't recall that
8 being discussed a lot. I know that they were more
9 focused on the success of the current management scheme
10 that exists now. Actually, I'm on a thesis committee
11 of a graduate student who is using a lot of the data
12 that have been collected to start examining the affects
13 of density on growth rates and as it relates to different
14 areas.

15 And some of these are closed areas and
16 some are open areas. And there are a lot of surveys
17 that have been conducted through the Center and through
18 SMast, and now with the Woods Hole Oceanographic
19 Institute with other technology.

20 So, people are beginning to utilize all
21 the data that have been collected and we can probably
22 get some good scientific papers out of this to learn
23 more about what affects the scallop growth. So, I'd
24 be looking in a year or two for the outcomes of some

1 of those studies.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
3 you. Any other questions on the sea scallop assessment?
4 Erling.

5 ERLING BERG: Thank you, Mr. Chairman.
6 Jim, in this assessment, is it just for the American
7 portion of Georges Bank or does it include the northeast
8 peak or the bay inside of the Hague line?

9 JAMES WEINBERG: I'm not sure. I think
10 it's just the American side.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Peter.

13 PETER DEFUR: Thank you very much. Do
14 the data also include a geographical distribution
15 according to density and productivity in terms of size
16 -- yeah, you're nodding. So, that analysis that you're
17 -- that's undergoing right now will be able to focus
18 in on whether there's any spatial patterns to density
19 and growth and age structure?

20 Because one of the environmental things
21 that occurred to me had to do with both -- well,
22 population density as well as some of the things that
23 came up on Monday in terms of larger scale environmental
24 conditions like coastal productivity and phytoplankton

1 blooming and nutrification and so forth. Okay. Look
2 forward to it. Thanks.

3 JAMES WEINBERG: This could be a really
4 fun discussion to have early in the morning or at a beer
5 event.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
7 on that note, if you want to move onto monkfish. I'm
8 sorry.

9 LEE ANDERSON: It is late in the day,
10 but I couldn't help noticing the similarities between
11 the surfclam and the quahogs and this in that we're
12 talking about -- it's a single stock even though they're
13 sedentary and they stay over. And it's real late in
14 the day, but I would like to get some thought going on.

15 And so, do you see any -- and also the spatial
16 management.

17 Do you see any way that spatial
18 management could be used in the surfclam that would do
19 the same sort of things that it's doing in scup. Now,
20 this is way off. I mean, if you want to give a short
21 answer and then go somewhere else, that's fine.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Not
23 to put you on the spot?

24 LEE ANDERSON: Yeah.

1 JAMES WEINBERG: I've thought about
2 this and I think that if certain clams grew as quickly
3 as scallops, it would work better. And also, we're not
4 getting the predictable recruitment in surfclams that
5 we're getting for scallops. So, those two factors make
6 it much harder to try to do this successfully for
7 surfclams. And the ocean quahogs just grow too slowly
8 to make it work. We'd have to change our whole life
9 history to live for a few hundred years in order to think
10 about managing ocean quahogs that way.

11 LEE ANDERSON: Thank you.

12 COUNCIL CHAIRMAN RICHARD ROBINS: And
13 to follow up, is it the spatial heterogeneity of F is the
14 question for the scallop fishery, and so, that question
15 is being addressed right now in potential revisions to
16 the overfishing definition in Amendment 15. And I think
17 there are some parallels for consideration. John.

18 JOHN BOREMAN: Just out of curiosity.

19 If this was coming under the control rules we passed
20 yesterday, what assessment level would you think
21 scallops would fall under?

22 JAMES WEINBERG: Well, I think this one
23 would be a 1 or 2 because I think that Dvora has succeeded
24 in computing the probability distribution function of

1 the overfishing level as well as the PDF's of F and B.

2
3 COUNCIL CHAIRMAN RICHARD ROBINS: Other
4 questions before we move on to monkfish. Jim. Just
5 going to be to the assessment, please.

6 JAMES FLETCHER: Did the assessment in
7 anyway address the amount of starfish on the bottom and
8 the success or so-called success of management?

9 And on the other point, did the moving
10 and discarding of the general category of scallops
11 affect the reproduction in the -- or the shell stocking
12 affect the abundance of scallops in the Mid-Atlantic?

13
14 Were either of these even discussed?

15 And the third question, I guess, is there
16 any consideration of inviting the Japanese to tell us
17 how they manage one-tenth of the area we manage and
18 produce 200 percent more?

19 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
20 Weinberg.

21 JAMES WEINBERG: Yeah. When we were
22 setting the terms of reference for this assessment, we
23 had so many terms of reference that there -- it was just
24 determined that there wasn't time to put a term of

1 reference about starfish or predation or anything of
2 that type on for the scallops. They had enough to do
3 without that. It would have been good to add an
4 ecosystem term of reference, but there simply wasn't
5 time.

6 On the Japanese issue, I don't have any
7 answer to that. And I'm not exactly clear on the second
8 question about the -- you mentioned something about
9 stocking and the movement of the general category. So,
10 I don't think there was discussion of that at the
11 meeting.

12 JAMES FLETCHER: Some of the general
13 category boats moved scallops to try to see -- because
14 the dumb fishermen have no idea of how to manage
15 anything. They moved the scallops to see if they could
16 get settlement in other areas and thereby increase the
17 amount of scallops to harvest. Now, there was no need
18 to tell NMFS or anything else, because the dumb fishermen
19 couldn't come up with an idea like that. But is there
20 any way that you can consider that part of the increase
21 in biomass in the Mid-Atlantic is due to the settlement
22 of scallops in areas where they were not traditionally
23 caught?

24 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,

1 I don't think that was covered in the assessment.

2 Jim, if you want to go into monkfish.

3 JAMES WEINBERG: Okay.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Chris.

6 CHRISTOPHER ZEMAN: I was just going to
7 ask, is there a way we can incorporate that ecosystem
8 component into these SARC's and SAW's for the round and
9 then these scallops can be reviewed in the next -- in
10 two or three SAW's or SARC's now?

11 But I just -- you know, going back to
12 Dr. Fogarty's presentation on Monday -- you know, my
13 comment sort of is -- I mean sort of coming to light
14 here now are -- I mean, there's real focus -- I think
15 that we should be going to an ecosystem approach. But
16 then, when it comes to the day-to-day review of these
17 fisheries and management measures, it always goes back
18 to the single species.

19 And there's only so much time in the day,
20 so much resources, and what gets cut out usually by
21 default is the other components like ecosystem. And
22 I think there really needs to be a priority to include
23 those and do all you can to do that. Especially for
24 these fisheries where we don't really -- we're not really

1 involved that closely with the management of the scallop
2 resource.

3 However, that fishery can have a big
4 impact because it does overlap most of our region down
5 in the Mid-Atlantic and it could affect our managed
6 species. So, I would like to see more of that -- more
7 of that information about that in the next SARC or SAW.
8 Thanks.

9 JAMES WEINBERG: Okay. Monkfish.
10 This is a -- you know, that's a good picture -- that
11 is a -- this is a species that is a kind of sit-and-wait
12 predator. It's got a huge jaw and a lure and it sits
13 there, and when a fish swims by it, it just gulps it
14 down. It's a really interesting critter. It can live
15 in deepwater.

16 And for this one, there have been several
17 cooperative surveys that were done. And for that
18 reason, there was a term of reference, Number 2, that
19 was added to this one to report the results of the
20 cooperative monkfish survey and describe the sources
21 of uncertainty in the data.

22 And then there are the standard terms
23 of reference. And then term of reference Number 7, is
24 an ecosystem term of reference where we were asked to

1 describe the monkfish diet and its implications for how
2 that would affect -- how that could affect other
3 populations basically treating monkfish as a predator
4 in the system, in the ecosystem.

5 Now, the -- here's a description of the
6 landings through time. There are two management areas
7 for monkfish, a northern management area and a southern
8 one. And as in a lot of cases -- the green line is the
9 foreign fleet. And as you can see, there was some
10 fishing of monkfish in the '60s and '70s and then that
11 pretty much went to zero.

12 Now, the assessment that was done for
13 this one, it's with that model that Jessica mentioned
14 a couple of times, the scale model. And this stock,
15 even though it was being assessed with an analytical
16 model, the model did not fit well at all.

17 And as I'll go into a little more detail
18 in a moment, the reviewers were really on the verge of
19 -- they were really on the fence about whether to accept
20 this assessment or not.

21 And this is a really big -- you've seen
22 enough of these retrospective plots before. This is
23 the retrospective plot for biomass on the top and fishing
24 mortality on the bottom. And you can see there's a big

1 retrospective pattern in biomass where it's telling us
2 that biomass is continually overestimated.

3 Here's the same plot for the southern
4 area. The retrospective pattern is not as bad. But
5 when you see something like this, it's really telling
6 you there's something inherently wrong either -- you're
7 either missing some data or the data that you have are
8 -- you know, something is incomplete.

9 And so, that was evident in this model.

10 You know, there were a lot of assumptions about the
11 growth rate of monkfish, the natural mortality rate,
12 and a lot of ways -- a lot of uncertainties.

13 But nevertheless, they used the scale
14 model. This was a change from the way the assessment
15 had been done previously, which was just based on the
16 survey index. And the reviewers considered it better
17 to use this analytical model, that that was an
18 improvement over just looking at a survey which actually
19 didn't catch monkfish very well.

20 Chris, was that a -- just a quick
21 clarification or a question?

22 CHRISTOPHER ZEMAN: I just want to ask
23 more about the concerns with the model, because it's
24 just not evident to me --

1 JAMES WEINBERG: Can we get to that when
2 I --

3 CHRISTOPHER ZEMAN: Yeah, sure.

4 JAMES WEINBERG: Okay. Also in the
5 benchmark assessment, they're asked to not only -- they
6 have the choice. They can just update the biological
7 reference point values or they can actually redefine
8 the way that they're computed. And in this case, they
9 actually came up with new definitions and new methods
10 for computing the biological reference points. And
11 they're indicated by these arrows.

12 The estimates for the reference points
13 are down quite a bit from the previous assessment. So,
14 it's saying for the stock to be at its biomass target,
15 it really doesn't have to be as high as was thought
16 previously.

17 And here the estimates from the model.
18 If you take them at face value, here are the results
19 for biomass. The stock is not overfished, because the
20 dotted line which are the estimates they're above --
21 they're not only above the biomass threshold, they're
22 above the biomass target. And that's true for the north
23 and for the south.

24 So, given that the assessment was

1 accepted, this is the stock status result. That it's
2 not overfished. And similarly for the overfishing,
3 overfishing is not occurring. The estimates are shown
4 by the triangles and the horizontal dotted line is the
5 overfishing threshold.

6 And now we'll start getting into some
7 of the comments from the panel. And regarding the
8 projections, the uncertainty in the current state of
9 the -- of that northern management area makes it
10 difficult to predict the stock dynamics in that area.

11 And that's a bad thing when you can't make any sort
12 of prediction about stock dynamics. And that all the
13 things we try to do in terms of determining what a total
14 allowable catch should be in the future, that this is
15 the kind of information you would like to have in order
16 to do that.

17 There's just a note here about the
18 consumption data. There was more in the report, but
19 they pointed out that monkfish prey on the species that
20 are listed here.

21 Now, the SARC panel comments. The only
22 two positive ones that I could find in their reports
23 are the first two bullets. And they said that the model
24 was better than using just the old single survey approach

1 and that they expected that future assessments would
2 benefit because of the use of the Bigelow, which has
3 better catchability of monkfish than the Albatross did.
4

5 But all of the other comments that follow
6 are negative and they range from fairly serious to pretty
7 -- to more serious. And as I said, the SARC was on the
8 fence about this one.

9 But there was high levels of uncertainty
10 throughout. Many of these sources of uncertainty were
11 in fact the same ones that existed when monkfish were
12 assessed at the previous stock assessment in the Data
13 Poor Working Group.

14 And in fact, the reviewers were a little
15 peeved that more progress had not been done, because
16 they were encountering the same issues that the previous
17 reviewers had raised.

18 They were, in particular, the aging and
19 the natural mortality rate are uncertain. The last one
20 says that the -- something that didn't quite make sense
21 to them -- even though the catch has been low in recent
22 years, there isn't -- there hasn't been any response
23 that they can see in the length distribution. You'd
24 expect to see larger animals out there and that -- in

1 the length distribution, and that's not apparent in the
2 data.

3 And there's that large retrospective
4 pattern. The next bullet has to do with the cooperative
5 survey. And it was pointed out that this has to do with
6 the cooperative survey and the retrospective pattern.

7 And they noticed that if you just took the cooperative
8 survey and you did a swept area estimate of the biomass
9 from the survey and nothing else, you'd come up with
10 an estimate of biomass.

11 And that was fairly similar to what you
12 would get if you took the results of the analytical model
13 and you made an adjustment for the average retrospective
14 amount. It was saying that in this case, it might be
15 the right thing to do to take the analytical model and
16 make an adjustment for the retrospective pattern.

17 Which they chose not to do that. But the comparison
18 with the cooperative survey is saying maybe that would
19 have been the appropriate thing to do here. And if they
20 had done that, it would have made the stock look like
21 it was in worse shape than the results which I showed
22 you for stock status.

23 They noted that these retrospective
24 patterns are in the negative direction, which means that

1 there is some potential risk to the resource. The
2 uncertainties in the assessment carry through to the
3 biological reference points. So, those are also very
4 uncertain. There's -- the projections are uncertain.

5 And there's a -- they also felt that the cooperative
6 survey data could have been used more fully and that
7 the actual sampling that they set out to do wasn't --
8 it fell short. The plan -- it was a good plan, but the
9 actual amount of work that was accomplished fell short
10 of the plan.

11 So, to summarize all this, they had three
12 recommendations. Actually, they had more, but I've
13 gone through their reports and I've pulled out what I
14 feel is the most important.

15 They wanted to see a more systematic
16 approach to examine and communicate the uncertainty in
17 the model and its consequences. They felt like they
18 had to do too much work to understand what was going
19 on and they felt that the working group should have made
20 it easier for them to figure out what was going on here.

21
22 The scale model indicates an increasing
23 trend in abundance recently, but this is not apparent
24 in the survey indices or the fishery length frequency.

1 So, of course, they're concerned and they would like
2 someone to get data and explore this and try to give
3 them some empirical understanding of what's going on.

4 They called it a reality check on the model results.

5 And then, additional work is needed on
6 the basic -- all those life history characteristics that
7 go into the model as an assumption.

8 I think that concludes the monkfish.

9 Yeah.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
11 thank you. Just looking at your report on the
12 retrospectives, I think it's fair to conclude that New
13 England monkfish are badly behaved relative to southern
14 monkfish. Questions for Jim. Chris.

15 CHRISTOPHER ZEMAN: It just seems to me
16 like it's -- the monkfish -- the way we sort of manage
17 monkfish is just -- it's an outlier and it's a very
18 complicated system and it's very hard to sort of -- it's
19 very sort of -- it's not transparent, it's very opaque.

20
21 And the more I'm hearing about this, it
22 seems to me like it sort of reminds me of this whole
23 (inaudible) crises where no one is really paying
24 attention because it's so complicated, and then all of

1 a sudden you realize that something is going on back
2 there that we should be paying attention to.

3 And I don't know how many -- it seems
4 like the last -- at the North Carolina Council meeting,
5 the monkfish presentation was very terse, there was very
6 little discussion about what was recommended. We had
7 very little information about that. And it just seems
8 like more and more, we're just seeing a lot more
9 questionable reviews where it's -- it seems to me like
10 at some point, when would the reviewers basically say
11 we can't accept this approach?

12 JAMES WEINBERG: Well, that's a good
13 question. And in fact, they felt like they were sort
14 of weighing the benefits of accepting the assessment
15 and rejecting it. And they felt that it was better to
16 accept it and write their reports which would have all
17 of these -- all of their concerns in there.

18 The alternative would have been to
19 reject it, in which case we would have had by default
20 to fall back to the previous peer-reviewed accepted
21 assessment, which would have taken you back to using
22 the survey.

23 Not only would have rejected the -- some
24 of the methods from the Data Poor Working Group, so,

1 it would have taken you back to just looking at the
2 Albatross survey, and everyone agreed that was worse
3 than what we have now.

4 So, they felt that it was the best of
5 -- what they could do was to do it this way.

6 CHRISTOPHER ZEMAN: And just a
7 follow-up question. In terms of the option to address
8 the retrospective pattern, why wasn't that done? And
9 was there a -- was there a valid reason why that wasn't
10 done as opposed to just report a lower or less healthier
11 stock result, stock (inaudible) results?

12 JAMES WEINBERG: Yeah. That decision
13 was actually made on a technical basis. And different
14 fisheries experts, modeling experts, have different
15 opinions about how to respond when you see a
16 retrospective pattern.

17 And this particular review panel, they
18 had a debate about it and some thought they should adjust
19 and others strongly felt that they should not. And they
20 had a healthy discussion about it and they decided not
21 to.

22 But that's not consistent with what they
23 did in the GARM where they made a -- they noted the
24 retrospective patterns. And in those cases that were

1 very severe, they made adjustments for the first time
2 and management is based on that adjustment. So, there
3 has been some inconsistency in how that has been treated.

4 But a decision was not made for the other
5 reason that you gave. They weren't trying to create
6 any sort of a stock status. That was absolutely not
7 their reason.

8 CHRISTOPHER ZEMAN: And I never really
9 had any -- I've never been to any debates on whether
10 or not to address retrospective patterns, but what was
11 the argument that actually won the day? What was the
12 argument in not addressing that?

13 JAMES WEINBERG: I think it would be
14 best to look at the reports.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Thanks, Jim. Other questions for Jim on monkfish? Any
17 additional questions. All right.

18 Seeing none, I would like to welcome Sam
19 Rauch who has just joined us. And Sam will be giving
20 us a presentation tomorrow on the new Executive Order
21 and Oceans Policy. So, we look forward to that.

22 We do have hospitality tonight in Room
23 535. That's in Chris room, 535. And with that, we're
24 adjourned and we look forward to seeing everybody at

1 eight o'clock tomorrow morning. Thanks.
2

3 WHEREUPON:
4

5 THE MEETING WAS SUSPENDED AT 5:50 P.M.
6
7
8
9
10
11

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 23rd, day of September, 2010.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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Pages: 1-259

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
Room 2115 Federal Building
300 South New Street
Dover, Delaware 19901-6790

COUNCIL MEETING

16-19 AUGUST 2010

at

Holiday Inn, Historic District
400 Arch Street
Philadelphia, PA 19106

THURSDAY, AUGUST 19, 2010

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1 [9:02 a.m.]

2
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS: Good
5 morning and welcome. Our first order of business this
6 morning is going to be an update on the Marine
7 Recreational Information Program, otherwise known as
8 MRIP. And we're pleased to have Gordon Colvin with us
9 this morning to present the update on MRIP. Welcome,
10 Gordon.

11
12 MARINE RECREATIONAL INFORMATION PROGRAM

13 GORDON COLVIN: Good morning, everyone.

14 I want to thank Chairman Robins for inviting us to come
15 back and update the Council on the Marine Recreational
16 Information Program. It's always a pleasure for me
17 personally, of course, to come back to the Mid-Atlantic
18 Council, to come home and see so many old friends and
19 colleagues.

20 Today's discussion I'm going to try to do a
21 pretty broad soup-to-nuts overview of the MRIP program
22 from beginning to end focusing on the entire story but
23 also towards the end a little bit of detail on what
24 implementation is beginning to look like because I think

1 there's a lot of interest in that. But we will go into
2 some detail on the ongoing projects that we're doing
3 to develop -- new improved survey methodologies.

4 Currently, there are quite a number of
5 different recreational data collection programs around
6 the country, and these many different surveys differ
7 in methodology, in coverage, in precision and timing
8 of their delivery of catch data. In the National
9 Research Council's review of recreational survey
10 methods that was commissioned by the National Marine
11 Fishery Service about five or six years ago reviewed
12 all of these surveys and developed recommendations for
13 improvements that cover them all. In response to that
14 NRC review and to stakeholder requests including
15 requests from the Councils in many of the states as well
16 as the recreational fishing community itself, the
17 Fishery Service did ask for the independent review by
18 the NRC, and in response to the many recommendations
19 included in that review which was delivered to us in
20 the spring of 2006, the Marine Recreational Information
21 Program was initiated to address the necessary
22 improvements.

23 The issue became even more urgent and
24 more focused when Congress added provisions to the

1 reauthorization of the Magnuson-Stevens Act that was
2 written in 2006 and enacted in January of 2007 to
3 essentially require the Fishery Service to implement
4 a new improved data collection program that addressed
5 as many of the recommendations of the NRC review as were
6 practical to implement.

7 The original governing structure for the
8 Marine Recreational Program which was created in the
9 Office of Science and Technology by its then director
10 Dr. John Borman is displayed here. The oversight for
11 the program was under an executive steering committee
12 chaired by John at the time as director of science and
13 technology, and John continues to support us in the seat
14 of the chair in retirement for the executive steering
15 committee; and we're delighted to have his ongoing
16 leadership. There are three primary teams that carry
17 out the management of the program. The operations team
18 is working on the very large program for developing the
19 new survey methods, and in that capacity, we are also
20 very fortunate to have the services of Preston Pate as
21 chair.

22 And all of these committees as
23 originally conceived by John and the rest of the folks
24 at NMFS before Preston and I got there was that it would

1 **not just be a group, an organization, a top down National**
2 **Fishery Service driven operation but that the**
3 **implementation of the program would actively include**
4 **our stakeholders in it, in particular** our partners; so
5 that the executive steering committee, the teams, and
6 the work groups that we'll talk about in a minute all
7 are comprised of staff from the Fishery Service but also
8 from our partners, particularly and very heavily the
9 state partners involving data collection with support
10 from the councils and other stakeholder organizations.

11 Jason Didden from this council staff is
12 a member of our operations team and is also helping us
13 on the communications and education team. We're very
14 glad to have Jason's assistance and to have had it all
15 the way through. I should also mention that on the
16 executive steering committee we have representations
17 from the Fishery's science centers, the NMFS regions,
18 the interstate commission executive directors, MAFAC
19 and the councils. And Dr. Nancy Thompson is the science
20 center's representative on the executive steering
21 committee.

22 So, here in the mid-Atlantic region, you
23 are well plugged in to the Marine Recreational
24 Information Program. I'm not going to dwell too much

1 on the operations team's work groups because as you'll
2 see in a minute, they've changed a bit, but I will mention
3 briefly that the two other teams include the National
4 Salt Water Angler Registry team, which I've led, and
5 the communications and education team which is chaired
6 by Forbes Darby of NOAA Fisheries. Within the last
7 year, we've done some tweaking of the overall government
8 structure. We've added a new team for information
9 management anticipating the need to have, as the NRC
10 panel recommended, a comprehensive database of
11 recreational data that's consistently available and
12 maintained.

13 And the operations team has revised the
14 various technical work groups that are developing and
15 implementing projects that will lead to the development
16 of new survey methods to better align them with the
17 current priority research areas. And the current work
18 groups are indicated on this slide.

19 MRIP is a national program. It is
20 expected to be done in a way that provides for regional
21 flexibility in implementation of recreational data
22 collections. In a sense we see MRIP as a certification
23 program for recreational survey methods. We're not
24 trying to impose from a top-down perspective, a

1 one-size-fits-all approach for data collection.

2 What we are trying to do is to establish,
3 develop, and certify methodologies that may be somewhat
4 analogous to the stock assessment tool kits that you
5 may have been aware of where the managers will have
6 available to them in a given region an array of
7 appropriate data collection methods to choose from, and
8 then we'll make decisions within the region on a variety
9 of matters that are relevant to the region's specific
10 needs for management stock assessment so that within
11 the region there can be decisions on which survey methods
12 to remove from the tool kit and put in place. The
13 regions will look at things like the geographic coverage
14 and the spacial and temporal resolution needs of
15 estimates which differ from region to region, the needs
16 for the timeliness of the delivery of survey data, and
17 some other things like biological sampling requirements
18 and special survey needs that might exist for things
19 like invertebrates which are not presently covered by
20 the surveys, for example, in the Caribbean.

21 Some of the examples of these kinds of
22 regional decisions that might be applicable here in the
23 Mid-Atlantic might include the following: One would
24 be what kind of methods do we want to use to collect

1 for higher recreational fisheries data in the future.

2 MRIP's already completed the development of a review
3 of for-hire survey methodologies that suggests that
4 there's more than one acceptable approach to collection
5 of valid for-hire fishing data and that a best practice
6 might be the use of electronic log books with appropriate
7 validation of self-reported data but that other
8 approaches including improvements to the current
9 for-hire survey methodology would also be appropriate.

10 Regions will need to make decisions as
11 to which way they want to go, and those decisions will
12 be based in part on their needs for timeliness, data
13 credibility, and cost. We'll talk about this later,
14 but there's some pilot work going on now with electronic
15 log book reporting that will give us much better
16 information than we have at present about validation
17 methods and costs that will help make these decisions
18 in the future. Another decision that might be made
19 within the region is what we want to do with the large
20 pelagic survey. We are developing some recommendations
21 through what was our HMS work group. It's now our rare
22 event species work group to improvements to the
23 methodology for the large pelagic survey and related
24 kinds of surveys that involve so-called rare event

1 species. Within a region decisions might be made on
2 alternate approaches there.

3 Other kinds of things that have come up
4 are decisions on whether or not to expand sampling in
5 Wave 1 where there is no sampling at present time in
6 the region. For the spacial resolution, our current
7 survey is designed around delivery of estimates on a
8 state geographic basis. Some people have suggested
9 that it needs to be smaller than states. Those sorts
10 of decisions are the kinds of things that need to get
11 made within a region.

12 I just want to kind of briefly highlight
13 -- and I think this is central to the essence of how
14 the MRIP program is being developed -- is kind of our
15 overall strategy and the sequence of how we have seen
16 the program rolling out. Our first priority from the
17 beginning has been and continues to be to develop new
18 and improved data collection and data analysis methods
19 that address the NRC findings. The work that we're
20 doing is keyed to specific recommendations in the NRC
21 report. But that is and has been -- and when we talk
22 about projects later, you'll see how some of these
23 projects line up against NRC recommendations -- that
24 has been our priority up till now. As we develop these

1 methods and complete them, subject them to peer review
2 and get them into the toolbox, we intend to implement
3 them and to recommend them to our partners for
4 implementation incrementally, so that as something
5 becomes available, it should be put into use. We're
6 not looking at some point in the future where we will
7 just do everything all at once. Rather, our approach
8 will be to implement as we go and as methods become
9 available.

10 Once we get to that point where we are
11 implementing the improved methods, then we will look
12 to making investments and using some of the money that
13 we've been using to develop methods to help us pay to
14 increase the amount of sampling we're doing so that we
15 can improve the resolution of our estimates at all strata
16 in the surveys and to reduce the proportionate standard
17 errors. We can address the timeliness of the delivery
18 of estimates at that point and spacial and temporal
19 resolution needs that come up through the regional
20 recommendations.

21 Throughout all of this, our strategy has
22 been to build funding over time to address these needs
23 moving forward, and we have built the funding from MRIP
24 from an initial AA set-aside at 1.7 million dollars in

1 2007 to 9 million dollars as of FY '10 and in the
2 President's request for FY '11.

3 I want to focus for a few minutes on some
4 of the major recommendations that the NRC panel had made
5 and then later to illustrate how we're addressing these
6 through some of the things that we're doing. Among the
7 principal recommendations of the NRC panel, one was
8 perhaps the best known, was to develop a comprehensive,
9 universal sampling frame with national coverage
10 involving a registry of salt water anglers and for-hire
11 fishing vessels. They also recommended the use of
12 dual-frame sampling be used whenever possible to reduce
13 sample bias. And so, for instance, that might involve
14 in the case of the upper surveys the use of an angler
15 registry and a directory, an independent directory,
16 whether it's a telephone directory or a mail directory
17 as a dual-frame basis for sampling.

18 They also noted that the estimation
19 procedures that we're using for gathering the
20 information from the angler intercept surveys doesn't
21 use the appropriate selection probabilities, and
22 therefore, our estimation method has the potential to
23 be biased. This was perhaps in some ways maybe the least
24 well know but the most important recommendation that

1 was made because there was a major need to address the
2 fact that our estimation method was inappropriate.

3 They also noted that our on-site access
4 does not intercept private access angling, and that has
5 a potential to introduce bias. Additional
6 recommendations: As I noted earlier there was a
7 recommendation that for-hire surveys be generally moved
8 over into a log book base approach preferably
9 electronically so that the data can be received and acted
10 on much more quickly, noting that it does need to be
11 validated.

12 They address concerns about the adequacy
13 of catch and release and our estimation of release, the
14 proportionate fish that are released. They recommended
15 beginning to use panel surveys as supplements to other
16 surveys to help validate other survey estimates and
17 trends and, as I also indicated earlier, a central data
18 warehouse and some consistent data fields nationally.

19 We've been at this for a couple of years, but bringing
20 it back to 2010, our operations team met last year, last
21 fall, in Woods Hole to review the progress to date and
22 to set priorities for the next round of research building
23 on the work that we had done.

24 And the priorities that they identified

1 for additional research and survey method development
2 are indicated here. And ultimately the operations team
3 decided to focus on the top eight of these priorities
4 which run through from develop the registry base surveys
5 to the expand registry base surveys. The bar is on the
6 bottom of the graph. And you'll note that there are
7 other important areas for survey development that lie
8 to the right of that that will presumably rise to higher
9 priority in future years as we complete work in the
10 current high priority areas.

11 So the next few slides kind of get into
12 the details of what we're doing with the current and
13 the next round of projects. For the most part, on these
14 slides the projects, the items that are in bold are
15 completed projects. Items in regular script are
16 projects that are under way with FY '08 or '09 funding,
17 and the italics are the projects that are funded
18 beginning in FY '10.

19 The first group -- and these also
20 generally correspond to the new operations team work
21 group. So the first work group is the license frame
22 survey work group. The work that they've been doing
23 includes the implementation of the registry itself and
24 the coordination with my team. They've been doing a

1 great deal of work piloting the use of dual- frame
2 surveys between using state license registries and other
3 registries, both telephone and mail, in Louisiana, North
4 Carolina and as of this year in Washington where we have
5 pretty good state license databases to work with.

6 And one of the things that I think we've
7 learned is that it's one thing to say that you're going
8 to do a survey based on the use of a state license frame
9 or a federal registry frame; it's another thing to
10 actually be able to do it. It's not a simple process
11 of just taking that data and putting it to use. We've
12 had a lot to learn about how to do that, and that's what
13 we're doing with these pilots that are ongoing.

14 For instance, initially, the pilot
15 project in the Gulf was bigger. It involved not just
16 Louisiana, but also Mississippi, Alabama and Florida.

17 After a year we dropped those three states out because
18 their license frames were so incomplete. Florida had
19 major exemptions to its license. In particular, nobody
20 fishing from shore had to have one, and it just made
21 it impossible to work with it. It was too incomplete.

22 Mississippi and Alabama had complete
23 licenses, but when we looked into the actual data that
24 they were able to give us, it was full of errors and

1 an awful lot of missing data, particularly phone
2 numbers. We just couldn't use it. So one of the things
3 that we're working on in these pilots is how do we improve
4 and complete and clean up those databases which we're
5 going to have to do as we start to receive the state
6 registries beginning later this year. The other thing
7 that's just probably worth mentioning is that it's very
8 intriguing to us that the early returns on the mail dual
9 frame in North Carolina are performing very very well.

10 Response rates are higher than telephone. They're
11 quicker than we thought they would be. And it actually
12 bears a lot of promise.

13 And it may well be that a mail survey
14 or some combination of telephone and mail may end up
15 being the preferred method by the time we complete that
16 project. It's not a sure thing at all, but it is quite
17 surprising to us how well it's performed.

18 Also, many of you probably have heard
19 there's a lot of concern among the survey professionals
20 in the country generally about declining rates of
21 participation in all kinds of telephone surveys for a
22 lot of reasons. And the mail survey approach helps to
23 get around that. And, if in fact, the response rates
24 remain as high as they have been, it may be a good way

1 of addressing the biases that people are concerned
2 about, about the client participation of telephones,
3 increasing use of cell phones, caller ID, screeners and
4 so forth.

5 So those surveys are continuing and
6 getting much more refined in the current round of
7 projects and should be able to give us some results that
8 we can begin to use next year with expanded registry
9 base sampling. A word about the status of the National
10 Registry Program itself. As you know, the National
11 Registry Program went into effect this year, and in the
12 Mid-Atlantic region, folks are required to register
13 unless they're licensed in New York or Delaware. The
14 other states are not yet in that category. We expect
15 Maryland, Virginia. Both passed legislation this year
16 that will enable their anglers to be covered by their
17 state license next year. And Pennsylvania's working
18 on crafting an anadromous fish endorsement or stamp that
19 will cover that very small fraction of their anglers
20 who fish down in the tide waters around here, and that
21 will get their anglers exempt.

22 We could take their angler frame now,
23 but I think Pennsylvania issues almost a million fishing
24 licenses a year, and frankly we don't want all those.

1 We just want those few thousand that fish down here.

2 So, I think pretty much by next year, it will be mainly
3 anglers in New Jersey who will have to register with
4 us, and other than that, we'll be accepting the data
5 from the state license and registry frames. From what
6 we hear, we still have a ways to go.

7 To formalize those arrangements, we are
8 working on getting memorandum agreement in place with
9 all the states. The MLAs for New York and Delaware are
10 done. We have MOAs in place and about to be signed with
11 Virginia and Maryland that cover their charter boats,
12 and we're confident we'll get the MOAs in place for the
13 anglers, as I said, by January and as well as for
14 Pennsylvania.

15 Also, part of our 9 million dollars, 2
16 1/2 million of our 9 million MRIP appropriation is to
17 provide financial assistance to states to improve their
18 quality and completeness of their registry database.

19 If you think back to what I said about the problems
20 with Mississippi and Alabama, what we're trying to do
21 is get states some funding to help them clean up and
22 improve the quality of their license databases so that
23 we get something that's much more useable. And those
24 grant proposals are out now in the Atlantic coast, and

1 they're about to go out in the Gulf and Pacific.

2 The coverage group is doing a project
3 this year that's trying to address this issue of private
4 access angling. And there's a couple of projects.
5 They're looking at different ways to address similar
6 potential coverage biases involving fishing trips that
7 end at night. In addition to this, California is doing
8 a study that, while it's not an MRIP study, it's being
9 coordinated with our MRIP staff on private access. We
10 should get a pretty good handle on that from those
11 results.

12 Sampling estimation group is probably
13 the biggest most technically complex and perhaps
14 arguably right along with the license frame group one
15 of the more important ones that's working. And they
16 have a big job. They've completed documentation of
17 sampling of estimation designs for the MIRF surveys,
18 and they've recently completed the development of an
19 alternative estimation procedure that addresses that
20 major NRC finding that I spoke of about essentially the
21 mismatch of the sample design and the estimation
22 methods.

23 That is, as of this week, the independent
24 peer review is underway for that project. Assuming that

1 the peer review results in acceptance -- and it ought
2 to since I think we have three of the NRC panel members
3 on the team that's developed this method -- I don't think
4 we can do much better than that -- then we will be in
5 a position to begin to use this new method to calculate
6 our estimates beginning in 2011. In addition, we will
7 be able to re-estimate and revise our estimates for the
8 period 2003 to 2010 where the data collection methods
9 conform to what the estimation method is based on.

10 There are obvious -- there's a great deal
11 of interest and maybe a smidgin of concern about what
12 those re-estimations might result in, and as a
13 consequence we're going to be doing a pretty well thought
14 through and hopefully well done, well delivered
15 communications plan on that re-estimation process. And
16 we'll certainly be in touch with the Councils to let
17 you know what the implications look like.

18 We do not foresee major changes, and we
19 do not foresee unidirectional changes in the estimates.

20 There does not seem to be -- the method does not seem
21 to imply that there was a clear bias of the past method
22 in one direction, but it does result in some changes,
23 and we'll have to address those in the communications.

24 Associated with this same issue is an

1 ongoing project in the development of alternate approach
2 to designing the intercept survey itself. The
3 distribution of samples, the duration and the nature
4 of the assignments of the angler intercept surveyors
5 is being changed. That's being piloted now in North
6 Carolina, and that is intricately linked to the change
7 in the estimation method and the underlying criticism
8 from the NRC panel. That pilot's going pretty well,
9 and unless we run into trouble that we haven't so far,
10 the expectation is we'll be able to wrap that pilot
11 project up and apply its results and begin to make
12 changes next year that are consistent with that new
13 method in most of the other states at least where the
14 angler access point survey is being done now. And
15 again, it will result in a more statistically
16 appropriate approach to collecting data.

17 Discards, catch and release is a real
18 tough one, as you can imagine. There's a lot of desire
19 in trying to find methods to independently validate the
20 data that we collect which is inherently all self
21 reported except for on head boats where we have
22 observers. And it has proved to be a real knotty
23 problem, and the group has come up with an approach this
24 year to try to do a video assessment on vessels, but

1 they're frankly struggling a little bit. This is not
2 easy.

3 How do we independently get a handle on
4 what happens particularly on private boats or private
5 angling short trips? Not easy to do. And it may well
6 be that ultimately we'll have to do some additional panel
7 survey work and some other things. But they're trying.

8 For-hire group has largely been working
9 on moving in the direction of getting us better
10 information on how to do a log book based program or
11 a trip report based program. As I said, I think actually
12 the last three of these probably should have been in
13 italics because the real run up here is into the issue
14 of developing validation methods including what we're
15 trying to come up with with the Southeast Head Boat
16 Survey moving that from a paper to an electronic system
17 and improving the validation of it, trying to validate
18 the Hawaii charter boat reporting. And importantly the
19 big project is to implement the Gulf of Mexico pilot
20 log book reporting program which is going to begin the
21 first of September and run for a year. As I indicated
22 earlier, the folks have been working on the LPS. Now
23 the rare events have been mainly focused early on in
24 reviewing their existing methods and considering

1 application of the broadening of the collection of data
2 for the large pelagics in the southeast and Gulf of
3 Mexico and Caribbean regions.

4 Their focus is going to begin to shift
5 on the broader application of rare event data collection
6 methodologies not just for large pelagics but
7 potentially for some other species in developing
8 recommendations on methods that are more broadly
9 applicable.

10 The information management team, as I
11 said, is working on the development of an overall
12 information management system for a central database
13 accessible via the web to anyone on recreational data
14 nationwide, and the data quality team is doing an
15 assessment. Right now they're primarily focusing on
16 documentation of existing survey QAQC measures and then
17 will do an assessment and an independent review and
18 development of recommendations for enhanced QAQC.

19 So that's what we've been doing. And
20 I want to just address a little bit about questions that
21 we know are on the minds of a lot of Council members
22 and stakeholders about what we'll be able to do with
23 the data that we'll be collecting. It is a pressing
24 issue in the light of the ACL, so the question becomes:

1 Are we going to have data that's more timely and more
2 precise to make decisions that bear on catch limits and
3 accountability and if so, when? I think the answer is
4 that we will be able to. There are trade-offs. And
5 the three primary considerations are the timeliness of
6 the delivery of the estimates, the precision of the
7 estimates, and keeping costs down. And we're going to
8 be able to deliver two of those.

9 If we're going to have estimates that
10 are more timely and more precise, it is going to cost
11 us more. And as a consequence -- and if you think back
12 to what I said earlier about the overall strategy of
13 MRIP and the sequencing that we're doing, the likelihood
14 is that we will be able to begin to address these issues
15 after we have completed more work on the development
16 and improvement of survey methods and have additional
17 funding available to address improving timeliness and
18 collecting a lot more data to improve precision.

19 One of the things that I wanted to
20 specifically mention is that in addition to the projects
21 I've already talked about, MRIP has an additional
22 project underway this year that specifically focuses
23 on examining methods for improving the timeliness of
24 the delivery of recreational data estimates and the

1 associated process of projecting catch. That
2 timeliness project will have a workshop coming up in
3 the fall of this year, probably in October, and we will
4 be including the Councils. And I'm quite sure after
5 talking to the Chairman last night, that the
6 Mid-Atlantic Council will be well involved in that
7 workshop in terms of examining the options that are
8 available to us, the cost of them, the trade-offs
9 associated with them, and so forth.

10 In addition, some of the national
11 recreation and marine conservation groups have
12 commissioned a blue-ribbon panel of scientists,
13 experienced scientists, to develop recommendations on
14 some data collection issues including among them the
15 question of timeliness.

16 That panel is due to deliver a report
17 to their sponsors, and then it will be forwarded on to
18 NOAA around the end of this month. And we've been trying
19 to coordinate the activities and the dialogue of that
20 panel with the project team that's working on this
21 timeliness project so that we will bring those ideas
22 to the table and some of the people who generated them
23 for the workshop in the fall.

24 One of the things that's always brought

1 up that will certainly be part of the dialogue at that
2 timeliness workshop is the notion of reducing the length
3 of our current effort sample waves from two months to
4 one month. I just wanted to talk about that for a minute
5 because it does come up a lot and give you a sense of
6 what it means when I talk in terms of trade-offs.

7 Right now we conduct telephone surveys
8 at the end of each two-month sample wave for a period
9 of about two weeks, and then we use the results of that
10 along with the catch data that we've collected during
11 that two-month period to generate a preliminary estimate
12 of catch and to deliver it. And that comes after the
13 calculations are done, after the QAQC is done. Those
14 numbers become available as preliminary estimates about
15 45 days after the end of that two-month wave. And it
16 achieves what it achieves in terms of a catch estimate,
17 a PSE associated with it and so forth for a two-month
18 period. If we shorten to a month --there's also some
19 thinking that we can shorten that 45-day period to 30
20 using a variety of new methods and techniques so that
21 we would be getting preliminary estimates 30 days after
22 a 30-day wave, a one-month wave.

23 The first immediate thing to realize is
24 that if we conduct the same amount of sampling that we're

1 doing now, we'll only have half the data; and having
2 only half the data, the PSE will go up considerably.

3 So in order to deliver a preliminary estimate on a
4 one-month wave rather than two, we have to substantially
5 increase, perhaps double or more, the amount of data
6 that we collect to get an equivalent PSE for that one
7 month as opposed to the two-month period we're getting
8 now. So that's where these trade-offs start to come
9 into play.

10 And those are the sorts of things that
11 we need to think about in far greater detail I'm sure
12 in a far greater level of sophistication than I can
13 certainly manage at this upcoming workshop. But
14 nonetheless, there is a great deal of interest in a
15 one-month wave, and I'm sure we're going to be looking
16 very hard at it.

17 So next step's just reiterating what our
18 2010 projects are underway. They're all moving forward
19 that I described. We will be doing the timeliness
20 workshop and looking at these trade-offs and the costs
21 associated with improving timeliness. As new methods
22 are completed, including the estimation effort, we'll
23 be doing peer reviews and then beginning to implement
24 the new methods looking at the revised estimates at the

1 end of this year and moving into registry based survey
2 efforts and the revised intercept survey design next
3 year. I want to just briefly mention a couple of things
4 on outreach. How do we stay in touch with the Councils,
5 for instance? As I said, this Council is certainly
6 positioned well to stay on top of MRIP with the many
7 people here who are well involved in it, but we're always
8 pleased to come back and do what we're doing today at
9 your pleasure.

10 We do issue, and we're getting back to
11 doing it more regularly now, a newsletter called a
12 Newscast which goes to the Councils. I don't know if
13 it goes to all the Council members, but I'm sure Chris
14 can pass it on once it arrives. And we also will be
15 doing project updates from time to time to give more
16 detailed reporting on these many projects that we have
17 going on.

18 And we're very open to your suggestions
19 on improving our outreach and our communication with
20 the Council. And given Jason's role on our
21 communication education team, anytime you have any
22 thoughts you could share them with Jason or directly
23 with Forbes Darby. We'd be glad to have them.

24 That concludes it, Mr. Chairman. Thank

1 you for waking me up this morning and getting me going.

2 I'd be happy to try to answer any questions you have.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Gordon, thank you very much for the presentation. As
5 Gordon mentioned, we did have the opportunity last night
6 to have a lengthy discussion, and while he mentioned
7 that we are well plugged into the MRIP process, in fact
8 we have the chair of the executive steering committee,
9 the operations team and Jason Didden from our staff is
10 on the operations team, I think we do have significant
11 opportunities as a council to become substantially more
12 engaged both with the MRIP leadership and the ACCSP to
13 try to identify in advance the data needs that are
14 specific for recreational fisheries here in the
15 Mid-Atlantic region.

16 And I think in light of what we've done
17 this week, I think we've entered into a new chapter of
18 management and data requirements that are going to
19 necessarily follow with the passage of the Omnibus
20 Amendment and the increased accountability measures and
21 requirements that go into that, and I would suggest that
22 we continue to push forward on this issue and explore
23 the opportunities that we might have to become more
24 involved in the ongoing data improvement process that

1 MRIP had undertaken.

2 But before we get into that, why don't
3 go ahead and have some questions specific to Gordon's
4 presentation. Pete.

5 PETER HIMCHAK: Yes. Thank you,
6 Gordon. So we don't have a salt water license in New
7 Jersey yet?

8 GORDON COLVIN: You're asking me?

9 PETER HIMCHAK: I've been out of the
10 country. Gordon, I had a question. Now, is there a
11 concerted effort by NMFS or the MRIP program to get more
12 and ultimately all of the states to bear the
13 responsibility for the assignment of the field
14 intercepts? I had heard of the potential for the money
15 coming to either the ASMC or the ACCSP to get the states
16 to essentially supervise as opposed to a contractor the
17 selection and the personnel to do the field intercepts.

18 So could you comment on where we are in that process?

19 GORDON COLVIN: Sure. It is not
20 something that as a matter of policy the National Marine
21 Fisheries Service is pushing for. That said, it is
22 something that we support, and we've supported it all
23 along. And I know that ACCSP through it's recreational
24 technical committee and its operations committee has

1 asked the states recently to express their interest in
2 becoming more involved in overseeing, managing, even
3 conducting the intercept surveys.

4 And in some instances, they even do the
5 telephone surveys at the state level as opposed to the
6 NMFS contractors doing it. I think it's probably fair
7 to say that in many of the states where that's done now,
8 we find that there's a great deal more public support
9 for the survey data collection and even the resultant
10 data itself. And so as a consequence, that's part of
11 the reason that we've supported it.

12 What we've generally done in those
13 states where there's an interest, is whatever dollars
14 we're using to pay the contractor we try to make
15 available to the state to do that work instead. And
16 then if the states want to, they can add their own dollars
17 to do more data collection above and beyond using the
18 same method and certainly welcome it.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Rick.

20 RICK COLE: Gordon, you may have said
21 this, and I might have missed it. But do you have an
22 estimate of when this MRIP data will be available in
23 a format that we will be able to use in our December
24 meeting, for setting recreational management measures;

1 what target year would you estimate that they'd be
2 available?

3 GORDON COLVIN: Well, Rick, as I
4 indicated, the strategy that we have involves
5 implementing methods sequentially as they're developed.

6 So I'm not sure that there is an answer specifically
7 to the question you ask; but the new estimation method
8 that we're developing will be implemented, again,
9 assuming peer review, no surprises during peer review,
10 late this year, probably not in time for your December
11 meeting for the 2010 data. So you'll still be seeing
12 estimates I'm assuming in December, they're based on
13 the methods that we are using now, and sometime early
14 next year we'll be going back to that whole 2003 to 2010
15 period in doing revised numbers; and then over time we
16 will begin phasing in the new methods for collection,
17 the intercept data, the changing of the assignments,
18 that's just going to change over as it changes over.

19 Same thing with phasing in registries and dual frames
20 to collect the effort data. All of those we hope to
21 begin to do next year.

22 Now, in the case of the registry stuff,
23 it will probably be kind of a state-by-state call based
24 on when we get to a point where we think we've got a

1 sufficiently complete set of angler data to at least
2 start up the dual-frame.

3 So, for Delaware, for instance, I think
4 we're going to be in real good shape to start using
5 registry next year. For some other states, we're not
6 going to be. They're going to be less complete.

7 We're going to have to make that
8 assessment based on what the data look like when we get
9 them. One of the things that I didn't get
10 into -- I think I've mentioned it in some other trips
11 here -- is that we do have the federal registrant list
12 that we're building this year. And that's something
13 we have to look at as well, particularly in New Jersey,
14 Virginia and Maryland, just in this region. We are not
15 blown away by the number of registrants we're getting.

16 And I don't think we've hit 200,000 in New Jersey yet,
17 for instance. Now, I think probably most people would
18 think that the number of anglers in New Jersey is way
19 more than that.

20 So we probably need to do a little better
21 at some point before we are confident that we have a
22 sufficiently complete registry to work with. And we're
23 going to need some expert advise on that that's going
24 to come through that work group that's working with Rob

1 Anders and Pres on the registry implementation.

2 RICK COLE: Could I ask one more
3 question of Gordon?

4 COUNCIL CHAIRMAN RICHARD ROBINS: Go
5 ahead.

6 RICK COLE: On the historical MRFFS
7 data, Gordon, do you foresee that this new data, the
8 new MRIP data, is there any way that it will be comparable
9 to the historical data; will there be any kind of
10 calibration coefficient? Because, as you know, the
11 states use that historical data when we do our
12 conservation equivalency analyses for the states. Are
13 we still going to be able to use that historical data?

14 GORDON COLVIN: The issue of our ability
15 to calibrate new methods and the resultant numbers that
16 come from new methods versus old methods is still very
17 much uncertain. It may be that some methods will lend
18 themselves readily to calibration, and others will not.

19 I don't think there's a simple answer
20 to that yet, Rick. We'll see. The other thing, too,
21 is when we do the re-estimation, we don't even need to
22 calibrate that. We're just going to be producing new
23 numbers back to 2003.

24 Going earlier than 2003 is going to be

1 difficult because there was a change in the methods then
2 so that this new method that they developed is predicated
3 on the specific mathematical methods they were using
4 since 2003.

5 They would have to do -- if they went
6 earlier, they would have to redo the whole thing all
7 over again, a very long and expensive process. So I
8 think right now we're going to probably sit that one
9 just on the '03 to '10 number. And the other thing I
10 can tell you is I think probably the stock assessment
11 folks are more interested even than the managers in
12 seeing the extent to which calibration is a possibility,
13 and we're going to have to look at that. But one of
14 the issues is, as a for instance, we're piloting the
15 new design for the intercept survey in North Carolina,
16 and we have yet to have the results of that pilot to
17 compare.

18 We are doing that actually side by side
19 with current method. So we'll be able to compare the
20 results. And only when we have the results of that
21 comparison will we have a sense of whether further
22 calibration would be worthwhile. So we'll know a little
23 more then.

24 I think the same thing may also well

1 apply when some of the results of the dual-frame effort
2 survey are done. Again, we'll be able to compare to
3 the extent that it is comparable the effort estimates
4 from registry frame, the CHTS and the dual to see how
5 they compare.

6 And if there are some obvious kind of
7 calibratable differences, then we might be able to do
8 that sort of thing, but we need the results first.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Mike
10 Luisi.

11 MIKE LUISI: Thank you, Mr. Chairman.
12 Thank you, Gordon. You may have mentioned it. Well,
13 I heard you mention Wave 1 and their interest in pursuing
14 sampling during Wave 1. Could you just elaborate about
15 what possible determining factors that would drive that
16 interest in developing a program for that time of the
17 year?

18 GORDON COLVIN: I think more than
19 anything it's cost. When we look at it from the MRIP
20 perspective, it comes back to that issue of our interest
21 in following the sequence of develop the methods, get
22 them right, and then apply the new methods more broadly
23 and more intensively. So it's kind of the next step
24 in the process.

1 But it's very important to emphasize
2 that that needs to be done in the context of
3 collaboration with your regional partners. So what do
4 the partners need?

5 The Atlantic Coastal Cooperative
6 Statistics Program is trying to revisit the question
7 of standards for the collection of recreational data
8 on the Atlantic coast, and they're likely to look at
9 all kinds of standards including time frames, coverage
10 time frames. Right now the coverages are pretty much
11 Waves 1 through 6 in Florida, Waves 2 through 6 in Georgia
12 through Southern New England, and Waves 3 through 6 in
13 Northern New England. And there's a lot of interest
14 and a question of adding Wave 1 from Georgia at least
15 to New Jersey, New York and adding some data collection
16 in Wave 2 in New England, maybe just in for-hire but
17 maybe more.

18 So it's timely that the ACCSP partners
19 look at all that and all the other stuff they need to
20 look at. There are other coverage issues including
21 questions about coverage up into the tidal rivers that
22 are not now covered that need to be looked at.

23 And then we can make decisions once we
24 have the right methodologies in place where do we invest.

1 And it really is that's the question: Where do we
2 invest; where do we get the biggest bang for whatever
3 we happen to have to invest at that time?

4 COUNCIL CHAIRMAN RICHARD ROBINS: Mike?

5 MIKE LUISI: Thank you for a quick
6 follow-up. Speaking of the investment, you made a
7 point, and it sounded as if states will have the
8 opportunity, as they do right now, to add additional
9 funding to the survey that's already being conducted.

10 I know states up and down the east coast provide a great
11 deal of money for add-ons in each state, so. Given the
12 new developments, if there's interest in pursuing
13 sampling during the Wave 1 period, could states
14 potentially get the money together to provide the amount
15 of sampling that might be necessary to produce an
16 estimate?

17 GORDON COLVIN: Yes.

18 MIKE LUISI: Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Chris
20 Zeman.

21 CHRISTOPHER ZEMAN: Thank you, Gordon,
22 for the presentation. I had a couple questions. One
23 was this: I'm not sure if you were around here earlier
24 for the ACLA discussion, but one of the measures that

1 we put in place was a pound-per-pound payback for the
2 recreational sector for any overages in the following
3 year.

4 And, I guess -- you know, based on our
5 schedule of using that, the first time that will be put
6 in place is for the 2012 fishery. And just in terms
7 of time lines, is that a time line where MRIP can get
8 up to speed and get to that level of accuracy and
9 precision to support a pound-per-pound payback
10 provision?

11 GORDON COLVIN: Well, I'm not sure what
12 the Council members would think would exactly be needed
13 to do that. I mean technically speaking, we can do that
14 now with MRFFS. It's an estimate. The question is:
15 How satisfied are you with the estimate and the error
16 bounds around it and the timeliness with which you
17 receive it?

18 We will be able to make improvements in
19 all of those things and certainly hope to be in a position
20 to do so beginning by 2012. But they will continue to
21 be estimates, and they will continue to be estimates
22 based on sample survey at least for the private rental
23 and shore modes of angling, and they will continue to
24 have some measure of statistical uncertainty associated

1 with them.

2 And our ability to convert the numbers
3 of fish to pounds will continue to be limited by the
4 underlying data that we use to develop length-weight
5 relationships for conversion of our numbers in lengths
6 from survey data to weights against which you're
7 measuring your catch limits.

8 So I think the answer is we can certainly
9 do a lot better than we've been doing, but you have to
10 understand at the end of the day you're going to be
11 working with estimates. Now, you may have the option
12 -- you do have the option of perhaps in the for-hire
13 sector at least a different approach, as I mentioned.

14 That's something I'm sure you're all going to be talking
15 about. But in terms of the millions of anglers you've
16 got on boats and shore, we're going to be doing
17 sample-based surveys.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Howard.

20 CHRISTOPHER ZEMAN: I'm sorry. I just
21 have one follow-up comment.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Go
23 ahead.

24 CHRISTOPHER ZEMAN: I just want to just

1 add in terms of the consideration of the trade-offs,
2 in terms of the increased reporting and the timeliness,
3 I just want to make sure that in that consideration you
4 really take into account the fact that the accuracy and
5 ability for you to -- for MRIP to report in real time
6 is directly related to catch levels for the Recreational
7 Fishery; because we are now at this point where we are
8 taking into account management uncertainty, and so there
9 could be a reduction in the millions of pounds to account
10 for limitations in the MRIP catch reporting system.
11 So please consider that in your evaluation.

12 In that view, it may be very much worth
13 it to go to a month-to-month reporting system. And I
14 did have one more comment, but now it just left. But
15 I plan to talk with you further about this in more detail.

16 Thanks.

17 GORDON COLVIN: Sure, Chris. And I can
18 assure you that our analyses do take that factor. We're
19 well aware of that issue of how uncertainty plays into
20 the estimate, and that is part of the trade-off
21 evaluation, absolutely.

22 CHRIS ZEMAN: I just remembered my other
23 point, and that is that -- another point is that with
24 this pound-per-pound payback provision, a delay of two

1 months -- right now we also put in place a system where
2 NOAA has the ability to close the fishery upon actual
3 evidence of a actual exceedance in the quota.

4 If we don't see that data for two or three
5 months, that overage is going to be much larger. So
6 another consideration to take into account. Thank you.

7 GORDON COLVIN: I understand. And that
8 also plays into the issue of the uncertainty and how
9 you take that into account when you set the catch limit
10 in the first place, and we're aware of that as well.

11 And I know what you've done, and it's
12 been explained to me. There are some other management
13 systems that have been discussed and perhaps under
14 consideration that would look more towards projecting
15 rather than acting on the basis of what's already been
16 documented to have occurred. One of the things that
17 we do hope to look at during the workshop upcoming is
18 improving methods for projecting recreational catch
19 based on not necessarily on real time catch accounting,
20 but on some real time indicators that would improve our
21 ability to project more accurately. So that will be
22 part of that dialogue as well.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
24 you, Gordon. Howard. Howard King.

1 HOWARD KING: I was going to make a
2 couple of motions. Shall I make the motion and then
3 take comments from the audience?

4 COUNCIL CHAIRMAN RICHARD ROBINS: Why
5 don't we go ahead and have Lee Anderson up with his hand
6 up. Let me take that question, and then we'll get into
7 a discussion about how we might move forward as a
8 Council. Lee.

9 LEE ANDERSON: Thanks, Gordon. As a
10 follow-up to some of these other questions, you know
11 how important this is to us, so I don't have to say that.
12 But you gave a choice later on, and you said you can
13 have timeliness, precision or cost. And I'm really glad
14 you gave us that choice because we're going to take
15 timeliness and precision. Are you going to be able --
16 what are your estimates of coming up with the appropriate
17 dollars to get that so that we can do our job?

18 GORDON COLVIN: Well, in end, that's
19 kind of what I said, that I'm well aware that that's
20 choice that you'd make, and that's what our planning
21 is, is we've had some success in building funding for
22 MRIP; we hope that that success continues.

23 We are also looking at a process where
24 over time we transition from an investment in the

1 research projects that we've been doing as they wind
2 down and moving that investment into expanded data
3 collection on a priority basis.

4 So we're pretty confident that we'll be
5 able to make some improvements in resolution, and
6 potentially once -- we've got to cost it out -- but
7 potentially to move in the direction of shortening the
8 sample waves, if nothing else. But it might take a few
9 years, and it might take some additional funding, but
10 we're working very hard on that.

11 LEE ANDERSON: Thank you.

12 COUNCIL CHAIRMAN RICHARD ROBIN: Thank
13 you, Gordon. Howard, before I get to you, if we can
14 come back to where we started. I did have an opportunity
15 to discuss this at length last night with Gordon and
16 the rest of the MRIP team, and I think we have as a Council
17 a couple of very specific opportunities to more
18 substantially engage with MRIP in terms of contributing
19 to trying to improve the quality of data in the region
20 but also in terms of better identifying our data
21 requirements as they relate to our management.

22 And I think in light of the action that
23 we took earlier this week to approve the Omnibus
24 Amendment, data is going to become that much more

1 important as we look at the prospect of accountability.

2 It's clear that they are making, I think,
3 potentially significant improvements to the program
4 going forward. But I think the Mid-Atlantic Council
5 has an opportunity to become more active in working with
6 MRIP leadership and ACCSP.

7 The MRIP operations team has an upcoming
8 October meeting where they'll be setting priorities,
9 and I would suggest that we may have a couple of
10 opportunities there to have our staff submit priorities
11 and identify data collection requirements that would
12 be specific to the Mid-Atlantic region to the team and
13 ultimately I would envision that perhaps our staff could
14 develop even some pilot-type projects that might be
15 specific either to the recreational public or to the
16 for-hire sector that would allow us to engage with those
17 constituents more directly and contribute to the ongoing
18 improvement of data in the region.

19 But, additionally, we are not as a
20 council as involved in ACCSP as we could be. ACCSP,
21 as Gordon points out, is the body that's looking at data
22 standards in the region, and I think we need to be more
23 involved in that discussion. And so I think that's a
24 pretty open opportunity for us.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Howard.

3 HOWARD KING: Thank you. Following up
4 on your comments, Mr. Chairman, I would make two motions.

5 Jan, I'll go slowly.

6 Move to direct Council staff -- and will
7 they go up on the board eventually -- to develop a list
8 of recreational data collection needs specific to the
9 Mid-Atlantic region --

10 JAN BRYANT: Hold on.

11 HOWARD KING: Okay. -- the
12 Mid-Atlantic region for consideration by the MRIP
13 operations team at their priority setting meeting in
14 October.

15 The second motion: Move to engage with
16 ACCSP to increase and advance the Council's
17 participation in the improvement of data collection in
18 the Mid-Atlantic region. Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS: We'll
20 treat that one, two-part motion, Howard. Is there a
21 second to the motion? Is there a second to the motion?

22 JACK TRAVELSTEAD: Second.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Second by Jack Travelstead. Discussion on the motion?

1 Pete.

2 PETER HIMCHAK: Are we talking about
3 both motions now or just the first one? Because I had
4 a question on the engagement with the ACCSP and what
5 specifically that means.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Pete,
7 right now, as I understand it, we have a seat at the
8 table, and we're not filling it, so it's a simple matter
9 of engaging with ACCSP to begin contributing to the
10 discussion about data standards in the region.

11 PETER HIMCHAK: If I could, Mr.
12 Chairman. The individual states had a seat at the
13 table, and they are participating especially through
14 the Recreational Technical Committee to improve
15 precision on some of the estimates.

16 And the ACCSP is moving toward some kind
17 of a Wave 1 project proposal, I understand, for funding
18 in 2011. So, I guess you're saying you want
19 Mid-Atlantic Council staff specifically to meet with
20 the ops committee of the ACCSP?

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Right. So you've got staff involvement and/or Council
23 leadership involvement that I think could be brought
24 bear with this, now, again, our management paradigm has

1 just gone through a significant change that is now on
2 a fairly tight horizon, and I think we need to bring
3 those data needs to the table at the ACCSP. Further
4 discussion on the motion?

5 Howard, you have these as two, so we can
6 vote on them separately. On the first motion, move to
7 direct Council staff to develop a list of recreational
8 data collection needs specific to the Mid-Atlantic
9 region for consideration by the MRIP operations team
10 at their priority setting meeting in October. Is the
11 Council ready for the question?

12 (Response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there any objection to the motion? Is there any
15 objection to the motion?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Seeing none, it's approved by consent. Thank you.

19 Onto the second motion. Move to engage
20 with ACCSP to increase and advance the Council's
21 participation in the improvement of data collection in
22 the Mid-Atlantic region.

23 Is there any discussion on the motion?

24 Is the Council ready for the question? Is there any

1 opposition to the motion? Is there any opposition to
2 the motion?

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Seeing none, it's approved by consent. Thank you.

6 Gordon, thanks again for your
7 participation and presentation here today. Thank you.

8
9 Our next report is from Mitch McDonald
10 with the Office of General Counsel's Enforcement and
11 Litigation Group. Mitch, if you want to come on up.
12 Welcome.

13
14 ENFORCEMENT AND LITIGATION

15 MITCH MACDONALD: Thank you, Chairman
16 Robins, for the opportunity to be here. My name is Mitch
17 MacDonald. I work in the Gloucester office for the
18 Office of General Counsel in the enforcement and
19 litigation section. In case you're wondering, although
20 I do share the same last name as Joel and we may have
21 some distant ancestral connection, I am not related as
22 far as I know. Not that I wouldn't mind being related.

23 So, as I present this, please feel free
24 to ask questions. I'm used to engaging as I go along;

1 although, if you prefer, you may save questions for the
2 end, and I'll ultimately provide time for that.

3 My e-mail address for anybody who ever
4 needs to contact me with any questions or comments is:
5 mitch, m-i-t-c-h, dot, MacDonald,
6 M-a-c-D-o-n-a-l-d, at NOAA.gov; and my telephone
7 number, my desk telephone number, is 978-281-9379.

8 I do try to make myself available for
9 any questions or any concerns, and being here today is
10 part of that process, and I appreciate the opportunity
11 and for your time.

12 So the purpose of my being here today
13 is to describe my office's purpose and our practices
14 and our policies especially in light of some of the
15 changes that are occurring in result of the IEG review
16 that's been ongoing and a lot of the press coverage and
17 controversy that's been surrounding our office
18 recently. I hope to return on a roughly semiannual
19 basis to provide you with updates about our office's
20 work and highlight any issues that may be important for
21 you that we see from a regulatory perspective about how
22 the regulations are enforceable or not, if there are
23 difficulties that we're facing, any other information
24 that I think may be important, and just simply to field

1 questions from you.

2 I will hopefully report to you any
3 published cases that come out of our office as a result
4 of our work. And sometimes there could be questions
5 from those as well, and I'll be able to field those.

6 If there are issues in the interim
7 between my visits, if there are enforcement committee
8 meetings, if anybody needs me before then, I've given
9 you my contact information, and I'm also available for
10 any enforcement committee questions or concerns.

11 So with that, my office up in Gloucester
12 is one regional office of the Office of Enforcement and
13 Litigation. The Office of Enforcement and Litigation
14 has 15 attorneys nationwide. There are three
15 enforcement attorneys in the northeast region. There
16 are three in the southeast region. There are one each
17 in the southwest and northwest and Pacific Islands
18 region, and then there are two enforcement attorneys
19 in the Alaska region, and the balance, I believe it's
20 five attorneys, are in headquarters in Silver Spring,
21 Maryland.

22 My office's job is to enforce marine
23 resource laws through primarily civil litigation. We
24 enforce the Endangered Species Act, the Marine Mammal

1 Protection Act, the Marine Sanctuaries Act, numerous
2 other acts. But our primary statute that we work under
3 as well as you is the Magnuson-Stevens Act.

4 Our office is primarily involved in
5 civil administrative cases. And I'll explain to you
6 further what that is as I go along. But we also will
7 support the Department of Justice when cases are
8 referred criminally for prosecution under various
9 statutes. If they have questions or otherwise need
10 assistance, we are there to support them as well.

11 But our primary work is civil
12 administrative. We are separate from the Office of Law
13 Enforcement and the Coast Guard, but our office receives
14 the cases from the Office for Law Enforcement and the
15 Coast Guard. They are the enforcement branch. In
16 terms of -- it's not a perfect corollary, but it's a
17 good example, I think, of the television show Law and
18 Order where you have the investigative side and then
19 you have the prosecutorial side. We are that
20 prosecutorial side.

21 What it means for us in the civil
22 administrative context is that once a case -- once a
23 violation has been documented or potential violation
24 has been documented in an investigation package, it is

1 forwarded to our office for review.

2 The Coast Guard or the Office for Law
3 Enforcement will refer cases to us that they are not
4 referring for criminal prosecution. When it reaches
5 our desk, we have the requirement under the
6 Magnuson-Stevens Act to review the evidence that's
7 compiled in that case package.

8 And if it's a Magnuson-Stevens Act
9 violation, we review it to determine the extent, the
10 circumstances, the gravity, and the nature of the
11 potential offense that's being presented to us. So,
12 for example, if it's a closed area incursion, we will
13 look at the nature of the violation, what the closed
14 area is closed for, what it's trying to protect, what
15 this person was doing in there, what was the extent of
16 the violation. We'll see how far in they were; we'll
17 see how long they were in for, all the while determining
18 whether the evidence is sufficient to support that
19 charge.

20 We also look at the individuals involved
21 in a particular violation. We will look at their degree
22 of culpability. And what that means is we will try to
23 determine from the evidence was this inadvertent, was
24 this a mistake, was this a result of negligence, should

1 they have used more care, was this individual recklessly
2 disregarding any risk, or did this individual
3 intentionally violate the provision.

4 We also look at prior enforcement
5 history for individuals. We will see: how many times
6 they have been through our system, if any; what was the
7 nature of their involvement in our system, did they
8 receive a warning for the same type of violation, for
9 example; did they receive a prior penalty for the same
10 type of violation, or was it a totally different
11 violation. And generally speaking, people who have
12 been through our system are treated with increasing
13 penalties as they go through the system repeatedly.
14 Our purposes for the penalty actions that we'll take
15 -- and I'll describe for you what actions are available
16 to us -- but the purposes of our penalties are to deter
17 that specific individual from committing further
18 violations.

19 And then also we have a general
20 deterrence value that we're trying to encourage, and
21 that is, okay, we can address this particular
22 individual, and hopefully we'll keep this particular
23 individual from committing this type of violation or
24 other violations in the future, but also what kind of

1 penalty can we use to deter others who are thinking about
2 this or are currently doing it to stop doing it. And
3 those are things that we are trying to accomplish when
4 we issue our civil -- when we issue our penalties.

5 Now, what is available to us when a case
6 comes over to us? If a case is going to be handled in
7 a civil administrative context, we have the authority
8 under the Magnuson-Stevens Act to forfeit illegal catch
9 or catch that is caught in connection with the illegal
10 act.

11 We have the authority to forfeit a
12 person's fishing vessel actually and its appurtenances
13 that was used in commission of a violation. That I'll
14 mention right off the bat is something that we rarely
15 do and have rarely done in large part because some of
16 the other mechanisms that we have at our disposal are
17 permit sanctions where we can impose a permit sanction
18 on a vessel or an operator who has an operator permit
19 that will either remove them from the fisheries for a
20 period of time or can set conditions on that permit and
21 up to revocation of a permit, taking a permit away.

22 The other option available for trying
23 to deter this particular individual and get general
24 deterrence are civil penalties, and those are fines

1 basically. Those are dollar amounts that we will charge
2 against vessels.

3 When we are considering these options
4 and we are considering all of the factors that I
5 mentioned, we have used penalty schedules in the past
6 and currently that were arranged by types of violations
7 and then whether this was a first offense, a second
8 offense, or a third offense; and the scale would to
9 increase as a person again would come through the system.

10 As I'll get into a little bit later, this
11 may be changed in response to the IG review. When a
12 violation is documented and we have determined that
13 there is sufficient evidence of the violation and we
14 have considered all of those factors and decided to take
15 a penalty action, whether it's forfeiture -- well,
16 whether it's a civil penalty or a permit sanction, we
17 will then issue a notice to the individual that we have
18 documented a violation, specify the violation and the
19 penalty amount of that violation; and that person then
20 has an opportunity to either present their side of the
21 case to us, the prosecuting attorney, and seek a
22 modification of the penalty or try to settle the assessed
23 penalty with us, or they may go to a hearing.

24 Hearings are held in front of

1 administrative law judges, and everything is done on
2 a record. So much like these meetings are recorded,
3 we actually have court reporters who are there,
4 stenographers, who will record every word that's spoken
5 on the record at that hearing.

6 And we will present all of our evidence,
7 and that typically involves having the investigating
8 agent and maybe other witnesses there who will testify
9 to the evidence that they are presenting. We will
10 present any documentary evidence. And all of this
11 evidence and all of this testimony is subject to
12 objection by the respondent, by the potential violator,
13 and the witnesses are subject to cross-examination much
14 like a civil trial in the federal district courts.

15 Our evidentiary standard of proof is
16 preponderance of evidence, again, like a civil trial
17 in district court. And that is in contrast to a criminal
18 case where evidence must be beyond a reasonable doubt.

19 And once our case is presented to the
20 administrative law judge, both parties have an
21 opportunity to present further arguments in writing,
22 and both parties do present further arguments in writing
23 and get to reply to each other's arguments.

24 And then the administrative law judge

1 who is wholly separate from us then makes a decision
2 based on the record in front of him or her. That
3 decision is appealable to the U.S. Federal District
4 Court within the district in which the hearing takes
5 place. And then that case enters the federal court
6 system.

7 So, when the Federal U.S. District Court
8 judge issues their ruling, that is then subject to appeal
9 to the Circuit Court in which that district court appears
10 and then all the way up to the Supreme Court. We've
11 never had a decision by the Supreme Court; although,
12 we have a case right now pending before the Supreme
13 Court. It's unclear whether they'll take it up for
14 consideration.

15 I imagine you're aware the IG, the
16 inspector general, has been reviewing our system for
17 the past year and few months, and we are responding to
18 -- the agency is responding to the results of that review
19 in numerous ways and hopefully in ways that really will
20 build the trust and confidence of fishermen because in
21 my view, people deserve that, and people need that.

22 In a system that is exacting civil
23 penalties that are serious, there must be trust and
24 confidence. So we have operated within these

1 guidelines, within these statutory guidelines, and to
2 the extent that our operations need further explanation,
3 further clarification, and more documentation to
4 provide that trust and confidence, then those are good
5 things. And in particular, what is going to come as
6 a result of what is in process right now is that we will
7 have a new penalty schedule that will be national in
8 scope rather than regional. To date our penalty
9 schedules have been regionally based. Much of our
10 activity has been regionally based in large part because
11 that's the way these fisheries grew up.

12 Fisheries are managed regionally, as you
13 know. You sit on the Mid-Atlantic Council. There's
14 a New England Fishery Management Council. And the
15 numbers of issues that come up are vast and complex.

16 And in the same way that they're born
17 out in your Council meetings in that manner, they come
18 to us in that way as well, and so we've treated them
19 accordingly.

20 So now, however, in order to attempt to
21 maintain reasonable consistency nationwide, we're
22 trying to consolidate and nationalize some of these
23 things. And so there will be that national penalty
24 schedule that's in process.

1 There is a higher level review of our
2 penalty decisions before they're issued now, again,
3 attempting to maintain a reasonable consistency. And
4 when I mention reasonable consistency, what I mean is
5 that for a particular violation it may not be reasonable
6 to have the same dollar amount. And I'll give you an
7 example. For an overage of a particular species of
8 fish, it may not be reasonable to treat a simple overage
9 in the same fashion. Let's say, okay, we decide an
10 overage to be \$3,000. So it's \$3,000 no matter what
11 anywhere.

12 Well, that's really not reasonable when
13 you take into context that overages can vary in terms
14 of the amount of overages. Overages can vary in terms
15 of the fishery involved. And I think a really good
16 example is in the scallop fishery, you're going to have
17 a higher value product than you're going to have in other
18 fisheries, in ground fish fisheries, for example, or
19 crab fisheries, whatever the case may be.

20 So what we want to be able to do is
21 reasonably tailor our penalties to specific
22 circumstances that address specific needs. There will
23 be a uniform documentation standard that's used
24 nationwide now so when we document our penalties,

1 they'll be all on the same forms and hopefully provide
2 easily -- more easily recognizable comparisons.

3 There will be national priorities set.

4 You will note in the materials that were presented here
5 that there are some materials about setting national
6 priorities. That material came from the National
7 Summit website, and I would recommend that you visit
8 that website. To the extent that you have comments,
9 questions, or concerns, you can still, I think, add on
10 to those through that website. It has a section that
11 you can add comments to it I believe.

12 Also, there will be a summary of this
13 National Summit on that website. And that website has
14 links to the Inspector General report and the agency's
15 responses to the Inspector General report which are
16 numerous and underway as we speak today.

17 And the last thing I want to mention as
18 I close is that I have provided you my contact
19 information. I would recommend again if you ever have
20 any questions or concerns, please contact me.

21 One of the things that I've realized
22 through this whole process is that the adversarial
23 system that I am in, the one in which somebody receives
24 from me a penalty document, is really not a good system

1 for communication of concerns about our system and about
2 our practices; because in that particular context-- you
3 know, the fisherman is facing a civil penalty which is
4 a very trying thing and a troubling matter. And they're
5 presenting their side of the story, and the government's
6 got evidence and trying to present its side of the story,
7 and that's an adversarial context. That's what all
8 litigation is. I think it's easier to hear people on
9 both sides of the issue outside of that adversarial
10 context.

11 In fact, I attempted up in my region,
12 up in the New England region, to have forums with
13 fisherman to try to get outside of that context and have
14 a free exchange of information back and forth that would
15 be helpful to both. And unfortunately, they're not
16 willing given all this controversy to sit down and meet
17 with us.

18 And I attempted through some of the
19 Council members -- Rodney Avalar attempted to arrange
20 a meeting for me in New Bedford with some scallop
21 fishermen, and that was scuttled by different interests
22 there.

23 So, if there are fishermen that you know
24 who would benefit or would appreciate a meeting in order

1 to have a question-and-answer session to raise concerns
2 or whatever, please, again, feel free to have them
3 contact me, or you may contact me on their behalf. And
4 with that, if you have questions, please feel free.
5 And again, I appreciate your time.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Mitch, thanks for your update and presentation and also
8 for your stated willingness to get together with the
9 fishing public. Are there questions for Mitch?
10 Howard.

11 HOWARD KING: Thank you. That was a
12 very smooth presentation. In terms of administration
13 law actions or lawsuits has the workload of the Office
14 of General Counsel trend been increasing or stable or
15 decreasing?

16 MITCH MACDONALD: During this review
17 period, I think that our demand's probably decreased.

18 There has been I think because of the -- trying to
19 respond in a meaningful and timely way, we are now
20 dealing with sort of a backlog that we've had. We had
21 that backlog anyway just from the demands of our office.

22 And we're trying to work through that
23 right now. And that hopefully will be addressed so that
24 the next time I come here I will have a list for you

1 of cases that we've done.

2 And I forgot to mention: part of this
3 process will be that we're going to try to publish the
4 results of our cases in a more accessible manner. I
5 don't know exactly how it's going to happen yet, but
6 when that does -- it may be good to get suggestions about
7 how to do that as well.

8 But during the review period, I think
9 that our office's demands have decreased. I think there
10 have been -- just by the nature of responding to
11 inquiries and also frankly, I think, by the nature of
12 what agents are facing in their work may explain some
13 of that.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Erling.

16 ERLING BERG: Thank you, Mr. Chairman.

17 One of the things that stood out in the ID's report,
18 which I read, was the -- not the excessive -- the much
19 larger fines that were levied in the northeast region
20 as opposed to other regions of the country.

21 And the two cases that stood out was the
22 Gloucester Seafood Auction and the fishing vessel
23 Flicker and Durston from Cape May, New Jersey as large
24 fines. I think the Seafood Auction I think they

1 settled.

2 The Flicker and Durston last I heard had
3 appealed, and I think they had lowered the penalty.
4 Now, I asked the same question of Andy Cohen at the New
5 England Council meeting, and he felt that he was not
6 the person to answer it, so perhaps you can. And you
7 may not want to.

8 I was just wondering: What criteria is
9 applied to come to such a large or what's perceived as
10 such a large penalty; how do you derive at that? Thank
11 you.

12 MITCH MACDONALD: Thank you. No.
13 That is a good question. And what I was referring to
14 earlier about the different standards within the
15 Magnuson-Stevens Act that we look at help form what
16 penalties we will access. And in particular, when I
17 was referring earlier to the nature of the violation,
18 the circumstances, the extent, and the gravity, what
19 we will try to do is figure out, okay, what is the
20 provision that has been violated, what is its effect
21 on the management scheme, what is the extend of the
22 violation in and of itself.

23 And I guess what I'll use as an example
24 is in the Flicker case, that was a reporting issue, a

1 reporting issue where data was not being received by
2 the northeast office in a timely way that really could
3 have effected the way that that fishery was managed.

4 It was extensive data.

5 I think the compliance rate at the time,
6 as I understand it -- and this is somewhat secondhand
7 because I was not the prosecuting attorney on this, so
8 I'm giving you approximations.

9 I believe that the compliance rate was
10 approximately 60 percent or around there with the
11 reporting requirements subsequent to this case and other
12 cases that were accessed at the same time I think
13 compliance went up significantly into the mid to high
14 90s I believe or in the 90s somewhere. So I don't know
15 the exact computation that was used in that particular
16 case because it was not mine. But I think that the
17 factors that I've described to you helped inform that
18 decision.

19 And that actually, if you read the case
20 decision that was issued by the administrative law
21 judge, I hope that you will be able see within that
22 decision the rationale that was used by the government
23 and then the counter by the respondent.

24 And you're correct. That penalty was

1 reduced by the administrative law judge which I would
2 point to you as an example of why the system works.
3 And that's why we have the system: to have an
4 independent viewer looking at what our assessments are
5 and helping the agency determine what is a fair and
6 reasonable penalty.

7 And in the case of the Gloucester Seafood
8 Display Auction, they had different types of violations,
9 and so those penalties were different for the different
10 types of violations. Some of them were purchasing
11 yellowtail flounder without a letter of authorization.

12 I believe that the penalties that were issued for those
13 particular violations that did not have any overage
14 associated with them were much lower than penalties --
15 I believe it was alleged that they had purchased some
16 yellowtail without letters of authorization that would
17 have exceeded the limit anyway even with the letter of
18 authorization.

19 So those are treated more seriously than
20 the other ones. And then I can't remember what the other
21 charges were. Again, I was not the prosecuting
22 attorney. I was involved in some of that early on.

23 But that charging document is a public
24 document, actually, and if you wanted to see the charges,

1 that document would be available. And part of the
2 publishing of some of this information hopefully we'll
3 have this information out there, so people will be able
4 to see and more readily compare and then determine why
5 is this penalty assessed the way it is.

6 And one of things that I realized as a
7 result of a meeting that we had with the Gulf of Maine
8 Fisheries Association, with Maggie Raymond's folks, is
9 that our penalty schedules have ranges to them, but it
10 was not clear to the fishermen, to Maggie or other
11 fishermen up there, well, how does a particular
12 violation fall within that range? And so hopefully,
13 we're going to come up with a re-tooled system that will
14 make that more evident in advance. Does that answer
15 your question? Is that responsive?

16 ERLING BERG: Yes, it does. And it
17 sounds like an outreach program would be appropriate
18 at this time to engage the fishermen and let them know
19 what you are doing.

20 MITCH MACDONALD: I appreciate that,
21 and I agree with that. That's part of the reason I'm
22 here today. And it is the reason why I wanted to
23 establish a forum, a regular forum, that would -- you
24 know, travel to wherever is necessary that we can have

1 these types of conversations and outreach available to
2 fishermen. So hopefully that will happen in the future
3 and won't be objected to by the industry.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Red.

5 Red Munden. Go ahead, ERLING.

6 ERLING BERG: No. I just want to thank
7 Mr. Mitchell for his presentation. I was also in New
8 England when you presented that council with your
9 presentation, so I'm getting familiar with it. Thank
10 you.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Red.

12
13 RED MUNDEN: Thank you, Mr. Chairman.
14 Mitch, what geographic area is your office responsible
15 for?

16 MITCH MACDONALD: We're responsible for
17 Maine down to Virginia and I think part of North
18 Carolina.

19 RED MUNDEN: Could you provide the name
20 of your counterpart for the southeast region?

21 MITCH MACDONALD: For the what region?

22 RED MUNDEN: Southeast region.

23 MITCH MACDONALD: Southeast region.

24 There are three attorneys there: Karen Raine; I believe

1 she will represent the agency's enforcement and
2 litigation branch at the council meetings.

3 And then there are two other attorneys.

4 Cynthia Fenyk and Duane Smith are also attorneys in
5 the southeast region.

6 RED MUNDEN: Thanks.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Greg
8 DiDomenico.

9 GREG DIDOMENICO: Thank you, Mr.
10 Chairman. Greg DiDomenico, Garden State Seafood
11 Association. If I may, a couple questions. I attended
12 the law enforcement summit, and am interested in some
13 of your comments about the national schedule, your
14 violation schedule. A few things. During the summit,
15 I asked the question of Deputy Ward. She gave a short
16 presentation from general counsel, I guess, and her
17 comments -- I've watched them a couple times now -- led
18 me to believe that part of that schedule that you're
19 talking about may actually assess fines according to
20 the status of the resource that was allegedly violated.

21 Is general counsel going to pursue that?

22 Is that actually going to be a policy? Because we have
23 some serious concerns about that approach.

24 MITCH MACDONALD: I can say that that

1 is a consideration when we are determining what the
2 gravity of a violation is. And if I may provide an
3 example. There was an extremely important case and a
4 large case back in the '90s in our region involving
5 violations of the Days-at-Sea Program, and they were
6 violations of core provisions of the Days-at-Sea Program
7 both for the scallop fishery and the ground fish fishery.

8 And this was right around the time that I think it was
9 Amendments 4 and 5 were implemented, and the status of
10 the fisheries were overfished. I think there was
11 significant question about whether they would rebound,
12 the health of the stock at that time, and when we assessed
13 the civil penalties in that case, we took that into
14 account.

15 The scale of the violations that
16 occurred on these fisheries and the core provisions that
17 these violations represented occurring at a time when
18 these fisheries may not -- we don't even know how
19 available they'll be in the future. We took that to
20 be very, very serious.

21 So, in that particular case, we took into
22 account the status of the resource. Is that what you're
23 referring to? Does that address what you're referring
24 to?

1 GREG DIDOMENICO: Well, that particular
2 approach makes me feel a little bit more comfortable.

3 Let me just explain how I perceived it and some of our
4 members perceived it.

5 Hypothetical situation. And I'm going
6 to use pollock as an example. Pollock assessment a
7 month ago had realized a quota that was five and six
8 times higher than it was assessed prior to that. If,
9 in fact, a fishermen have received a violation on pollock
10 and then a month later the pollack resource was deemed
11 to be not overfished, overfishing not occurring, that's
12 a scenario that would be extremely difficult for us to
13 support or agree with or understand. And so we were
14 hoping that was not the approach. Are we wrong?

15 MITCH MACDONALD: Well, sometimes when
16 you ask a lawyer a question an often response is: Well,
17 it depends. And I don't mean that to be evasive. I
18 don't mean that to try and flip it or anything.

19 I would have to say: It really does
20 depend on the circumstances that we face. In that
21 particular case, I think that what we would face really
22 is depending on the nature of the violation that we had.

23 And I'm assuming what it would be is
24 maybe a pollock overage or fishing after it was closed

1 for pollock or whatever, retaining after it was closed.

2 I think it would depend on how much.

3 If a person intentionally evaded that
4 and had a whole program of trying to evade that, then
5 we would probably take that into account. But the
6 general nature of that violation is often times serious,
7 fishing during a closure, if it's intentional. And
8 often times it is because people often know when there
9 are closures. If there was a change while we were going
10 through the process, then we would take that into
11 account. I would hope we would take that into account.

12 I mean I guess we're as reliant on the science as you
13 are -- I mean as the Council is -- in some ways.

14 GREG DIDOMENICO: We hope your penalty
15 schedule does not rely upon the science. I'm not trying
16 to concoct a wild kind of hypothetical situation what
17 if this happens. But you can see why people are a little
18 concerned.

19 That if you're thinking that this
20 violation occurred on a resource that is absolutely
21 diminished and overfished and all of a sudden it's not
22 and your schedule is dependant upon the science, then
23 people have a concern about that.

24 MITCH MACDONALD: Maybe a point of

1 clarification. The schedule, as I understand it, will
2 have particular ranges, and the range -- the attempt
3 is -- and it's still in flux at this point -- is to
4 determine the nature of the violation and then the scope
5 of the violation. When determining the nature of the
6 violation -- you know, it is a consideration in a
7 particular case. We need to determine, well, what
8 fishery is involved, and what is the nature of that
9 fishery? It's something I don't think we could avoid
10 and do our job appropriately.

11 So it's not the schedule in and of
12 itself. It's the penalty assessment process. And we
13 have to deal with the evidence that's before us. If
14 we have such a case that's before us, I'm hoping that
15 the system will take that into account. I understand
16 your concern.

17 GREG DIDOMENICO: And let me also say:

18 We don't want it to apply the other way. For instance,
19 if there's an egregious violation on a resource that's
20 not overfished, we don't want the fine to be lesser
21 because it's not overfished. So it goes both ways.

22 We really just want it to be accurate.

23 We want it to be correct, commensurate with whatever
24 the core violation, whatever, a trip out of season, a

1 closed area, etcetera, etcetera.

2 Also, I wanted to offer -- thank you for
3 a very frank discussion yesterday. We really
4 appreciate it. And my offer stands the same as far as
5 cooperation on outreach within the industry. I can't
6 guarantee a wonderful back-and-forth or meeting, but
7 when it comes to the change of a particular regulation
8 that occurs on a date or again modification, we can
9 certainly cooperate with you guys to make sure that
10 there's compliance.

11 Because I can tell you right now:
12 There's more bang for your buck in making sure people
13 are aware of the changes, complying with those changes
14 instead of pursuing violations. So thank you very much.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Thanks, Greg. Additional questions for Mitch? Kevin.

17 KEVIN SAUNDERS: Mr. MacDonald, thank
18 you for that. Do you anticipate the changes in the case
19 package documentation standard to be a substantial
20 update that it would require the state deputize federal
21 enforcement people and the Coast Guard to retrain the
22 personnel, or were they fairly minor? Thanks.

23 MITCH MACDONALD: The case
24 documentation on the investigative side, I imagine will

1 stay largely the same. And that's worked fairly well.

2 I think the documentation from our side will be changed,
3 from the litigation side, will be changed. So, to the
4 extent that any particular case needs more information,
5 we've got that free flow request back and forth, and
6 we'll continue that process.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Again, Mitch, thank you. Any further questions? Okay.

9 Seeing none, Mitch, thanks for your presentation today.

10 Appreciate it.

11 MITCH MACDONALD: Thank you very much.

12 COUNCIL CHAIRMAN RICHARD ROBINS: We're
13 joined this morning by Sam Rauch from NOAA headquarters.

14 And, Sam, We're pleased to have you present us with
15 an update on the final Ocean Policy and the recent
16 executive order that came from the President. Welcome,
17 Sam.

18 SAMUEL RAUCH: Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Jan,
20 is that on the PowerPoint? Is Sam's presentation on
21 the computer? Are you going to be able to locate it?

22 UNIDENTIFIED: Yeah.

23 COUNCIL CHAIRMAN RICHARD ROBINS: We'll
24 just take a minute, and let him get it keyed up first.

OCEAN POLICY TASK FORCE RECOMMENDATIONS

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2
3 SAMUEL RAUCH: All right. So I
4 apologize. Apparently, there was some mix-up
5 somewhere, and the official presentation didn't make
6 it. For those of you who wanted to see the presentation,
7 are dying to see what I would have said, you can go --
8 there's a White House website, the National Ocean
9 Council website, at whitehouse.gov/oceans.

10 We gave this same briefing last week to
11 -- we offered it to the councils and state directors.

12 And so the presentation, the very polished, exciting
13 presentation I would have given them, is on that, and
14 if you desire, you can go and listen to me drawing
15 (phonetic) on for a while there on that.

16 So this will make this a little bit
17 shorter on this. I do at the outset want to express
18 my gratitude to the Council for having me back. I did
19 come in January or February when everybody was snowed
20 in in Maryland, and we talked about the draft policy.

21 The policy was finalized on July 19th. The President
22 accepted the final recommendations of the Ocean Policy
23 task force and issued an executive order implementing
24 those recommendations. There were some minor

1 differences, but they look very similar to the initial
2 recommendations of the task force.

3 One of the key things that was
4 highlighted was a recreational fishing -- the importance
5 of recreational fishing was separated out and given much
6 greater emphasis in the final report than in the draft
7 report.

8 But let me talk about a few things that
9 are in the final report. I'm going go look at my notes
10 here. So one of the things that struck everybody --
11 first of all, we should recognize that this is the first
12 time that the nation has ever had a National Ocean
13 Policy.

14 It is something that the various
15 commissions on the ocean both the National Ocean
16 Commission and the PEW Commission had strongly advised.

17 The President did put one out.

18 It is, as you would expect, a policy
19 level document. So there a number of high-level
20 statements. It does talk about the importance of the
21 oceans for multiple uses, about the need to preserve
22 the ecosystem upon which those economic and social
23 benefits that we derive from the uses depend. It talks
24 about the connection between the land and the water so

1 that there is a recognition that whatever happens
2 upstream has a profound effect downstream and that we
3 need to address those together. You cannot just look
4 at the ocean in isolation.

5 It's something that I think that the
6 councils all recognize, fishermen recognize, that it
7 is not just -- there is no such thing as just an ocean
8 problem. It does look at the 140 statutes, regulations
9 and policies that govern the use of the oceans and the
10 Great Lakes.

11 And for purposes of this policy, the
12 Great Lakes are considered an ocean and a coast which
13 is consistent with much of our national approach to the
14 Great Lakes in general.

15 And what it tries to do: It does not
16 set aside any of those authorities, but it does put the
17 federal government on a path of rationalizing and
18 streamlining those authorities to make them work better
19 both in the context of coastal marine special planning
20 or just in general. There is an entire priority
21 objective dealing with streamlining to try to make the
22 federal government approach the stakeholders and
23 approach the environment in a more coherent and
24 consistent manner. The policy talks about a number of

1 shared values that was drawn from both the views of the
2 task force members and from the extensive constituent
3 outreach that occurred.

4 Those values were to balance ocean
5 health and community prosperity, to level the playing
6 field for all stakeholders, to make sure everybody had
7 an equal access and an open and transparent seat at the
8 table.

9 Repeatedly, through the document is a
10 discussion about sector-based management approaches,
11 not sectors like in New England, but sectors like in
12 fishing or energy or transportation or other things
13 where the agencies fall into a trap which is common of
14 any regulatory industry where they look at their own
15 sector to the exclusion of other activities.

16 And there are lots of mechanisms in the
17 federal government to try to improve that. But that
18 is one of the things that the document does discuss.

19 And it's important that when we take actions as the
20 Council and it strives to do that you look at all the
21 impacts of the actions on all activities, not just on
22 fishing activities. Another shared value is to make
23 decisions based on the best available science. As you
24 know, Dr. Lubchenco, the head of NOAA, is a scientist

1 and has stressed repeatedly the importance of good
2 science and decision making and to respect the unique
3 character of each U.S. region.

4 Despite the fact that this a national
5 policy, there is a recognition throughout the policy
6 that the various regions are different and approach
7 things differently and that there is not a single
8 solution due to the problems that can imposed from
9 Washington DC that would make sense all around the
10 country and that reasonable input is important and that
11 there does need to be a bottom-up approach to many of
12 the issues that we face.

13 Structurally, the policy sets up a
14 National Ocean Council at the DC level which is made
15 up of 24 federal agencies at a cabinet level, except
16 for the Department of Commerce which both has the
17 secretary of commerce as a representative and the NOAA
18 administrator. So we get an added extra thumb on the
19 scale because of the unique role that NOAA plays in the
20 oceans. That group is designed to implement the Ocean
21 Policy at that level, to also deal with conflict
22 resolutions should they arise among the different
23 agencies, and to formally approve the coastal and marine
24 special plans, which we'll talk about.

1 The policy also does have nine priority
2 objectives, which are the same nine that we talked about
3 when I was here last. I'll go into those in just a little
4 bit of detail in a second. But they outline how we do
5 business and priority areas of emphasis that we want
6 to engage in.

7 You can't do everything at once, but we
8 do want to formally transform the way that ocean
9 management across the board occurs and to address
10 certain particular problems.

11 There is a framework for coastal marine
12 special planning which we'll talk about in more detail
13 later, and included within that are regional planning
14 bodies, which I know that this Council is very interested
15 in.

16 So the nine priority objectives are,
17 first, ecosystem based management. This is something
18 NOAA was pushing very hard. It is something that we
19 think we -- to the extent we have the science we try
20 to do in fisheries management and in other aspect of
21 NOAA regulation. Often times our ability to fully
22 implement ecosystem-based management is limited by the
23 data that we get in. But there is a commitment that
24 we should do this.

1 And it was, I think, somewhat eye opening
2 for NOAA, the NOAA negotiators, when we went in thinking
3 that this is something that was uniformly understood
4 and uniformly accepted, and it was not. So this is
5 actually -- for NOAA I don't think this is a significant
6 change, but for many other federal agencies this was
7 a significant different approach, and it will mean a
8 different approach for many of them.

9 The second priority objective was
10 coastal marine special planning, which we'll talk about
11 in detail, so I'll skip that for now. Informed
12 decisions and better understanding, this is the
13 recognition that you can't do anything without better
14 data, better science, and communicating that both in
15 terms of educating the public and informing the public
16 as to what is going on in an open and transparent manner.

17 And in coordinate and support, the coordinate and
18 support one it doesn't sound very interesting, but this
19 is really where some of the guts of the policy lies
20 because this gets at the 144 or some odd different
21 regulatory structures and the totally different permits
22 people need to operate in the ocean and challenges the
23 federal agencies to streamline those processes to make
24 them both more rational, more consistent, and to allow

1 the stakeholders a more streamlined approach, a more
2 efficient approach.

3 So I envision this one is going to
4 involved a lot of those lawyerly types getting together,
5 looking at all of the regulations and trying to figure
6 out how the agencies can mechanistically do things
7 better which would have at some point an implication
8 for the fishery management councils in terms of how we
9 can integrate our fishery issues into that overall
10 process, separate and apart form the planning part of
11 it.

12 Then there were five areas of special
13 emphasis. One was resiliency and adaptation to climate
14 change and ocean acidification. Not science on whether
15 climate change is occurring, but the focus on this one
16 is adaptation to it, trying to figure out how to deal
17 with communities and natural resources including things
18 like fish stocks and how they may be changing and what
19 that may mean for our society. So I think that this
20 is an important science aspect. That is something else
21 that the councils will be very interested in. As the
22 environment changes, it does have profound management
23 implications for us in how we can deal with not just
24 the fish stocks but the fishing industry in scenarios

1 when the occurring capacity may be altered.

2 The second one is regional ecosystem
3 protection and restoration. These are large-scale
4 activities. NOAA engages in -- and I'm sure you are
5 aware -- on a number of small-scale, community-based
6 restoration projects where we get partnerships.

7 The vision here is more akin to the
8 Chesapeake Bay or the Mississippi delta and Louisiana,
9 very big coordinated projects. And this is not the
10 place, but I'm sure that you've been briefed on the
11 Chesapeake Bay executive order or you should and how
12 we are trying to recover that.

13 That would be an example of the kinds
14 of things that we look to be doing under this big
15 landscape level effects. The third one is water quality
16 and sustainable practices on land. And this is one of
17 the few that NOAA is not the lead on but is very
18 interested in. Obviously, agencies like the Department
19 of Agriculture, the EPA are the lead on what happens
20 on land and the ocean inputs. But it is very important
21 to all of us how you interact -- how you not only monitor
22 those interactions, but how you control them and take
23 ocean issues into account as you're making decisions
24 upstream.

1 The fourth one which is, I'm sure, of
2 great concern here is the changing conditions in the
3 Arctic. This is an important place for the US for many
4 reasons, not only for potential -- because as the ice
5 recedes -- and the predictions are that it is receding
6 -- it is going to open up vast new areas potentially
7 for economic development but also expose ecosystems that
8 are vulnerable that have not been exploited to potential
9 exploitation.

10 And there are US interests up there.
11 The US is trying to determine along with the other
12 nations exactly who owns and who has access rights to
13 all those resources.

14 And the final one is ocean coast and
15 Great Lakes observation mapping and infrastructure to
16 recognize this is a more specific recognition that the
17 data and the support tools and the staff are essential
18 if we are going to make any progress. So those are the
19 nine party objectives. I want to turn now to
20 specifically the coastal and marine special planning
21 issue.

22 The goals of coastal and marine special
23 planning was to create a fair objective process that
24 was transparent, was based on ecosystem-based

1 management; it was regionally and community focused so
2 it was a bottom-up approach, as opposed to top-down,
3 and not to add a layer of bureaucracy.

4 The idea is not about putting things off
5 limits but rationally trying to decide the best uses
6 for an area to take advantage of all that the ocean can
7 provide, based on ecosystem-based management so that
8 there's a recognition, that the environment -- a certain
9 level of health of the environment is necessary for any
10 of those uses.

11 But many of those uses can be compatible
12 in some areas, and it is an effort to have the local
13 regions decided what is best in any particular area.

14 There is a reasonable focus. As I said, there are nine
15 regional areas. Which you are sitting in the
16 Mid-Atlantic region. Those regions were designed to
17 both reflect the natural boundaries. We have engaged,
18 as I said when I was here last time, in a long process
19 to try to figure out what environmental boundaries make
20 sense. And so we've developed the concept well before
21 this Ocean Policy of large marine ecosystems.

22 The Mid-Atlantic is one of those large
23 marine ecosystems. The councils are coincidentally
24 also mirrored in many of these large marine ecosystems

1 because the fish stocks tend to be unique in those
2 systems, and so it does make some sense.

3 And I do think that some of the early
4 formations of the council boundaries was at least a
5 recognition that there were environmental differences
6 between the various areas. It also mirrors many of
7 these existing regional government structures, such as
8 MARCO for the Mid-Atlantic region.

9 These structures are largely state led
10 with the assistance of federal governments. They are
11 voluntary organizations of the states. Which they get
12 together to talk about these various issues. Those
13 groups are not the regional planning bodies that is
14 envisioned. They could become the regional planning
15 bodies that are envisioned. The policy says that the
16 states and federal entities and tribal representatives
17 will get together to form the regional planning bodies
18 and determine how they relate to those existing
19 structures like MARCO. It does encourage or envision
20 that MARCO could at some point transform itself into
21 that regional planning body.

22 The councils collectively and
23 individually requested to be on the regional planning
24 bodies themselves at the outset. The reason is that

1 unlike many other quasi -- any other interested
2 organizations -- the councils have a defined regulatory
3 role.

4 The councils set policy. And we are
5 talking about implementing policy within the legal
6 mandates that the National Marine Fisheries Service
7 monitors. But the councils are largely a policy setting
8 body.

9 It is very difficult to engage in any
10 coastal marine special plan dealing with fisheries
11 policy in federal waters and not have the councils at
12 the table. It creates interesting jurisdictional
13 problems at the end of the day if they're not at the
14 table and don't agree. All these problems can be solved
15 if the councils are at the table. Nevertheless, in
16 order to efficiently set up this process, the
17 administration determined that the councils were not
18 -- that the initial structural regional planning bodies
19 were going to be limited to official jurisdiction to
20 the states' federal government tribes.

21 It does recognize that the councils are
22 unique, that at a minimum there needs to be a formal
23 consultation process established with the councils in
24 that region; and it does envision that there will be

1 a follow-on process in which the administration will
2 more formally decide whether to include the councils.

3 My advice on that has been -- and I think
4 the mid-Atlantic is well situated -- is for the councils
5 to engage with the existing voluntary, regional,
6 government organizations like MARCO and to not only have
7 the National Marine Fisheries Services advocates but
8 to have those bodies as advocates too to recognize the
9 importance of value that the councils provide in that
10 process and the unique role.

11 I think if that occurs, then we will be
12 in a very good position to have the councils on the
13 regional planning bodies. There's also just a
14 recognition that if there are other similar governance
15 organizations out there, that they might get the same
16 treatment, but the policy does not go into detail about
17 those organizations.

18 And I would be surprised if any other
19 organization has the same regulatory jurisdictional
20 roles that the council has. The decision making -- the
21 way that the marine special plans will work is initially
22 after the regional planning bodies are created, they
23 will assess the needs and the goals.

24 And so the regions themselves will come

1 up with the various goals and objectives -- what kind
2 of outputs do you want to see from the ocean environment
3 -- and then they will gradually become more specific
4 as to how you actually achieve those outputs, what sort
5 of actions or measures you want to take to achieve that
6 output.

7 Let me just back up. The way that those
8 organizations will function in terms of how they will
9 individually make decisions or what their process will
10 be is left open, recognizing that this is a large process
11 that we have never done before as a nation, some states
12 are further along and have done some elements of this
13 not on this scale, and that the ideas that we heard from
14 the regions differ as to how best to go about doing this.

15 And so it was impossible and unwise for the
16 administration to dictate at the outset how that should
17 occur.

18 Instead the requirements are that there
19 be an open, transparent process where all the
20 stakeholders including the fishermen have equal access
21 and can understand the process that are happening, that
22 it be based on science, and that there be performance
23 metrics at the end of the day, which is if you want to
24 do something, make sure that it's something measurable.

1 It is clear throughout the document and
2 is stated many times that the plans themselves do not
3 override any existing authority. It doesn't override
4 the Magnuson Act. It doesn't override the authority
5 of the councils.

6 But what the executive order does
7 require is that the federal agencies that sign onto the
8 plans should implement the plans to the extent they have
9 discretion to do so.

10 So a federal agency has a mix of
11 authorities. Some of them are much like states, some
12 which are mandatory and which we have to do, some which
13 are discretionary which we can do. To the extent that
14 what we can do is consistent with the policy, the
15 President has directed us to do that, and the President
16 is the ultimate arbiter of that.

17 An individual entity cannot go to court
18 to force us to comply with the Coastal Marine Special
19 Plan because it has no legislative or statutory backing.

20 But the administration is its own policeman to make
21 sure that if we sign a plan, we're going to follow it.

22 Obviously, you can see why it would be
23 important to have the councils agree to that plan up
24 front if the National Marine Fisheries Service is going

1 to be able to do that.

2 So let me -- in addition to the formal
3 council role, let me just also highlight the role for
4 the individual stakeholders. As I indicated, there are
5 two main ways in which entities interested in ocean
6 issues, ocean fishing issues, whether it's the
7 recreational or the commercial fisherman or entities
8 or other bodies can deal with it. As I said, there's
9 a formal consultation mechanism with the council even
10 if the councils do not ultimately end up at the regional
11 planning bodies. And so, like with many things, we
12 would hope that the councils could form a forum for
13 synthesizing that conference as part of its own
14 consultation process. But each one of these regional
15 planning bodies has to have an open and transparent
16 stakeholder process, and so there should be an ability
17 to interact directly with the regional planning body
18 and not have to go through the councils, as with anything
19 else.

20 So, in closing, you didn't get to see
21 my very nice PowerPoint, which was nicer than the one
22 I did last time. But this is a significant event. NOAA
23 is committing significant staff time and resources to
24 the implementation of this.

1 There is a certain limited amount. As
2 with any policy that is coming up, it is ahead of the
3 budget cycle. Right now we're planning the 2012 budget.

4 So it is very difficult to find money this year to
5 implement any new policy; and nevertheless, NOAA is
6 committing some of its resources to do that.

7 We've been supporting many of these
8 regional governance associations already. A lot of
9 these things are already within NOAA's mission. There
10 is a certain amount of money that is going to be available
11 for the partnerships in the nature of around 11 million
12 dollars or so through grants to the partnerships to
13 support them this year. Our hope is that as we get
14 further along in the budget processes and the
15 President's policy can be reflected in budgetary
16 choices, that that funding will increase.

17 We recognize that full participation in
18 either the policy objections themselves or coastal
19 marine special planning is going to require an increase
20 in resources beyond what we currently have.

21 And if we're going to do it right, we're
22 going to need to do that. So we are working on that
23 for future budgets as we speak. So that's the general
24 overview. I, again, thank you for letting me come and

1 speak, and I'll take any questions.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Sam,
3 thanks very much for that presentation. You always do
4 a great job of delivering these national policy and
5 issues to us and explaining them for us. I appreciate
6 this as a second presentation on what has been a complex
7 issue I think for everybody to get their heads around;
8 but there are a couple of points in here and one you
9 described the following process in which a determination
10 will be made at the council's level -- an additional
11 formal role and do you have a sense of what the timing
12 will be on that, or is that decision going to be made
13 by the Administration?

14 SAMUEL RAUCH: The body that ultimately
15 would make that decision is the National Ocean Council,
16 which has been formed, but has not yet met -- the cabinet
17 level -- I expect that council to meet within the next
18 month, likely in early to mid-September.

19 They will take that issue up as one of
20 the initial issues that they take up. Obviously, NOAA
21 has been a strong advocate for the councils to be a part
22 of that. I don't know how that decision will go.

23 That is why my advice is to reach out
24 to the regional governance organizations as well to see

1 if you can get their support. And I think that that
2 is an effective way. I am not sure about the timing
3 of when that decision is going to be made.

4 I know they will take it up. I don't
5 know that they will take it up at their first meeting.

6 I sort of doubt it. But eventually it will be taken
7 up, and they will eventually decide.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Sam,
9 just a follow-up. In terms of actually establishing
10 and identifying the regional planning bodies, that
11 decision would also be made by the NFC. And is there
12 a time line on that? Is that going to be one of the
13 first orders of business?

14 SAMUEL ROUCH: That will be one of the
15 first orders of business. I think that that will be
16 relatively easy to find members of that planning body
17 because those were outlined in the -- the initial
18 membership is outlined in the order.

19 It is the federal agencies, the regional
20 states, and there are some tribal participants. So I
21 think that in short order after the National Ocean
22 Council meets, they will formally recognize that.

23 Then it will be up to those bodies
24 themselves to organize something beyond a list of names,

1 a list of members, into a structure. There's a
2 memorandum of agreement or something that needs to
3 formalize that relationship and dictate how that will
4 go on. The vision is that that happens quickly within
5 the next six months, and I imagine it will, but beyond
6 that I don't know.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
8 you, Sam. Questions for Sam? Pat.

9 PAT AUGUSTINE: Great presentation,
10 Sam, very enlightening. And thank you for enlightening
11 us about being involved. I thought about it, and thank
12 you for telling everybody we should be involved. A
13 quick question. I went through the document a couple
14 of times, and the first time around I thought, oh boy,
15 here we go, MPAs, no control; and we have all these
16 overlaying layers of check and balance, if you will.

17 And the thing I did not find in this is:

18 What do we do in the case of -- we talked about
19 ecosystems or balance and so on, ecosystem management
20 -- what do you do in a case of species of animals that
21 have been protected for a long period of time, case in
22 point seals, case in point cormorants?

23 I don't know where any of that is brought
24 into play under any one of the balancing act groups that

1 are involved in this. Is there any consideration for
2 whether it's fish and wildlife, whatever it happens to
3 be, to take some of those natural occurrences where we've
4 protected animals for a long period of time and allow
5 them to flourish and continue to flourish well beyond
6 what I believe the original intent was, to protect
7 cormorants until they came back to a sustainable level
8 and likewise seals; and yet they've become almost as
9 bad as invasive species. So maybe that's out of the
10 realm of where we're going, but looking at what ocean
11 policies is going to do in my mind, it's going to
12 encompass every single one of those factors. So could
13 you address that or at least give us an idea that maybe
14 we're not going to be eating cormorants instead of tuna?

15 SAMUEL ROUCH: First, let me -- I
16 neglected to say I notice that there are copies of the
17 Ocean Policy on the back table, and I'm sure they're
18 in the briefing books for the council members if people
19 want it.

20 The document doesn't get into that level
21 of detail on anything in particular, so it does not
22 address the overabundance of protected species or
23 anything else at that level. It does set up mechanisms
24 in terms of looking at all of the things that we want

1 to do with the ocean for reevaluating that.

2 That is part of what I highlighted into
3 the coordinate and support, looking at policies that
4 may be inconsistent. I'm not going to take a view as
5 to whether or not the policy you laid out is causing
6 a problem or not.

7 But looking at policies, trying to
8 figure out why we're doing the things we're doing and
9 what that does for the whole suite of things that we
10 do. Because we have a lot of single-minded actions that
11 we have historically taken that conflict with other
12 single-minded actions that other agencies have taken
13 and trying to address that coherently.

14 I think the marine special planning will
15 help in terms of looking at what the goals are, what
16 are we trying to achieve in the ocean? And then you
17 can back from that in to say how we need to get there.

18 But it does not deal in that level of detail. But I
19 do think that there is an ability to use the tools here
20 and try to address questions just like that.

21 PAT AUGUSTINE: Thank you.

22 COUNCIL CHAIRMAN RICHARD ROBIN: Other
23 questions for Sam? Gene?

24 EUGENE KRAY: Thank you, Mr.

1 Chairman. Sam, you indicated that the PEW Commission,
2 Oceans Commission and the President's Ocean Commission
3 were the birth of this, and you're absolutely right on
4 that.

5 But Oceans 21 was also something -- there
6 are several iterations, and that came in between the
7 policy. I have some cynical friends who think that they
8 couldn't get Oceans 21 passed through Congress so now
9 we're going to have it done at the executive level with
10 an executive order. How do I answer them?

11 SAMUEL ROUCH: Well, I mean I think the
12 first recognition is that Oceans 21 also grew out of
13 those commission reports.

14 EUGENE KRAY: I know that.

15 SAMUEL ROUCH: So the fact that there
16 are similarities between the reports, Oceans 21 and this
17 policy document, are understandable because they all
18 grew out of -- both Oceans 21 and this grew out of the
19 same process.

20 It is a clear recognition that the
21 President's authority while he does have authority to
22 set the Ocean Policy, is constrained by the latest set
23 of initiatives. I mean this does not override -- unlike
24 Oceans 21, which could have overridden or modified

1 statutory obligations, this does not and cannot.

2 So there is a recognition on this
3 administration, though, that many of the ideas that were
4 put out in those reports -- and to some extent they were
5 encompassed or tried to reflect in Oceans 21, regardless
6 of whether you thought they did it the right way -- are
7 things that we should have done, and that's what the
8 President has decided to do.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Gene.

10 EUGENE KRAY: When the first Oceans 21
11 came out, it was my -- at the time congressman
12 (Inaudible) who was one of the sponsors of it, and he
13 happens to be an old friend of mine, so I met in his
14 office in Washington, and I guess I shouldn't have been
15 surprised because -- because he used to be a teacher.

16 I said, Curt, you're a teacher; I'm a
17 former teacher; I'm going to ask you a series of
18 questions. I had about 10 questions to ask. I asked
19 the first question, and I knew he never read it. That's
20 why I shouldn't be surprised, but he never read it.
21 He didn't know what was in it.

22 Because the original Oceans 21 would
23 have required the Navy to get clearance from the Oceans
24 Council in order to sail through the ocean. It didn't

1 specifically say that, but it hinted at that.

2 So I sent him -- and the second iteration
3 of it, and I think there was probably a third, maybe
4 even a fourth to Oceans 21; it gradually took a lot of
5 that, that honoris kind of stuff, out of it. And I think
6 what's in this -- we'll see. The devil is in the
7 details. We'll see when it all comes out. But right
8 now what's on paper I don't have a major problem with.

9 We endorsed it.

10 We endorsed it, and we had a resolution
11 which we sent to MARCO in terms of the regional planning
12 body, and we are hoping to re-engage with them. And
13 our chairman, I know, has already been engaged, and we
14 may have one of their people at our October meeting I
15 believe.

16 So we're supportive. It's just the ways
17 of Washington somehow they confound me, how things
18 occur. That's all. Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Additional questions? Jim.

21 JAMES WEINBERG: Thanks. I just wanted
22 to make a comment about the objective of adopting the
23 ecosystem-based management approach as a priority. We
24 still have Magnuson, and we still have the requirement

1 to do single species stock status determinations on
2 overfishing and overfished, and that requires a lot of
3 our resources. And I think the attention we've given
4 to a lot of single species, for instance summer flounder
5 assessments or scup assessments, with that level of
6 detail, those stocks have rebuilt. And you said that
7 the existing law won't be changed by this. So Magnuson
8 will still exist.

9 So I'm just not exactly -- we've talked
10 about ecosystem-based management here quite a bit, and
11 I just wanted to have a little discussion on how this
12 new objective could affect how the Council uses its
13 resources.

14 SAMUEL RAUCH: Yeah. And let me before
15 I answer about ecosystem-based management, clarify one
16 thing. This policy does not override any uses in
17 statutory or changing of that.

18 It does set up a process, though, in part
19 through that coordinated support goal where the
20 administration would look at various conflicts or things
21 and try to determine whether or not changes should be
22 made to better effectuate the policy. That might be
23 one.

24 Although, I will say with the Magnuson

1 Act, yes, there are requirements to do things on a
2 species-by-species level, but there is a great deal of
3 flexibility in the Magnuson Act. Which some of it was
4 added in 2007; other of it pre-existed to take into
5 account the broader ecosystem impacts of what we're
6 doing. And, in fact, NOAA and NMFS has been a leader
7 in trying to develop those not only assessment issues,
8 but the regulatory tools that followed.

9 I mean there are councils that have
10 ecosystem-based plans. There are ways that we figure
11 out the implication on prey and trophic level
12 interactions. We use NEPA often to figure out other
13 interactions.

14 Even though we may have to do something
15 for the Magnuson Act on a single-species basis, often
16 we use NEPA to look at the bigger ecosystem implications.

17 So I think compared to other agencies, certainly NOAA
18 and NMFS and the councils are a lot further along in
19 where we need to go on ecosystem-based management.

20 There is still a ways to go on that.
21 A lot of that is data limited. Less of it my impression
22 is regulatory structure of it. I think that we've found
23 a way to do what we thought was appropriate to do within
24 the existing regulations. But to the extent that the

1 regulations become an impediment, I think we need to
2 identify that and then explore the ways to alter them
3 to meet the goals.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thanks, Sam. Further questions for Sam? Sam, I guess
6 at the end of the day one of the overarching concerns
7 I have is the fact that these marine spacial plans are
8 going to be written at the regional level, and there
9 will be one eventually written for the Mid-Atlantic
10 region.

11 I think it's clear that as a council it's
12 going to be very important for us to be at the table
13 when that's done. And I think we recognized fairly
14 early on the significance of the development of MARCO
15 as a regional governance body.

16 It seems logical that at some point they
17 would evolve into or at least obviously the member states
18 and the leadership there would evolve into a regional
19 planning body.

20 So I think it would be incumbent on us
21 to go ahead and take your advice and just continue to
22 interact effectively with MARCO, and I think we'll take
23 your advice and see if we can work them to gain additional
24 support for the idea of having the Council have an

1 official status with the regional planning body so that
2 we can participate in this. We had Dr. Mike Fogarty
3 here earlier this week, and we'll hear about that when
4 Gene reports for the Ecosystem Committee. But he was
5 describing the ideals of ecosystem management being
6 focused on spacial management.

7 We're going to talk, I think, about how
8 to take some interim steps towards that. But this
9 eventually will be a driver on this issue I think. So,
10 if a plan is written in the region, I think we're going
11 to want to make sure that the Council is involved to
12 represent the interest that we have in the fisheries
13 and the fish that we manage as those issues are taken
14 into consideration in the development of a spacial plan.

15 But, again, thank you for a very informative
16 presentation. Greg, you had a question?

17 GREG DIDOMENICO: Yes. Please. Greg
18 DiDomenico, Garden State Seafood Association. Just a
19 quick question, please. In your opinion, what do you
20 think will be the long-term impacts, possible impacts,
21 on the commercial fishing industry?

22 SAMUEL ROUCH: Well, I don't think that
23 the existence of the plan is going to have a negative
24 impact on the industry. I do think that this council

1 and other councils have been very concerned about the
2 impact of actions that other agencies have taken on the
3 fish habitat. The habitat provisions which allow the
4 councils to send in consultation letters have not been
5 as strong a tool as I think we would have liked to do
6 that.

7 So I do think that this will give the
8 fishing industry a better seat at the table in those
9 kind of decisions. There is a quid pro quo in that other
10 people will get to look at what we do as well.

11 But if the regional goals -- and they
12 are regional -- indicate that we would like to continue
13 to have a vibrant commercial fishing industry -- and
14 I have every reason to think that that is going to be
15 the regional goal -- then I don't think it will have
16 a negative impact, and it may well have a positive
17 impact.

18 At the end of the day, the impact it's
19 going to have on anybody will depend on the
20 administration's continued support for that and the
21 effectiveness of the regional planning bodies.

22 GREG DIDOMENICO: Great. Thank you
23 very much.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Thank

1 you, Greg. We'll get a copy of Sam's presentation and
2 make that available to the Council. Why don't we take
3 a 10-minute break at this point. Come back at 10:45.

4 That will give us a minute to take a break and check
5 out if necessary, and then we'll pick up our Council
6 business. Thanks, again, Sam.

7 (Break: 10:36 a.m. to 10:50 a.m.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: Let's
9 come back to order. Our first order of business on
10 the agenda is the approval of the June 2010 minutes.

11 But I would note that we just received those at this
12 meeting. I haven't had an opportunity to review them,
13 and I don't know that the membership has, so I would
14 suggest that we defer that until the October meeting
15 of the Council so that we can have time to more fully
16 review the minutes before we approve them.

17 The next order of business is the liaison
18 report from New England. Erling.

19
20 NEW ENGLAND COUNCIL LIAISON REPORT

21 ERLING BERG: Thank you, Mr. Chairman.
22 It's kind of a rough report. I'll do the best I can.
23 This is from a Council meeting in Portland, Maine, June
24 22nd to 24th. The Council cast its final vote to approve

1 Amendment 5 of the monkfish fisheries management plan,
2 and they forwarded the packet of management measures
3 to the Secretary of Commerce for review.

4 For the northern management area the
5 Council chose 10,750 thousand metric tons or 24 million
6 pounds for the fishery. They also approved an act for
7 the southern management area of 11,469 thousand metric
8 tons or 25 million pounds. That's the area that we're
9 concerned with.

10 These management measures are expected
11 to be in place by May of next year. On groundfish one
12 of the issues they discussed was adopting a new status
13 termination criteria for pollock and setting new ABCs
14 and ALs for 2011 and 2012.

15 There's been a significant interest in
16 the pollock quota in the neighborhood of my
17 understanding about 600 percent. On Habitat, the
18 council staff and Habitat PDT members reviewed ongoing
19 swept area seabed impact model analysis.

20 The Habitat Committee recommendation
21 included new habitat management areas and removing some
22 existing habitat management areas. I think some of
23 those include the closed area on George's Bank. And
24 Dr. Perry may have some comments on that. He may want

1 to speak to that. The next report was herring in
2 Portland, Maine. Again, July 27 and 28. A very
3 contentious meeting. There was one presentation that
4 said at-sea observation and dockside sampling do not
5 always have the same results.

6 Dockside sampling had more observation
7 of by-catch than at-sea observers. And then
8 identification of hot spots for river herring was
9 another issue. And many of the issues that New England
10 is dealing with are issues that this council is going
11 to have to deal with in the near future. And that's
12 basically it.

13 I am going back up to Portsmouth;
14 Portsmouth, New Hampshire, on the first and second of
15 next month, and then beyond that September 7th in
16 Providence, Rhode Island on a scallop meeting. And that
17 concludes my report. Thank you, Mr. Chairman.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
19 you, Erling. As you point out, there are two more
20 Scallop Committee meetings prior to the next Council
21 meeting when we expect the New England Council to take
22 final action on Amendment 15. You have been involved
23 in that process. Gene.

24 EUGENE KRAY: I just wanted to add to

1 Erling's report about the habitat. I've just figured
2 it out. I've been up to New England now probably four
3 or five times, maybe six times, since January going to
4 the PDT meetings as well as the committee meetings.

5 The SASI model, the Swept Area Seabed
6 Impact model is still with the PDT trying to refine it
7 and trying to answer the terms of reference that were
8 given to them by the Habitat Ecosystem NPA Committee.

9 I quite honestly don't know when it's
10 going to be finished. We had hoped it would be ready
11 by this meeting and we'd have a presentation. That was
12 our plan. Well, since it hasn't been accepted by the
13 New England Council, we didn't see the need for that,
14 or we didn't want to do that.

15 If they come close to it, we were
16 thinking that if we had that all-day meeting in October
17 -- and I'll talk more about that during my report --
18 that we might ask Michelle Bachman, who is the staff
19 person, to bring us the latest update on that during
20 that part of the meeting. I will be up in Boston on
21 the 16th of September for the PDT meeting, and then the
22 committee is meeting in Newport on the 23rd, and I expect
23 to be there as well.

24 COUNCIL CHAIRMAN RICHARD ROBIN:

1 Thanks, Gene. Pete Himchak.

2 PETER HIMCHAK: Yes. Thank you, Mr.
3 Chairman. Regarding activities being pursued by the
4 New England Council, I had a question for Erling and
5 possibly for you as chairman. And it evolves from an
6 article in the Commercial Fishery News, June 2010, that
7 talks about the vote of the New England Council to go
8 forward with the ground fish, skate, monkfish
9 consolidation effort, a vote that passed unanimously.

10
11 And when I contacted Mid-Atlantic state
12 -- the article also goes on to say that the Mid-Atlantic
13 Council would be consulted because of the joint
14 responsibility for monkfish.

15 And my question is -- because I get a
16 lot of phone calls from monkfish fishermen that were
17 opposed to this, and I also got a call from the Monkfish
18 Defense Fund. They were adamantly opposed to this
19 concept.

20 So my question is: Has the New England
21 Council yet made any overtures to the
22 Mid-Atlantic Council that would suggest enveloping
23 monkfish into the groundfish plan, and did they undo
24 the unanimous vote that they took back in April to

1 essentially take this out as a scoping document?

2 COUNCIL CHAIRMAN RICHARD ROBINS: Pete,
3 they have not contacted us on that issue, and frankly
4 right now it's a joint FMP. So I would ask Pat if she
5 has any comment on that.

6 But I haven't been contacted on it, and
7 I can certainly follow up with John. But I'll ask her
8 if she has a clarification because right now it is a
9 joint FMP. So I don't know what sort of committee
10 structure, for example, they would contemplate if
11 something like this moved forward. Pat, do you have
12 any further update on where this is?

13 PATRICIA KURKUL: I was at the meeting
14 where they, the Interspecies Committee meeting I think
15 it was, where they took that action. There actually
16 was quite a bit of discussion around monkfish being a
17 joint plan and acknowledging that they certainly needed
18 to talk with the Mid-Atlantic Fishery Management Council
19 before they move forward in any way. Sort of the impetus
20 behind it is just this recognition that there's such
21 extensive interactions between those fisheries. The
22 New England Council was in this situation where they
23 changed something in one, and it triggers a change in
24 the other and this sort of endless process of having

1 to make changes to the different fishery management
2 plans instead of doing it more holistically and
3 considering things more as a complex.

4 Honestly, I don't remember whether there
5 was any discussion at their June council meeting of this.

6 I don't recall that there was. And I think for the
7 time being anyway that this is on hold pending other
8 priorities, as I recall.

9 So it was a very high-level or
10 60,000-foot level discussion at the Interspecies
11 Committee meeting. This is a concept we think we'd like
12 to explore without very much in the way of details.
13 And I'm fairly certain there hasn't been any committee
14 meeting discussion since then either.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Pete.

16 PETER HIMCHAK: If I might, Mr.
17 Chairman. Yes. There was an action taken at the April
18 New England Council meeting, and it caught the attention
19 of a lot of monk fishermen in the southern management
20 area. So I will -- in case they call me again for a
21 follow-up, I can say, well, I inquired. It doesn't seem
22 like it's -- we haven't been approached at the
23 Mid-Atlantic Council level, and the interspecies -- I
24 guess it's handled by an Interspecies Committee at the

1 New England Council. Is that the name of it? And we'll
2 follow and see if they follow up on this action.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Right. And, Pete, I am on that committee. I've been
5 able to attend some of the meetings, but not all of them.

6 I've had some conflicts. I didn't attend that specific
7 meeting, but I will follow up with John on the issue.

8 Part of that the last I heard was that
9 Amendment 6 which would have looked at some different
10 management options for monkfish was proposed to be
11 initiated this fall, but that hasn't started yet. I
12 appreciate that you pointed that out. Jim Weinberg has
13 a flight to catch. Jim, if you want to go ahead and
14 give your report. Then I'll go to Red.

15
16 NMFS NEFSC DIRECTOR'S REPORT

17 JAMES WEINBERG: Thank you very much,
18 Mr. Chairman. I will start of the Science Center's
19 report by talking about ships and survey issues.
20 Regarding the spring multi-species bottom trawl survey,
21 it was completed on May the 4th. And one note about
22 the environment. Wes Brown wanted me to point out that
23 water temperatures this year were abnormally cold, and
24 Mid-Atlantic species were distributed further south and

1 more off shore than usual.

2 Regarding the sea scallop dredge
3 survey, this was completed on July the 2nd, and the data
4 were available in August for the PDT work. Regarding
5 the northern shrimp survey, it was completed on August
6 the 7th, and the data will be made available in
7 mid-September for stock assessment work.

8 Now, for things that are planned. The
9 autumn multi-species bottom trawl survey is scheduled
10 for September 7th through November the 18th on the Henry
11 Bigelow. The herring acoustics survey is scheduled
12 from September the 8th to October the 15th on the
13 Delaware.

14 And just a comment about the Gulf of
15 Mexico, the oil spill, how that impacted us: Both of
16 our vessels, the Bigelow and the Delaware, were sent
17 to the Gulf where they were doing various operations
18 related to the oil spill, but we expect to have both
19 of those vessels back in time for our bottom trawl survey
20 this fall.

21 Then on stock assessment scheduling, I
22 reported to you yesterday that we had the 50th SARC the
23 first week of June, and that reviewed stock assessments
24 of sea scallop, monkfish, and pollock.

1 And I'll be giving a report -- I gave
2 a summary report yesterday, but I'll be doing that again
3 to the New England Council at their next meeting. We
4 conducted a trac for eastern George's Bank cod, eastern
5 George's Bank haddock, and George's Bank yellowtail
6 flounder in the middle of July this year.

7 And the center has also done updates for
8 a lot of the Mid-Atlantic stock such as you've talked
9 about at this meeting, the bluefish, black sea bass,
10 etcetera.

11 The next SARC is scheduled for the end
12 of November and early December of 2010. That will be
13 SARC 51. And the stocks on the agenda for that are:

14 lolligo squid; silver hake, there are two stocks there;
15 red hake, there are two stocks, as well as offshore hake.

16 The next SARC after that will be SARC 52, which is
17 scheduled for the spring of June 2011. And we have the
18 three winter flounder stocks all scheduled at once.
19 Which this is the first time we've had all three of them
20 up for a benchmark review all at the same time, which
21 was a recommendation of the GARM review to put them all
22 together so that stock structure could be considered
23 in a more holistic way.

24 And then I'll just speak as far as the

1 SARC 53 which is scheduled for the November-December
2 of 2011. Black sea bass and Gulf of Maine cod are
3 currently scheduled for benchmark assessments. And
4 that concludes my report. And I'd be happy to answer
5 any questions. Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
7 you, Jim. I guess two meetings ago we had a presentation
8 from Jim Lackey about the proposed up listing of ladder
9 head turtles, and so we had submitted comments
10 supporting the implementation of the in-water survey
11 for sea turtles. Can you give a sense of when that work
12 might be complete?

13 JAMES WEINBERG: No. I'm not up on
14 that. If Nancy were here, I'm sure she could have told
15 you. But I can follow up.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
17 it's my understanding that the work has been ongoing
18 with the use of chartered aircraft. So hopefully we'll
19 have some information on that perhaps at the next
20 meeting. That would be great.

21 JAMES WEINBERG: I would like to mention
22 summer flounder which I forgot to mention. Of course,
23 summer flounder is very important to this council, and
24 it's in a rebuilding plan.

1 And the outlook for it based on the last
2 update is promising. So I know that everyone will be
3 anxious to keep tabs on its rebuilding progress. It
4 had been scheduled to be on the SARC for June of 2011,
5 but it was taken off as agreed by the NRCC.

6 But we're still having discussions about
7 how to handle summer flounder, so I wouldn't get too
8 alarmed yet about it being totally off the table. We're
9 still figuring out what we can do.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
11 that was my next question, and I appreciate your
12 clarification. I know we'll have more discussion in
13 the NRTC about that as well. Erling, do you have a
14 question?

15 ERLING BERG: Yeah. Thank you, Mr.
16 Chairman. Jim, there was an article in the Gloucester
17 Times -- I don't know when this come out -- about
18 scientific research for the U.S. Navy, had discovered
19 that low frequency acoustic waves -- you seem to be
20 familiar with this -- could tell the size of fish and
21 what kind of fish it was and all that.

22 This is the first I ever heard of it.

23 I wonder if you knew something about that, or if this
24 is something that we can use, or is it just a pie in

1 the sky, they're not going to go anywhere?

2 JAMES WEINBERG: Yeah. That's, again,
3 out of my field, so I'm not even going to comment because
4 I would just show how little I know.

5 ERLING BERG: I should have asked Nancy.
6 Maybe she would be more familiar. Thank you.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Rich.

8 RICH SEAGRAVES: Yes. Just a comment.
9 Thanks, Mr. Chairman. Just to make you aware, Jim,
10 we have a SSC meeting scheduled for September 21-22,
11 and one of the topics on the agenda will be discussion
12 -- now that our SSC has a much greater sense of the
13 assessments species by species, I think they're in a
14 much better position to start looking at priorities in
15 terms of what needs to be assessed. And one of the
16 concerns was raised, I think, that they'd rather see
17 a scup benchmark assessment before they saw a sea bass
18 assessment.

19 So I just want to give you a heads-up
20 that we will be talking about that at our next SSC
21 meeting, and the probable outcome might be that
22 recommendation.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Jim.

24 JAMES WEINBERG: Thank you, Rich. And

1 just to expand on that a little bit. I would like to
2 just give people a heads-up right now that we had a
3 meeting in Woods Hole regarding the overall scheduling
4 of assessments and the increase in the amount of work
5 that both the Center and the councils perceive needs
6 to be done to get through the system for it to support
7 ACLs. So we have had an ACL working group for some time.

8 And we had a meeting in Woods Hole --
9 I think it was last week; I've kind of lost track of
10 the days. But anyway, there are fairly high-level
11 discussions going on between with council staff, the
12 Center staff, the ASMFC and the regional office staff;
13 and we're talking about planning for the future to better
14 coordinate how all these stock assessments would be done
15 and at what level of assessment they would be done.
16 So more on that in the future.

17 COUNCIL CHAIRMAN RICHARD ROBIN: We
18 look forward to the outcome of that. John. Okay.
19 That's an ongoing process has been described, so we look
20 forward to the results. Any additional questions for
21 Jim? All right. Seeing none, I'll go to Red Munden,
22 South Atlantic report.

23
24

SOUTH ATLANTIC COUNCIL LIAISON REPORT

1 RED MUNDEN: Thank you, Mr. Chairman.

2 The South Atlantic Council met in Orlando, Florida June
3 the 7th through the 11th, the very same week that this
4 council was meeting in New York City.

5 The three South Atlantic committees that
6 I serve on as a Mid-Atlantic voting member met during
7 the week, so I was there for four days. And the first
8 meeting that I attended was on the joint team of King
9 and Spanish Mackerel Committee.

10 And by the way, there's some information
11 behind Tab 14 that I asked the staff to include in the
12 briefing book. So I'll just basically summarize the
13 information on the Mackerel Committee.

14 King and Spanish mackerel are managed
15 jointly between the South Atlantic Council and the Gulf
16 Council, and the Gulf Council is the lead council. And
17 basically, the Gulf Council establishes the ACL and AMs
18 for mackerel, and they leave it up to the South Atlantic
19 Council to put management measures in place to assure
20 that those measures are not exceeded.

21 But a couple things appeared interesting
22 during the meeting. The councils are considering
23 action in Amendment 18 to the mackerel plan to end sales
24 of king mackerel caught under the recreational bag

1 limit.

2 And then another thing they're
3 considering is eliminating the sale of tournament landed
4 fish when the catch if it's sold counts against a
5 commercial quota.

6 And a third thing is they wanted to
7 establish a joint ad-hoc committee. And I have not seen
8 anything relative to the creation of that committee,
9 but supposedly they said they want to form it this summer
10 to discuss the idea of establishing catch shares for
11 king mackerel, particularly the stock that falls under
12 the Gulf migratory group where they leave the Gulf and
13 then go around to the east coast of Florida. And this
14 could impact North Carolina fishermen because some of
15 our fishermen do go down and fish on that Florida stock
16 that's on the east coast. This was the first time that
17 I had met with the Joint Mackerel Committee, and they
18 will be meeting more frequently to move Amendment 18.

19 Another committee that met was a Dolphin
20 and Wahoo Committee. That committee has been in
21 existence for about ten years, and I've served on it
22 from the very beginning.

23 And they adopted a fisheries management
24 plan for dolphin and wahoo which was a proactive plan.

1 The stock was in good shape. It wasn't overfished,
2 but they felt like that they needed a plan to address
3 any future expansion of the commercial fishery
4 primarily.

5 And at the meeting, the Council
6 developed and refined potential management alternatives
7 including establishing a commercial trip limit, which
8 they don't currently have, and recreational
9 accountability measures that could be put in place in
10 subsequent years if the recreational sector exceeds its
11 allocation. Again, these were proactive measures for
12 dolphin and wahoo. Most of the meeting and committee
13 meetings that I attended dealt with a course with
14 snapper/grouper; and the Council voted to send
15 snapper/grouper Amendment 17A to the Secretary of
16 Commerce for approval. I've mentioned 17A to you
17 several times. But this is the amendment to the
18 snapper/grouper plan that will make those very large
19 closures off of the coast of northern Florida up to about
20 Brunswick, Georgia.

21 They selected a preferred option, and
22 they've already changed their preferred preference on
23 this option twice before. But they selected a preferred
24 option that would close bottom fishing in depths from

1 98 to 240 feet.

2 This is basically to protect red
3 snapper, but in this area you will not be allowed to
4 fish or retain any species of snapper/grouper. And,
5 again, this runs from central Florida just south of
6 Marathon up to about Brunswick, Georgia.

7 But in addition to that, in addition to
8 that closure, the possession of red snapper anywhere
9 within the South Atlantic area jurisdiction will be
10 prohibited. And even though this is a part of Amendment
11 17A, which they just voted to send to the Secretary of
12 Commerce, the National Marine Fishery Service announced
13 at the meeting that they intended to extend their
14 emergency action which closed the red snapper fishery
15 for an additional 186 days. And the intent there is
16 to keep the closure in place while Amendment 17 is acted
17 upon by the Secretary of Commerce.

18 There wasn't much discussion about 17B.

19 That also applies to snapper/grouper and puts measures
20 in place to protect other species. And they're still
21 waiting for the South Atlantic region to address, number
22 one, a minority report that was filed primarily by the
23 commercial representatives who sat on the South Atlantic
24 Council because they felt like that they were going to

1 be severely impacted by the measures that were included
2 in 17B.

3 Also, they have to address some
4 compliance issues with the state coastals on management
5 laws. Of greatest interest to this council is Amendment
6 18. That is the amendment to the snapper/grouper plan
7 that will extend the northern boundary of
8 snapper/grouper management unit up into the
9 mid-Atlantic and New England area of jurisdiction. The
10 preferred alternative was for this to be moved north
11 -- the management area would be moved north -- and the
12 Council, the South Atlantic Council, would establish
13 the annual catch limits and accountability measures for
14 snapper/ grouper. And then the Mid-Atlantic Council
15 and New England Council respectively would put in the
16 day-to-day management measures that were needed to make
17 sure they didn't exceed annual catch limits and
18 accountability measures.

19 The Council voted that as their
20 preferred alternative. About two weeks after the
21 council meeting was over, I received an e-mail from staff
22 member Gregg Waugh, and he said that they had changed
23 the alternative, and basically the South Atlantic
24 Council would establish all of the management measures.

1 And basically, I got back in touch with
2 him. I said, well, what's going on here? And he said,
3 well, at the South Atlantic Council meeting when we
4 raised the issue of whether or not the
5 mid-Atlantic or the northeast region would permit
6 individuals to fish in the snapper/grouper fishery, I
7 responded that I had not heard anything in the way of
8 conversations from the northeast region that would
9 indicate that they had any interest in getting involved
10 in permitting snapper/grouper; and that we just assumed
11 that the South Atlantic Council would require the
12 permits for the fishermen participating in the fishery
13 in the northern management area. And someone -- I can't
14 find out who -- made this decision or determination,
15 but someone decided it had to be either or all or none
16 at all.

17 You either had to comply with all of the
18 snapper/grouper regs if you went with the permitting
19 requirement, or you comply -- none of them applied to
20 the northern management area.

21 So, after exchanging e-mail with Gregg
22 Waugh and bringing the chairman into the conversation
23 informing him of what they were considering, a letter
24 was prepared. We sent it down to them after the chairman

1 had talked with the leadership of the South Atlantic
2 Council.

3 And we in that letter recommended that
4 we go back to the motion that was passed at the June
5 meeting saying that basically the Mid-Atlantic Council
6 and the New England Councils would be responsible for
7 managing whatever fish were allocated to those two
8 council areas of jurisdiction. The reports that I've
9 gotten back is that the Mid-Atlantic Council feels --
10 I mean the South Atlantic Council feels like that's
11 reasonable. And we also pointed out that if a permit
12 was needed, then we would include that in whatever
13 management measures that we put together for
14 snapper/grouper. The mid-Atlantic Council will be --
15 the South Atlantic Council rather will be meeting in
16 Charleston, South Carolina, September the 13th through
17 the 17th, and at that meeting they will be deciding
18 whether or not to send Amendment 18 out for public
19 comment. It depends on whether or not they make some
20 changes to the document.

21 I have informed the staff that we will
22 need at least one public hearing in the Mid-Atlantic
23 area jurisdiction and they said they certainly would
24 do that, but I would ask the members of the Mid-Atlantic

1 Council if you have any interest in having a public
2 hearing on Snapper/Grouper Amendment 18 to please get
3 in touch with me or Gregg Waugh with the South Atlantic
4 Council and we will ask them to schedule meetings in
5 your area of jurisdiction.

6 They indicated that if they could act
7 on Amendment 18 at the September meeting, then they would
8 hold the public hearings probably during October. And
9 I suggested that a good time may be for our fall meeting
10 in Virginia Beach, November meeting I think it is in
11 Virginia Beach. And -- November or December. And they
12 said that may be too late.

13 UNIDENTIFIED: December.

14 RED MUNDEN: December. Said that may
15 too late. So, they said they would be willing to hold
16 the public hearings when -- in the states that ask for
17 them at a time that was convenient.

18 And Mr. Chairman, that concludes my
19 summary of the South Atlantic Council meeting. I will
20 be at the September meeting and will be riding herd on
21 Amendment 18.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Red,
23 thank you. And just to follow up on the Amendment 18
24 issue. As you point out, we did not want them to export

1 them permit requirement that governs their fishery into
2 the northern FMU, but rather we wanted to have the
3 flexibility, as Red said, that if we determine that
4 management measures were necessary, and in fact a permit
5 was going to be required, that that be a requirement
6 that we write into the plan as opposed to exporting their
7 existing permit requirement and all the attendant
8 regulations into the northern FMU.

9 So, I did get a call from Bob Mahood in
10 response to my letter. The letter doesn't appear in
11 the book, but basically it was to this point, that we
12 wanted to return to the original agreement that we had
13 tentatively with their Council; and he indicates that
14 he doesn't think that will be any problem at all to go
15 back to that previously agreed to language. So, I think
16 we're going to be all right, but obviously Red's been
17 following this closely for us.

18 And Red, I would just suggest that we
19 do try to have a hearing in Virginia Beach. That's the
20 primary port where this fishery's prosecuted. Gene.

21 EUGENE KRAY: Red, you indicated that
22 the ACLs or the -- what amount of -- are we talking about
23 snowy grouper here or all snapper/grouper species?

24 RED MUNDEN: All species of

1 snapper/grouper that occur off the Mid-Atlantic --

2 EUGENE KRAY: Any discussion as to what
3 amount of fish we're going to have in our area?

4 RED MUNDEN: A very small amount, in
5 terms of -- you know --

6 EUGENE KRAY: Can you define very small?

7 RED MUNDEN: -- number of fish.
8 Probably -- I don't know. That depends on the South
9 Atlantic, but you know, the numbers I hear just a couple
10 of hundred at the most.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
12 and again -- you know, we've just implemented some
13 reporting requirements at the state level in Virginia.

14 And so hopefully we'll have some improved catch data.

15 Because when you went back through the VTR data, the
16 catches were on the order of dozen fish, when we knew
17 that hundreds of grouper were being caught.

18 So, hopefully, some improved catch data
19 will allow for some more consideration of the nature
20 and characterization of the fishery.

21 John Boreman does serve on the South
22 Atlantic SSC, as well, and I'm sure we can continue to
23 discuss this issue.

24 Any further questions for Red?

1 (No response audible.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

3 Pat Kurkul.

4 RED MUNDEN: Mr. Chairman?

5 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.

6 RED MUNDEN: The small numbers that I'm
7 hearing are basically for snowy grouper. The numbers
8 may not be that small for other species.

9 COUNCIL CHAIRMAN RICHARD ROBINS: I
10 understand. Thank you, Red.

11 PATRICIA KURKUL: Ready? Thank you,
12 Mr. Chair.

13
14 NMFS REGIONAL ADMINISTRATOR'S REPORT

15 PATRICIA KURKUL: Let's see. So,
16 effective June 30, the loligo trimester 2 and 3 quotas
17 were adjusted to account for underages in trimester 1.

18 For 2010, the initial loligo trimester
19 1 quota was approximately 17.7 million pounds. The
20 landings information indicated that only 3.1 million
21 pounds of loligo was landed during trimester 1. So,
22 the overage was approximately 14.6 million pounds.

23 Consistent with the specifications,
24 because the quota underages for trimester 1 were greater

1 than 25 percent of the trimester 1 quota, the underages
2 were divided in half. Half applied to trimester 2 and
3 the other half applied to trimester 3. That results
4 in a revised trimester 2 quota from the initial quota
5 of almost 7 million pounds. I'm sorry, the initial
6 quota was approximately 7 million pounds; the new quota
7 is 14.3 million pounds. The revised trimester 3 quota
8 went from 16.5 million pounds to a new quota of 23.7
9 million pounds.

10 Butterfish closure we announced
11 yesterday, that the directed fishery for butterfish will
12 be closed effective August 24th. Vessels issued a
13 federal permit to harvest butterfish after that time
14 may not retain more than 250 pounds per trip. And that
15 will be effective -- excuse me -- through December 31st.

16 In June, we announced the spiny dogfish
17 stock had been rebuilt, which allowed catch levels for
18 the dogfish fishery to increase from 12 million pounds
19 to 15 million pounds. The final rule on that published
20 on June 24th and was effective on July 26th. Vessel
21 trip limits remained at 3,000 pounds.

22 We did extend the emergency rule to
23 increase the 2010 black sea bass specifications on July
24 7th. We published the extension in the Federal Register

1 to increase the black sea bass for the remainder of the
2 2010 fishing year through December 31st, 2010.

3 The initial action to increase the black
4 sea bass specifications was effective on February 10th,
5 as you recall, and was scheduled -- I'm sorry -- and
6 expired on August 9th.

7 Let's see. Okay. This is on surfclams
8 and ocean quahogs. The FDA sent us a request in January
9 to reopen a portion of Georges Bank closed area known
10 as Cultivator Shoals. The FDA asserted that the recent
11 testing of clams collected from the area demonstrates
12 that paralytic shellfish poisoning, PSP, toxin levels
13 are well below the regulatory limit established for
14 public health safety.

15 And as a result, they determined that
16 harvesting of the surfclams and ocean quahogs for human
17 consumption was once again safe.

18 So, on June 30th, consistent with that
19 request, we published a proposed rule in the Federal
20 Register to request public comment on the action -- on
21 the proposed action to open that portion of Georges Bank.

22 We received several comments, two worth
23 noting, a PSP expert from the Woods Hole Oceanographic
24 Institute and the State of Maine, both of whom cautioned

1 against opening without a regulatory requirement for
2 adequate PSP testing.

3 We're going to be meeting with FDA next
4 week to discuss the comments, and FDA's position given
5 the comments. However, we are quite concerned about
6 the comments and moving forward with this action.

7 The regulations on this don't seem to
8 allow us to issue a requirement that a testing protocol
9 be used; so, this is an action that may come back to
10 the Council at some point.

11 And then finally, I did want to talk --
12 I know many of you were at the Executive Committee
13 meeting where I talked a little bit about the U.S./Canada
14 bilateral discussions on mackerel. So, I'll just
15 briefly cover it again.

16 Consistent with the Council and the
17 industry's interest in engaging the Canadians and
18 potentially having bilateral discussions on mackerel
19 and as a follow-up to the joint assessment that was done
20 on mackerel earlier this year, I did request that
21 mackerel be added to the agenda for the national
22 U.S./Canada bilateral meeting which was held in July.

23 It's typically held in July every year.

24 And so the Canadians agreed to our adding

1 that to the agenda. We did talk about two things, and
2 I neglected to mention at the Executive Committee
3 meeting that we did also talk about joint research and
4 an interest within resource constraints of continuing
5 collaboration in joint science and research, again
6 within each country's resource constraints.

7 And then we also had a discussion about
8 the U.S. concerns that we are headed down the wrong road
9 with respect to mackerel in terms of our each ratcheting
10 up in some ways our quotas to the point where if it were
11 fully taken in 2011, and we did set the quota consistent
12 with the proposed recommendation from the Mid-Atlantic
13 Council, and Canada has already set their quota for 2011,
14 the combined quotas do exceed the scientific advice.

15 Now, I think there's a lot of reason to
16 believe that it won't be fully taken, either in the U.S.
17 or in Canada. And so we would still stay -- the total
18 catch would still stay within -- clearly within the
19 scientific advice. Nonetheless, it's not a good
20 precedent.

21 So, we expressed that concern with the
22 Canadians and an interest in engaging regionally in
23 dialogue with them. The Canadian response was that this
24 was -- it was a much easier issue for them on the science

1 side -- which I would point out it actually took us three
2 years to get them to do a joint assessment -- so, it's
3 an easier issue for them on the science side and not
4 quite as easy an issue on the management side. We do
5 have four different regions that jointly manage mackerel
6 in Canada. And that the best that they could commit
7 to was to engage their industry on their interest in
8 having discussions with the U.S.

9 And so they agreed to do that and to
10 report back at our regional bilateral meetings with
11 Canada, which are twice a year, and we have one coming
12 up in September. So, it is on the agenda for our
13 September meeting with the Canadians.

14 And that's all I have, Mr. Chairman.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
16 you, Pat. Pat, where did they set their 2011 quota?

17 PATRICIA KURKUL: They set it at 60,000.

18 COUNCIL CHAIRMAN RICHARD ROBINS: So,
19 three quarters of the recommended ABC?

20 PATRICIA KURKUL: Right.

21 COUNCIL CHAIRMAN RICHARD ROBINS: And
22 with respect to your comments on the PSP testing
23 protocol, are you suggesting that that might require
24 an amendment to change the regulation?

1 PATRICIA KURKUL: I believe so. And
2 Joel -- yes. I'm getting a yes from Joel.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
4 you. Questions for Pat? Erling.

5 ERLING BERG: On the Cultivator Shoal
6 issue, I mean barring any impediments along the way,
7 what's the possibly earliest date that that could be
8 opened up for surfclams?

9 PATRICIA KURKUL: Well, we are
10 reviewing the comments. And as I said, we're going to
11 meet with the FDA to discuss them next week. I -- based
12 on the comments, we have a lot of concerns about opening,
13 but if in fact we did move forward with the final rule
14 to open, I think realistically we're talking not before
15 the first of the year.

16 ERLING BERG: Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Chris.

19 CHRISTOPHER ZEMAN: I just had a
20 question in terms of this process. I'm not sure what
21 -- did we ever make a vote on proposing those regulations
22 to reopen Cultivator Shoals?

23 COUNCIL CHAIRMAN RICHARD ROBINS: No,
24 not -- not that I'm aware of.

1 CHRISTOPHER ZEMAN: You know,
2 follow-up is do we need to? I mean --

3 JOEL MACDONALD: The closing and
4 reopening of areas is within the discretion solely of
5 the agency, under Section 305.

6 PATRICIA KURKUL: (No microphone -
7 inaudible.)

8 JOEL MACDONALD: Yeah, it's related to
9 health and -- you know, just to follow on Pat's comments,
10 I mean, when you're considering adverse comments on a
11 proposed reopening and we -- you know, we really want
12 to err on the side of caution because of the huge public
13 health issues involved.

14 So, you know, I just thought I'd add that to the record.
15

16 COUNCIL CHAIRMAN RICHARD ROBINS: Rich.

17 RICHARD SEAGRAVES: Thank you, Mr.
18 Chairman. Pat, with respect to your comments about
19 Atlantic mackerel, I think you said something about
20 there was concern that both countries were ratcheting
21 up their quotas.

22 In fact, we just recently voted and
23 submitted the package that would reduce the U.S. side
24 anyway, significantly.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
2 did you have a comment?

3 PATRICIA KURKUL: Yeah. Is that -- did
4 we reduce or -- oh, it is -- you're right. I misspoke.

5 But we set it at a higher limit than what our landings
6 have been. So, in that sense, both of us are sort of
7 allowing an expansion.

8 So, you're right, I misspoke. Thank
9 you.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Further questions for Pat?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Thanks again for the report. Office of General Counsel.
15 Joel.

16
17 NOAA OFFICE OF GENERAL COUNSEL REPORT

18 JOEL MACDONALD: Thank you, Mr.
19 Chairman. Sort of as a follow-on to Howard's question
20 to Mitch about increased workloads and lawsuits, in --
21 you know, before I come to the Council meeting, I look
22 over the litigation and other things that are facing
23 my office. And there's definitely been an upswing in
24 litigation over the past year, particularly with respect

1 to species managed by the New England Fishery Management
2 Council.

3 So, you know, this report will represent
4 a little more activity than I normally report on. We
5 had a favorable decision in the case *Oceana v. Locke*.

6 That was a lawsuit which challenged the Standardized
7 Bycatch Reporting Methodology Omnibus Amendment.

8 The plaintiffs in that case were
9 concerned about a so-called loophole which provided that
10 the agency didn't have to meet the 30 percent CV in the
11 situation where there were insufficient appropriated
12 funds to pay for the needed observer coverage.

13 The court held that the agency's
14 prioritization process was very reasonable. The court
15 also found that there was no requirement in the Magnuson
16 Act that a certain level of bycatch information had to
17 be generated through an SBRM.

18 We had a magistrate remand the issue in
19 the *Midcoast Fishermen's Association* case back to the
20 agency for further explanation. That was a case in
21 which a group of fishermen were challenging the agency's
22 denial of a petition for rulemaking that would have had
23 us oust the midwater herring trawlers from the
24 groundfish closed areas.

1 We had until August 6th to oppose the
2 magistrate's decision to the judge. We got an extension
3 on that. Basically, we're waiting to see if the New
4 England Council will address the issue in the long term.

5 But who knows? I don't -- you know, from what I
6 understand, we may not be able to get any more extensions
7 to this. So, we're going to have to deal with it
8 probably next week or soon thereafter.

9 We had an adverse decision in the case
10 Western Sea v. Locke. That was a challenge to a permit
11 splitting provision that was actually affirmed by
12 Amendment 1 to the Herring Fishery Management Plan.

13 The plaintiffs in that case had been
14 denied permits because of the permit splitting
15 provision.

16 Amendment 1 had specifically provided
17 that individuals who bought herring history and put it
18 on their vessels could not use it to qualify for a limited
19 access herring permit.

20 The court held that this so-called
21 retroactive application of the splitting provision --
22 which by the way had been in place for about a decade
23 -- was not permissible. The court later clarified its
24 decision to apply to two other vessels that were in the

1 appeal process.

2 We had opposed this clarification
3 because it wasn't clear that the two vessels in the
4 appeal process, even absent the permit splitting
5 provision, would meet the qualifying criteria, that is
6 the landing and permit requirement needed to get the
7 limited access permit. So, we're still waiting for the
8 court to deal with that opposition.

9 We may be able to settle the case
10 entitled Taylor v. Locke. It was a challenge brought
11 by a group of groundfish fishermen to a provision that
12 allowed a herring midwater trawler fishing in a
13 groundfish closed area to release a small amount of fish
14 after the pumping operation was over.

15 The released amount of fish could not
16 be observed, and there was some concern because -- you
17 know, after the pumping operation wasn't defined, small
18 amount of fish wasn't defined; so -- you know, this
19 unknown amount of fish would remain unobserved and of
20 concern.

21 One of the issues that the plaintiffs
22 brought up is that the provision that allowed this did
23 not appear in the proposed rule. And it crept into the
24 final rule. And we had argued that -- you know, the

1 addition of this provision in the final rule was sort
2 of the logical outgrowth of the proposed rule; and
3 obviously the plaintiffs opposed that position.

4 And we may be able to work this out by
5 agreeing to repromulgate the rule for public comment,
6 and the plaintiffs so far seem to be -- you know, open
7 to that suggestion. So, that may be off the books in
8 the near future.

9 However, when we turn to Amendment 16
10 to the Multispecies FMP, we've had three lawsuits filed
11 challenging that. We've got the City of New Bedford,
12 Jim Lovgren and Oceana all challenging the provisions
13 in Amendment 16.

14 The suits were filed in Boston, Trenton
15 and D.C. We've been able to consolidate the Trenton
16 and the Boston suits before a judge in Boston, and we're
17 moving to add the Oceana lawsuit to that consolidated
18 list. So, we're not sure what the courts are going to
19 do with that. We hope that would be the case because
20 it would be much easier to handle one consolidated
21 lawsuit than trying to deal in two different
22 jurisdictions with two different lawsuits.

23 So, that's the end of my report, Mr.
24 Chairman.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
2 you, Joel. Questions for Joel? Greg.

3 GREG DIDOMENICO: Question for Joel on
4 behalf of Sustainable Fisheries Coalition. As you
5 know, we filed with an attorney an amicus brief on behalf
6 -- with the agency. Is there anything that you can tell
7 us or is anything that we can expect a timeline of a
8 decision or anything else in our role that we can do
9 or participate in in the case? And you know, its status
10 at this point.

11 JOEL MACDONALD: Which case are you
12 referring to, Greg? I'm sorry.

13 GREG DIDOMENICO: I'm sorry. The
14 midwater trawl.

15 JOEL MACDONALD: I'm not sure of the
16 timeline in that, and I'd have to -- why don't we do
17 this? Why don't I call you, off-line.

18 GREG DIDOMENICO: Sure.

19 JOEL MACDONALD: Because I've got to
20 talk it over with Gene. Gene's the principal attorney
21 handling this. So, I'll be glad to get back to you and
22 see if -- you know, what possibilities exist for your
23 participation.

24 GREG DIDOMENICO: Great. I appreciate

1 that. We've attended some of the hearings and we've
2 been -- we filed along with the agency and we appreciate
3 the support, and just anything further we can do to pay
4 attention and to offer some help. Thank you.

5 JOEL MACDONALD: We appreciate your
6 support. Thank you.

7 GREG DIDOMENICO: Thank you.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Further questions for Joel? Chris.

10 CHRISTOPHER ZEMAN: Yeah. Just I
11 wanted to know what the basis for like Jim Lovgren's
12 suit was. I'm not familiar with that suit. I just
13 wanted to see what his arguments or what he was alleging.

14 JOEL MACDONALD: Again, I'm going to
15 have to get back to you, Chris, because I don't have
16 before my mind's eye.

17 Typically, when somebody files a suit
18 challenging one of these actions, the Magnuson Act
19 obviously is implicated. Usually, you know, National
20 Standards 4, 8 and a couple others. Maybe the
21 Regulatory Flexibility Act, the APA for sure, and
22 sometimes -- I think Lovgren -- in Lovgren's case he
23 may be represented by Patrick Flanagan, and Patrick
24 usually throws in a couple of constitutional provisions.

1 So, let me get back to you on that.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Any
3 further questions for Joel?

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.
6 We'll move on to the federal enforcement report, and
7 we can start with Tim Donovan, if you're ready.

8
9 NMFS LAW ENFORCEMENT REPORT

10 TIM DONOVAN: Thank you, Mr. Chairman.
11 Tim Donovan, Deputy of Law Enforcement in Gloucester.
12 Andy Cohen is unable to attend due to some leave
13 conflict issues. You've got a report in your package.
14 I did want to highlight a couple issues.

15 One, we've seen a recent increase of
16 observer harassment and interference cases, and we're
17 taking a very aggressive approach to that. We're not
18 sure what's -- if it's a spike or what's causing it,
19 but we have seen more reports. And we have an agent
20 assigned to the Observer Program out of Woods Hole and
21 we're taking a hard look at a lot of these interference
22 and harassment cases.

23 Also, recently, Thomas George with
24 Sterling Seafood had -- he had pled guilty and a

1 sentencing happened last month for avoiding -- basically
2 it was importing falsely labeled Vietnamese catfish,
3 but the major issue was avoiding tariffs that are in
4 place to protect the domestic fishery.

5 This was in U.S. District Court, and
6 defendant Thomas George was sentenced to 22 months in
7 prison in addition to paying \$64 million restitution
8 to the government, and an additional \$50,000 to the
9 National Fish and Wildlife Foundation, earmarked for
10 research.

11 The other obviously issues that
12 enforcement is working with and dealing with right now
13 is the IG Report, the numerous IG reports, and actually
14 the -- we believe the third or final report is due out
15 in the very near future. We're expecting sometime
16 probably the month of September to see a final report
17 from the Office of Inspector General.

18 Some of the things that we have got in
19 place since then, I want to -- I appreciate the support
20 that we received August 3rd down at D.C. for the
21 enforcement summit. I know some folks that had attended
22 it, and (inaudible) mentioned it earlier.

23 There's two more days for comment on the
24 National Enforcement Summit on their website. Open

1 comment is -- closes I believe tomorrow, the 20th. And
2 we encourage everybody to weigh in. There's a survey
3 to take, as well as additional comment.

4 At one point, the folks that -- the
5 contractor that was hired will package up a summary of
6 the actual summit itself and make that available to the
7 public for comment.

8 The Office of Enforcement -- what we're
9 dealing with right now is one of the key provisions of
10 Dr. Lubchenco's response to the IG issues was coming
11 up with a -- national and regional enforcement
12 priorities. And I bring this to the Council because
13 you're going to play a critical role in that, both --
14 all the Councils across the nation, but obviously for
15 Northeast Region, Andy's shop, working with yourself
16 and the New England Council.

17 And coming this fall is where we're going
18 to consult. We're in the process right now. I don't
19 have a draft exactly what they're working on. Matter
20 of fact, there was a conference call yesterday
21 afternoon, they were still drafting up the process of
22 how they're going to incorporate it.

23 But basically, we're going to be looking
24 into the industry, the Councils, the stakeholders, our

1 partners, both the Coast Guard and the states, and come
2 up with setting our priorities, both at the national
3 -- but more particularly for us at the regional level,
4 something Andy and our folks will have to implement.

5 So, expect further on that, coming
6 sometime September into the first quarter of fiscal year
7 '11, and we'll be very active. I expect Andy to be
8 tapping into everybody and be reaching out to the
9 community, both at our level and in the field level to
10 collect information so we can make a more informed
11 decision as far as setting our priorities.

12 They also -- we expect to see sometime
13 next month an internal review of our work force analysis,
14 as far as criminal versus civil, special agents -- excuse
15 me -- I'm fighting a summer cold -- balance between
16 criminal investigators and our uniformed branch.

17 Those that have been around for a while
18 will remember at one point the Northeast Division did
19 have uniformed enforcement officers, and then for a
20 variety of reasons that's changed.

21 Well, we're reviewing that back now.
22 Matter of fact, Andy had sent up a consideration to our
23 headquarters and work force management folks as far as
24 bringing on uniformed officers in the Northeast

1 Division.

2 I think the initial look at it is
3 probably going to be more up north, although I do believe
4 that there's positions down south. A lot of it's going
5 to be dealing with catch share. There was some funding
6 available under the catch share program that we would
7 be doing that.

8 We're going to be more in contact with
9 our Alaska Division, which has a very healthy robust
10 uniformed operation. But again, that was as a result
11 of the review. We want to -- you know, kind of change
12 up our balance. So, I expect that to happen.

13 Now, we may get advertisements and try
14 to fill the positions, but actually see uniforms back
15 on the docks -- you know, is probably farther out because
16 we'll have to do some training, unless we can -- some
17 in-house transfers, we'll have to do some training and
18 all that. But sometime next year I expect to see more
19 uniformed NOAA enforcement officers here in the
20 Northeast Region.

21 We're still grappling on handling the
22 comments and review on the asset forfeiture fund. I
23 know that that's been taking up a lot of time at our
24 headquarters level. They have made some changes on what

1 we're doing. Obviously, we're -- I expect to see some
2 -- an additional report. I know Dr. Lubchenco's already
3 provided some feedback and I expect more (inaudible)
4 on that. And probably by the next meeting we'll have
5 -- that Andy attends or myself, we'll have far greater
6 detail on what to expect.

7 And Mr. Chairman, I believe that's a
8 quick in a nutshell what we're doing. Mitch mentioned
9 earlier about being evasive. We're not being evasive.

10 It's just it's all happening right now, and we just
11 don't -- I expect by the next Council meetings, both
12 New England and Mid-Atlantic, we'll have some concrete
13 details of what exactly Enforcement is going to look
14 like.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Tim,
16 understand it's a work in progress. I appreciate the
17 report. Any questions for Tim? Pres.

18 PRESTON PATE: Thank you. Tim, did the
19 findings of the IG report have any bearing on the joint
20 enforcement agreements that you have with the states?

21 TIM DONOVAN: No, sir. Right now
22 that's an effective program and it's going to stay in
23 effect. Matter of fact, I expect a press release out
24 sometimes this week from our headquarters that we

1 provided additional funding to four states for catch
2 share enforcements. And the uniformed officers I
3 talked about before, that would be in conjunction. That
4 will not be -- you know, I see nothing and there's been
5 no talk as far as reducing the funding to the states.

6 You know, for the Northeast Division, all ten of our
7 coastal states have agreements with us. I see no change
8 in that plan. It would be more of a joint, combined
9 effort.

10 One of the things we're talking about
11 is how we make that most effective. We don't want a
12 ship boarded four times on the same day by different
13 groups. The coordination part of it between ourselves,
14 the partner to the left of me, and the states, it would
15 be very effective if we can work together on that one.

16
17 PRESTON PATE: Follow-up?

18 COUNCIL CHAIRMAN RICHARD ROBINS: Sure.

19 PRESTON PATE: I guess I was most
20 interested in whether or not it would actually create
21 some incentive to make that program more robust and
22 bigger, to sort of shift some of the responsibilities
23 and visibility over to the state enforcement officers
24 as opposed to your group.

1 TIM DONOVAN: I don't see that happening
2 right now. I believe it would be more of a combined
3 effort.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Pres,
5 it's my understanding that that program is set up
6 relatively well, with the review.

7 So, now we'll go to Kevin Saunders.

8
9 UNITED STATES COAST GUARD REPORT

10 KEVIN SAUNDERS: Thank you, Mr.
11 Chairman. Kevin Saunders, Coast Guard District 5. I
12 provided with each of you a handout of the Coast Guard
13 District 5 report. It should be on your desk.

14 Just a couple of things I want to
15 highlight. I promised during our last meeting that the
16 Coast Guard enforcement effort for LMR would be reduced
17 for this period; and that probably still remains true,
18 although there is some talk about scaling back about
19 our efforts to support the spill in the Gulf. But as
20 a result of that, our boardings have diminished by half.

21 Basically, the only fisheries LMR
22 enforcement we're conducting is either intel-driven or
23 operation-driven, and you know, previously a large
24 portion of the violations and boardings we conducted

1 were what we called cold hit, where -- you know, we'll
2 just be on patrol and we'll see a boat and go up, there's
3 a vessel opportunity.

4 However, we did have one bust that was
5 a result of a pulsar boarding where the vessel was in
6 distress and they called in; and after a tow was
7 completed, we found that they were over the bag limit
8 on bluefin tuna. So, we do know that some activities
9 are still happening.

10 In addition, we had for the second report
11 that I'm giving you guys some significant MPS cases,
12 the most significant being the right whale case that
13 is highlighted in here that happened between the 27th
14 of June and the 1st of July.

15 That was a painful one, if you guys were
16 involved in that at all, I apologize to some degree,
17 but it was obviously successful in that we were able
18 to recover the right whale and from my understanding
19 it's in Portugal right now in a museum.

20 But from a Council's note, there is some
21 evidence that that was a result of gear interaction of
22 some sort. And I don't have the full details on that
23 right now. We'll have that by our next meeting.

24 The last thing I wanted to point out,

1 there's some diagrams like always, but with the
2 Commercial Fishing Vessel Safety effort, if you look
3 at the statistics on here, almost half of the dockside
4 examinations, which are voluntary, in other words --
5 you know, I'm requesting you to come on board and give
6 me an examination, for the most part, people fail in
7 that they don't get the decal that they're attempting
8 to get.

9 So, in my mind, at least, I translate
10 this to the guys that think they're good enough to --
11 you know, think they have everything squared away to
12 invite the inspector to come on board. So, what that
13 tells me is that we have a problem in the commercial
14 fishing vessel fleet with respect to some safety issues.

15 So, that's something I would encourage
16 -- you know, everybody to just take a look at and pass
17 on that -- you know, if they want an examination I would
18 encourage them to get an examination, but also I would
19 encourage them -- you know, even if they don't want an
20 examination, they should look at their safety gear with
21 a close eye.

22 And lastly, during our last meeting in
23 New York there was a case off of the coast of New Jersey
24 where they pulled up some canisters of mustard gas.

1 And this has happened in the past. It's one of those
2 things where the canisters broke open and a person was
3 exposed, and that creates not only -- you know, a medical
4 issue and a medevac issue for the Coast Guard, the people
5 on board, but also you know the whole catch was
6 contaminated, as well. And it had some additional
7 challenges.

8 Something like mustard gas isn't stuff
9 that the average fisherman is probably trained to deal
10 with, but if we're not proactive about promoting what
11 the procedures are when they do encounter it, then we're
12 only going to have accidents like that occur.

13 So, I would encourage obviously to push
14 out to the fleet that -- you know, if you're trawling
15 in areas where there's a potential for -- that they're
16 just aware of how to handle that. And there's some
17 information included in this document that says where
18 they could go to get some more information on that.

19 Thank you, sir.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
21 you, Kevin. Questions for Kevin? Okay.

22 EUGENE KRAY: Mr. Chairman?

23 COUNCIL CHAIRMAN RICHARD ROBINS: Yes,
24 Gene.

1 EUGENE KRAY: Just curious, Kevin, did
2 they determine what the age of that mustard gas -- they
3 used mustard gas in World War I. That's going back a
4 long way.

5 KEVIN SAUNDERS: I don't know if this
6 relates to the age, but there was a 1914 on the canister.

7 I don't know when it was dumped there. However, they
8 knew that -- I mean, the canister was not encrusted in
9 barnacles and whatnot. It was what we would typically
10 expect for something like that. So, you know, they need
11 to be looking for things that aren't obviously
12 canisters, too, they're just unusual, because they could
13 be unexploded ordinance, as well.

14 So, we're lucky that it was -- I mean,
15 it's unfortunate that it was gas and there's people
16 exposed, but it could have been worse.

17 EUGENE KRAY: 1914. It's older than
18 Pat Augustine.

19 COUNCIL CHAIRMAN RICHARD ROBINS: I was
20 going to say it's still in use in New Jersey, Gene.
21 Okay.

22 _____
23 ASMFC DIRECTOR'S REPORT

24 COUNCIL CHAIRMAN RICHARD ROBINS: All

1 right. So, we're moving on to the Executive Director's
2 Report from the ASMFC. And in fact, Captain O'Shea is
3 not with us today. I know there were a number of
4 developments at that meeting; and as I understand, there
5 have been some discussions on spiny dogfish AND possibly
6 exploring a state-by-state allocation of spiny dogfish.

7 So, I'll look to some of our state representatives that
8 attend those meetings. Pete.

9 PETER HIMCHAK: Well, again, I hesitate
10 to tread on Captain O'Shea's turf here, but there are
11 a number of points here that you may not take time to
12 read the 16-page summary document of what went down that
13 week.

14 The American lobster fishery in the
15 Southern New England stock, again from Cape May to Cape
16 Hatteras, is in dire straits and it still could face
17 a five-year moratorium.

18 We've developed the terms of reference
19 for the Center of Independent Experts to review the
20 technical committee's document on recruitment failure
21 and the recommendation for a five-year moratorium. And
22 this work from the CIE is being supported by the National
23 Marine Fisheries Service. So, we could have a draft
24 addendum by the annual meeting, which is in Charleston,

1 South Carolina, in November.

2 On tautog, we had a lot of problems with
3 the live fish market. I guess the only thing that's
4 relevant here is that the Tautog Technical Committee
5 did not see a shift in the recreational fishery on tautog
6 when the black sea bass closure kicked in.

7 So, but the tautog stock itself is still
8 not responding to restrictive management measures, so
9 we think it still has problems with either the live fish
10 market, illegal fishing, et cetera, et cetera.

11 On spiny dogfish, yes, we are proceeding
12 with Addendum 3 and the southern group and the northern
13 group are supposed to work cooperatively -- and we are,
14 we're doing pretty well in the southern group -- coming
15 up with options on percent allocations on spiny dogfish.

16 And we are also -- a group was formed at the Board level
17 to write to the Mid-Atlantic or to the NMFS on Amendment
18 3, essentially advocating for like a coastwide quota,
19 like what we have with black sea bass. So, you have
20 a coastwide quota and each state has its own percentage
21 of that coastwide quota, state, federal waters, and get
22 those two plans into alignment. I think a lot of us
23 would be very happy.

24 And then the only other thing is on river

1 herring, which is -- a little pertinent later on today.

2 States have until the middle of this year -- July 1st,
3 2011, to submit their sustainability plans for directed
4 fisheries on river herring.

5 There haven't been many submitted, and
6 only two have been approved, to my knowledge. And we
7 might have more to say on that when we talk about river
8 herring later this morning. That's it.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Pete,
10 thanks for that update. Any questions or additional
11 information regarding the ASMFC?

12 PAT AUGUSTINE: Mr. Chairman, just
13 information. Just to alert you, the Tautog Board moved
14 to initiate an addendum to address the illegal trade
15 of tautog and prevent increase in fishing mortality.

16 So, we'll keep you posted as that develops. Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
18 you, Pat.

19 With that, we'll move on to the Executive
20 Director's Report, and again welcome Chris Moore.

21
22 EXECUTIVE DIRECTOR'S REPORT

23 EXECUTIVE DIRECTOR CHRIS MOORE: Thank
24 you, Mr. Chairman. Good afternoon, everyone. It's

1 great to be back. I've enjoyed this week, getting
2 reacquainted with old friends and certainly meeting the
3 new folks, and I look forward to future meetings and
4 future discussions.

5 This is my fourth week that I've been
6 on the job. So, it hasn't been that long. Over the
7 last four weeks, I've met with the staff and talked to
8 a number of you about making things a little bit more
9 efficient or effective in terms of the way that the staff
10 interacts with the Council and the way -- even the way
11 that the Council operates.

12 Certainly, if you have any ideas or
13 suggestions for me, you can call me anytime; and
14 certainly you can call me anytime if you have any
15 questions or concerns or comments.

16 One of the things that we've been talking
17 about at the staff level is the amount of paper that
18 we put out to support the Council meetings and Council
19 operations, and whether or not we can find ways to
20 actually reduce that paper amount.

21 So, you've noticed over the last three
22 weeks that I've sent out a number of e-mails with PDFs
23 and I'll tend to operate that way unless someone objects.

24 Basically, trying to get the information out to you

1 more efficiently and certainly in a more timely manner
2 so that you can see it when I see it.

3 Again, if you have any questions about
4 that material when I send it out, certainly give me a
5 call or give a staff member a call.

6 As I talked about in my interview for
7 this position, I am taking my time to get reacquainted
8 with the staff, figuring out what they're doing in terms
9 of their activities and responsibilities, and beginning
10 to think about ways to match their role with the Council
11 priorities.

12 So, over time, you'll see a change in
13 some of the staff responsibilities, but certainly you
14 know, I'm a lucky guy. I have an excellent staff.
15 They're very productive. And I don't want to get in
16 their way in terms of keeping that productivity up and
17 reducing any of their effectiveness.

18 So, again, we'll be talking about that
19 over the next couple months.

20 One of the things that Gene asked me to
21 talk about a little bit, we've actually already talked
22 about it, is this National Enforcement Summit. I
23 attended the summit along with several of the other folks
24 -- other folks in the room, and we've already heard about

1 it.

2 As I said to you in my e-mail, the summit
3 was a mix of talks and interactive sessions. You can
4 actually go -- if you're bored one day and want to revisit
5 the entire summit, it's online. You can look at the
6 videos. They took videos of all the speakers and Dr.
7 Lubchenco's talks. So, certainly if you want, you can
8 go and do that.

9 They are at some point going to be
10 posting the material that resulted from those
11 interactive sessions. And those interactive sessions
12 were designed basically to provide ideas to the Service
13 as to how they should identify priorities for
14 enforcement. So, at some point you should take a look
15 at those.

16 I think that -- in terms of my personal
17 opinion, I think the summit was a good start. They had
18 a lot of work to do. As Mitch and Tim have indicated,
19 over time we're going to be seeing how that summit
20 actually effects some of the law enforcement activities
21 that are taking place.

22 The other this is -- excuse me. The
23 other thing is that -- that I want to bring up is that
24 we've already begun planning for the October meeting.

1 So, no big surprise. If you have a chance, you can
2 take a look at the Annual Work Plan behind Tab 16, and
3 Rich is going to be talking about that a little bit more.

4 The meeting's scheduled for October 12th
5 through the 14th in Cape May. Right now on our list
6 of things to do we have to discuss and adopt dogfish
7 specifications for 2011 and 2012. On the list initially
8 was Amendment 3 and I think we've already discussed that
9 a little bit, based on my discussions with Red and Jim,
10 we're going to take that off the agenda for the October
11 meeting and wait to see what the ASMFC does with spiny
12 dogfish before we proceed with that particular amendment
13 development.

14 The other thing that we're going to do
15 is have a presentation on NEAMAP. And that may be an
16 interactive presentation in the sense that we may be
17 able to get the boat there at the meeting and actually
18 go down for a field trip and see what's going on there.

19 We'll let you know on that.

20 We are waiting to hear from the Service
21 as it relates to whether or not we're going to hold a
22 one-day Habitat Ecosystem Workshop. So, Gene and Tom
23 are going to be working with the Service to figure out
24 whether or not that's going to happen or not.

1 One of the other things that we thought
2 about is maybe bringing someone in to give us a tune-up
3 on parliamentary procedure; not that whole-day thing
4 that ASMFC does, but maybe a
5 couple-hour presentation by that same woman.

6 (Inaudible comments away from microphone.)

7 EXECUTIVE DIRECTOR CHRIS MOORE: I
8 didn't say -- you know, we're time-constrained. Well,
9 maybe for Pat we can have the whole-day of parliamentary
10 procedure meeting, but for the rest of you, we're going
11 to have a two-hour meeting. So, we're working on that,
12 as well.

13 The other thing is I do have some baggage
14 from my old job. I am still the Steering Committee Chair
15 of a symposium that's planned for Seattle in November.
16 It's entitled Energy Use in Fisheries. It's an
17 international symposium that I had been working on
18 before I accepted the position as the Director, and I
19 felt like I needed to stay on that particular job or
20 focus on that particular symposium.

21 Again, that's scheduled for November,
22 so I'll be spending a little bit of time on that over
23 the next couple months, but it's not going to get in
24 the way of my Council activities. In fact, Lee Anderson

1 has agreed to help me with one of the sessions at that
2 particular symposium, and Rich is helping me, as well,
3 in terms of some recreational focus that we're looking
4 at there.

5 And with that, Mr. Chairman, I'm glad
6 to answer any questions.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Chris, thanks for the report. Any questions of Chris?

9 (No response audible.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: As he
11 said, we're all working together to try to get together
12 the items for the October agenda, and several things
13 are still in play. But I hope to have an update for
14 you fairly soon.

15 All right. We'll go to Rich Seagraves
16 with the Status Report.

17 _____
18 STATUS OF MAFMC PLANS

19 RICHARD SEAGRAVES: Thank you, Mr.
20 Chairman. My report is summarized behind Tab 16. The
21 first table is a summary of where we stand on Council
22 specifications.

23 As a result of the Council votes and
24 activity in June, we've submitted both the Squid,

1 Mackerel, Butterfish specifications package. Jason
2 submitted that in mid-July and we've already got some
3 positive feedback, initial feedback from the Regional
4 Office on that one and -- which is good, because we'll
5 be implementing the bycatch mortality cap for butterfish
6 this year. So, it's imperative that we be on time on
7 that. We have a carryover provision within that FMP
8 if specs aren't published by January 1. But we haven't
9 heretofore had the butterfish mortality cap in play.

10 So, it's important that we get that one done on time,
11 as well as the Surfclam/Ocean Quahog specs package was
12 submitted last week.

13 In terms of the next one is the Status
14 of FMPs, Amendments and Frameworks. One thing I just
15 found out that I hadn't got a chance to communicate to
16 Chris is that the -- with regard to Amendment 11, the
17 supplemental public hearing comment, that closure date
18 for that I believe will be October 11th, which will open
19 the door for Council action at the October meeting in
20 Cape May on final action on Amendment 11. So, it looks
21 like we'll be able to pull that one off.

22 Next is the Annual Work Plan and Chris
23 talked a little bit about that. In terms of upcoming
24 meetings, any potential changes, in September we will

1 have a two-day meeting of the SSC, which it says 21/22
2 SSC and Monitoring Committee for the spiny dogfish
3 specification cycle. That meeting's been extended on
4 the SSC side to two days. So, it would be the 21st,
5 22nd, and I haven't really talked with Jim. Assuming
6 his meeting will come right on the heels of that with
7 the Monitoring Committee.

8 Other than that, I think Chris touched
9 on some of the major points of the -- most of the major
10 points of the October Council meeting.

11 Following that is Pat's already talked
12 -- Pat Kurkul talked about in her report the spiny
13 dogfish commercial quota possession limits were
14 published effective July 26th, 2010. She already
15 covered that.

16 The next item is changes in gear
17 requirements in the loligo squid fishery, effective
18 August 3rd, 2010, the net strengthener mesh -- minimum
19 mesh size increased from four and a half to five inches.

20 And effective September 13, 2010 for Trimesters 1 and
21 2, the minimum mesh size for the loligo -- directed
22 loligo fishery increases from an inch and seven-eighths
23 to two and one-eighths inches. That's a result of
24 actions taken by the Council under Amendment 10.

1 Following that is a notification of the
2 transfer of the underages for loligo trimester 1, which
3 Pat's already talked about in detail. And finally, the
4 final item is a summary of the 2010 management measures
5 for summer flounder, scup and black sea bass
6 recreational fisheries, and the last page there is a
7 table of the state-by-state conservation equivalency
8 measures for summer flounder, the minimum mesh sizes,
9 possession limits and seasons. And then the measures
10 for scup and black sea bass. And that concludes my
11 report.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
13 you, Rich. And so it sounds like we will be able to
14 consider the final action on Amendment 11 at the October
15 meeting, based on the timing of the public comment
16 period.

17 RICHARD SEAGRAVES: Correct.

18 COUNCIL CHAIRMAN RICHARD ROBINS: And
19 again, the SSC meeting has been expanded to two days,
20 so that's going to be --

21 RICHARD SEAGRAVES: Yes, sir.

22 COUNCIL CHAIRMAN RICHARD ROBINS: 21
23 and 22, and then what's going to be on that second day?

24 RICHARD SEAGRAVES: John's going to

1 cover in detail I think the agenda.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
3 you. Questions for Rich? Pat.

4 PAT AUGUSTINE: Not a question, Mr.
5 Chairman. I'm not sure that I was supposed to announce
6 or suggest to Jan to put on the calendar that we're also
7 going to be attendants at the Highly Migratory Species
8 Advisory Committee, and that's scheduled for October
9 18th to 20th. So, that wasn't on the calendar, and I
10 thought you might want to add that to the next
11 publication.

12 COUNCIL CHAIRMAN RICHARD ROBINS: No
13 problem. Thank you, Pat. Questions for Rich at this
14 point?

15 (No response audible.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: All
17 right. Seeing none, Pat, do you have an HMS report?

18 PAT AUGUSTINE: Yes, thank you, Mr.
19 Chairman.

20
21 HIGHLY MIGRATORY SPECIES COMMITTEE REPORT

22 PAT AUGUSTINE: Behind Tab 17, Jan was
23 kind enough to give you a handout of the latest version
24 and report of the Atlantic swordfish landings. There's

1 been an increase since the May 30th report, and
2 commercial swordfish landings of about 300,000 pounds.

3 Even with that, we're still -- the commercial sector
4 is still running quite a ways behind. They're about
5 63 percent for the quota. But it's increasing.

6 The next page is a side-wise spreadsheet
7 as to what gear types have been landing it.

8 Predominance of landings from swordfish from north of
9 35 -- I'm sorry, north of 35 north -- degrees north,
10 is about 1.5 million pounds. The longline gear is quite
11 active. And beyond that, harpoon is insignificant.
12 Matter of fact, it shows zero. And across the way is
13 the final monthly total. We end up with one and a half
14 million pounds for the six-month total. And we have
15 not had any reports for the July report. So, that's
16 coming.

17 The next page is the commercial landings
18 of bluefin tuna, and that pretty well speaks for itself.

19 It's not a whole lot happening. They were in the Gulf
20 of Maine for a while. It was very, very active up there,
21 and you'll see the spreadsheet what has been caught since
22 -- this year versus last year, 2009/2008, not a
23 significant change.

24 And the final on that would the Atlantic

1 shark commercial fishery update. As usual, because the
2 fishing occurs in the Gulf of Mexico early on, starting
3 in the first part of the year, they were open for about
4 a month and a half and ended up 104 percent over their
5 quota. So, that's about what we have to report on that.

6 With the new regulations and quotas,
7 they seem to be taking effect and the commercial
8 fishermen happen to be doing what they're supposed to
9 do. You'll notice that none of the other quotas have
10 been overfished and most of the seasons have been open
11 since January.

12 No black, no small coastal, started in
13 June, and those percentages are where they're expected
14 right now. And that's the end of my report, Mr.
15 Chairman.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Thanks, Pat. And as Red Munden mentioned earlier in
18 the day, with respect to the dolphin/wahoo issue and
19 the permit requirement that goes with that, we did have
20 a noncompliance case recently in Virginia Beach and I
21 went and did a little bit of research. But if you go
22 and update your HMS permit for a charter boat on the
23 HMS permit shop, you're not automatically prompted to
24 buy that dolphin/wahoo permit. And the dolphin/wahoo

1 permit can't be purchased on-line for that category of
2 vessel. It has to be purchased from the Southeast
3 office.

4 And so I mentioned this to Pat, and we'll
5 work it up to HMS, but I just think that might be a simple
6 step that would make that permit requirement better
7 known, because so many people now use the online service
8 through the HMS permit shop to renew those permits.

9 PAT AUGUSTINE: Yes, Mr. Chairman. I
10 mentioned that to Russell Dunn yesterday, and that's
11 a connection to what his responsibility, and he was going
12 to alert them to take a review of what they're making
13 available online and to update that. And the incident
14 of that fisherman in North Carolina that lost a million
15 dollars by not having a permit, state license, no less,
16 was pretty painful for that fellow.

17 So, they're going to look at that and
18 we'll bring it up again at the -- we have a September
19 21 to 23 HMS Advisory Committee and I'll be reporting
20 on that at the October meeting. Thank you, Mr.
21 Chairman.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Yeah,
23 great, Pat. They did have a major workshop down in Miami
24 several years ago when they required the circle hooks

1 for billfish tournaments, and so they had all the
2 tournament operators together.

3 It sounds like that might be an
4 opportunity to maybe have a refresher there.

5 PAT AUGUSTINE: Might be a good place.

6 Thank you.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Yeah,
8 right. Any questions for Pat?

9 (No response audible.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: John
11 Boreman, SSC Report.

12
13 SCIENTIFIC AND STATISTICAL COMMITTEE REPORT

14 JOHN BOREMAN: Yes, thank you, Mr.
15 Chair. First, behind Tab 17 is the report of our July
16 28th/29th meeting where we presented specs for ABC
17 recommendations for bluefish, scup, black sea bass and
18 summer flounder. And those were discussed pretty much
19 yesterday.

20 Our next meeting of the SSC -- as Rich
21 said, is the 21st and 22nd of September at the BWI
22 airport, unfortunately, but that's the only place we
23 could find.

24 We originally had it scheduled for one

1 day because we were just going to cover dogfish specs,
2 developing ABC recommendations for dogfish, but a lot
3 of other items that we need to also handle have come
4 up.

5 What we'd like to do is a new member
6 orientation. I took part in that down in the South
7 Atlantic when I joined their SSC. It has a half-day
8 session. It was very informative, and new members are
9 briefed by the Executive Director on management plans
10 where the current issues are, talk about the procedures
11 for the SSC, what the SSC's role is in relation to the
12 Council. And then also by the administrative people
13 and how to fill out travel vouchers and stuff like that.

14 So, it's kind of important for these people if they
15 want to get paid. So, that will be in the
16 morning of the first day. In the afternoon, we'll spend
17 the afternoon on dogfish ABC recommendations. Our
18 experience over the past year is that we need about a
19 half a day to cover each species that we're working with.

20 Sometimes a little more than a half a day, but it
21 averages out about half a day per species.

22 Other topics that we're going to be
23 covering the following day including setting up --
24 developing the process for having the advisory panel

1 reports on the fishery characterizations, talking about
2 that, how we might see those structured and who's going
3 to be interacting with the advisory panels and moving
4 that process along.

5 As Rich said, we're going to look at the
6 SAW/SARC schedule and see if we do want to make a
7 recommendation to switch out black sea bass for scup
8 based on a review from the last meeting, as well as other
9 scheduling issues.

10 By then, we should have a firmer grasp
11 on what recommendations are going to be moving forward
12 to the NRCC based on the workshop we had last week.
13 We might want to talk about that too, because those
14 recommendations -- they do go to the NRCC and the NRC
15 acts on them. There may be some significant changes
16 in the process for assessments and assessment updates.

17 I don't know.

18 Of course, by the end of September, they
19 probably -- NRCC is not meeting till October, so the
20 NRC would not have acted on those recommendations yet.

21 So, we'll just see how far along we are in that process.

22 We are planning another workshop with
23 the Northeast Center, which we had originally tried to
24 plan earlier this summer, and that is getting the SSC

1 memberships from the New England and Mid-Atlantic
2 Councils together with the Center assessment scientists
3 to just examine capabilities and expectations, talk
4 about what expectations are on behalf of the SSC, what
5 we would like to see coming out of the assessments.

6 For example, PDFs for the overfishing
7 limit estimates that are for the most part not being
8 provided now but can probably be provided in future
9 assessments. That would upgrade a lot of them from a
10 Level 3 to a Level 2. And other items as well as what
11 other capabilities the Center currently has to produce
12 estimates that we're looking for and biological
13 reference points and so on. And then what's not
14 possible, to come to some understanding of what we need
15 versus what the Center is capable of providing. And
16 that will probably happen more towards the
17 November/December time period now is what we're looking
18 for.

19 We also are going to be discussing
20 research priorities. Every year we take part of our
21 SSC meeting to review the research priorities for each
22 of the species. We've gone through the ABC cycle now
23 for -- we will have for all the species for this year.

24 Species leads as well as the rest of the SSC will have

1 a better idea of priority needs in terms of research
2 that would help us do a better job in setting ABCs in
3 the future. So, we'll be going through those and then
4 coming back at the October Council meeting with
5 recommendations that the Council could forward to the
6 agency.

7 And that's the end of my report.

8 Thanks.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
10 you, John, and thanks for your report today as well as
11 for your advice and reporting yesterday on the ABCs for
12 all the jointly managed species. Appreciate the
13 advice.

14 I wanted to follow up, too -- you know,
15 the steps that we've taken in the past to better
16 incorporate the Monitoring Committee and SSC
17 integration issues into the decision-making process,
18 we've gone through joint discussions with ASMFC
19 leadership. I think we've made quite a bit of progress,
20 but there's still some -- you know, there's still some
21 issues that we can benefit from addressing in that
22 process and trying to continue to refine it as we go
23 forward.

24 As we go through each decision-making

1 cycle, I think we learn more about the structure of
2 meetings and so forth. But having passed the omnibus
3 this week, there are going to be specific charges to
4 the Monitoring Committee related to management
5 uncertainty, and I would suggest that we're probably
6 going to need to have another consultative-type meeting
7 with ASMFC leadership to further discuss and continue
8 to revise and define the roles and responsibilities and
9 expectations that we might have. Because eventually
10 we'll have terms of reference. I would assume that it
11 would be specific to management uncertainty so that we
12 can implement the ACPs and other proactive elements of
13 the omnibus.

14 An we'll be looking to the Monitoring
15 Committee for that. But again, with respect to the
16 ABC-setting process, this is a little bit of a balancing
17 act, but I think we're going to need to continue to look
18 at the ASMFC leadership to review that process, as well.

19 Questions for John?

20 (No response audible.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.
22 John, thank you. Ecosystem and Ocean Planning. I'm
23 sorry. Research Set-Aside. Pres.

24

1 The list of funding priorities was a
2 continuation of the list that was approved for 2011.

3 Funding with some additions that were offered as
4 recommendations by the staff. If you'll refer to that
5 list, which again is behind Tab 1, you'll see the
6 recommended additions appearing in the bold italicized
7 language.

8 There was one on the first page for
9 squid, mackerel, butterfish, a data collection program,
10 and then one on the second page for tilefish. There
11 was a very brief discussion about including those and
12 the list in general. There was some wordsmithing done
13 to the description of the priority needs for the Squid,
14 Mackerel, Butterfish Plan and that was incorporated into
15 the motion as an amendment to what was in the briefing
16 book.

17 The motion that was approved by the
18 committee is on the screen, and that is to move to approve
19 the 2012 RSA priority list with the additions of Squid,
20 Mackerel, Butterfish in quotes, investigate accuracy
21 and precision of observer monitoring of at-sea and/or
22 port catches of butterfish, river herrings and shads
23 in the Atlantic mackerel and squid fisheries; and for
24 the Tilefish Plan, effect of hook size of tilefish size

1 selectivity in the longline fishery.

2 Mr. Chairman, on behalf of the
3 committee, I'd offer that up for a motion for the Council
4 approval.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
6 you, Pres, and that's on behalf of the committee, does
7 not require a second. Council ready for the question?

8 (No response audible.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there any objection to the motion?

11 (No response audible.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 there any objection to the motion?

14 (No response audible.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Seeing none, it's approved by consent. Thank you, Pres.

17 PRESTON PATE: The next item is the
18 mission statement that grew out of a very thorough and
19 lengthy presentation by NMFS staff from the Northeast
20 Science Center of the results of the RSA program review.

21 That presentation was done several meetings back and
22 identified a number of areas that needed improvement
23 and modification to the RSA program to make it more
24 responsive to the Council's needs and more effective.

1 One of the first steps that we figured
2 was important to take in pursuing the goal of improving
3 that program was to develop a clear mission statement
4 of exactly what we wanted the program to achieve. And
5 from that point, we would build upon and continue to
6 make the improvements that were included in the report.

7 And believe me, there were enough in there to keep us
8 busy for some time.

9 But we felt like that the best way to
10 start was to clearly state where we wanted to go and
11 why we're doing what we're doing. So, we developed a
12 draft mission statement that was presented to the
13 committee at its last meeting. There was some very
14 lively and extensive discussion about several aspects
15 of the draft statement that resulted in quite a few
16 modifications to the language that clarifies certain
17 points.

18 Between that meeting and this one, I and
19 staff incorporated the recommendations that were made
20 in the last meeting and the updated version was presented
21 to the committee on Monday, with the changes appearing
22 in the underlined format.

23 There was a very brief discussion about
24 this mission statement. There were no objections to

1 moving ahead with it, and a motion was presented to
2 approve the mission statement. It passed unanimously,
3 and Mr. Chairman, I submit that motion for Council
4 approval on behalf of the committee.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
6 you, Pres. Motion's on behalf of the committee, does
7 not require a second, to approve the RSA mission
8 statement. Is the Council ready for the question?

9 (No response audible.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: Is
11 there any objection to the motion?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there any objection to the motion?

15 (No response audible.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Seeing none, it's approved by consent. Thanks, Pres.

18 PRESTON PATE: Thank you, Mr. Chairman.

19 We also had some general discussion about various
20 aspects of the program that continue to be troublesome
21 to various members and outside parties and they were
22 really reiterations of the concerns and observations
23 that -- or concerns and findings that were made and
24 identified in the program review from last year and just

1 underscoring the need to stay diligent on working very
2 methodically through all of the steps necessary to
3 improve that program.

4 So, I honestly think we're on the way
5 to make some really good improvements to this very
6 important aspect of our management effort. That's it.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Pres,
8 thank you, and I would certainly agree with your closing
9 remarks there. I really appreciate the effort that you
10 and Peter have undertaken in leading the committee on
11 this issue and I look forward to that additional
12 progress. Pete.

13 PETER HIMCHAK: Yes, Mr. Chairman. I
14 should also add that during the ASMFC meeting week from
15 August 2nd to the 5th, the issue of the Research
16 Set-Aside Program came up on several occasions, the
17 Regional Directors' meeting with Ms. Kurkul, the
18 business session, the Policy Board. The states of Rhode
19 Island and Massachusetts in particular are experiencing
20 the growing pains of the research set-aside fleet into
21 their waters and they are not as well-versed in how the
22 Research Set-Aside Program works within the
23 Mid-Atlantic Council.

24 So, I know Jim Gilmore and I were there

1 to talk about this repeatedly with -- we're -- you know,
2 we're involved in the program. The bottom line to this
3 is that the ASMFC will be looking I believe to set up
4 some kind of a workshop where other states outside of
5 the Mid-Atlantic can come in and learn about the
6 administrative -- you know, the background. They don't
7 understand that we have a Research Set-Aside Committee
8 and how the programs are all reviewed, et cetera, et
9 cetera.

10 So, look forward to some kind of a
11 request from the ASMFC in the future.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Pete,
13 thanks for bringing that up.

14 Other questions for Pres? Pres.

15 PRESTON PATE: Just on that point, I've
16 already talked with Bob Beal, who's the ISFMP
17 coordinator for the ASMFC, and he mentioned they were
18 trying to set up something for the annual meeting that
19 they're having in November in Charleston. And I offered
20 my services, staff services, and probably Earl Meredith
21 from the Science Center, to assist in that.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
23 you, Pres. Any further questions on RSA?

24 (No response audible.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.
2 We'll move on to Ecosystem and Ocean Planning. Gene
3 Kray.

4
5 ECOSYSTEM AND OCEAN PLANNING COMMITTEE REPORT

6 EUGENE KRAY: Thank you, Mr. Chairman.

7 The Ecosystems and Ocean Planning Committee met on
8 Monday, and the first item was a presentation, an
9 excellent presentation by Dr. Michael Fogarty from the
10 Northeast Fisheries Science Center, the Ecosystems
11 Branch of that.

12 Dr. Fogarty expressed an interest in
13 working with the Council as we develop our ecosystem
14 initiatives.

15 We also had a very brief discussion
16 following our last meeting on Monday about the letter
17 that was sent from Stan Gorski of the Habitat Division
18 of NMFS from Sandy Hook, particularly about -- it
19 specifically was about the wind farms in -- off Rehoboth
20 Beach that were proposed. And I'm moving ahead. And
21 the letter was in your briefing book, to the Marine
22 Mineral Service, about one section called the Old
23 Grounds.

24 And Stan got into all of the various

1 species that are there and the habitat that is there
2 for those species, and requesting a modification to
3 their initial plan.

4 Some of you may recall about three or
5 four years ago we had a presentation on this very subject
6 from someone from the company that was putting this
7 together, and the area is a distinctive recreational
8 and commercial fishing area. I won't go any further
9 with that.

10 Now, the second item is before this
11 meeting -- our meeting on Monday, and during the meeting,
12 we've had discussions with Dr. Boreman, Chairman Robins
13 and Tom Hoff, considering the -- looking at the
14 ecological objectives in our FMPs.

15 Our long-term goal is to be involved more
16 in spacial planning and we think that ecological
17 considerations might be a stepping stone to this
18 long-term goal.

19 With that, Mr. Chairman, the starting
20 point we think is the creation of a subcommittee of --
21 asking for the creation of a subcommittee of the SSC.
22

23 And Jan, would you put that motion up
24 on the board? To move to ask the SSC to establish an

1 ecosystem subcommittee and to develop a set of terms
2 of reference for Council consideration at our October
3 meeting.

4 We did not have a lengthy discussion of
5 this, so it is not a committee motion, would require
6 a second.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
8 you, Gene. Is there a second to the motion? Second
9 by John McMurray.

10 And just to be clear, the -- let's see.

11 Well, it would be I guess directing the SSC to establish
12 an ecosystem sub-committee.

13 The terms of reference would actually
14 be developed by the Council staff for consideration --
15 for the Council's consideration at the October meeting.

16 We could do that in consultation with the SSC. Okay.

17 I just wanted to be clear --

18 EUGENE KRAY: Yeah. Just a point to
19 expand on it -- that a little bit, Mr. Chairman. The
20 SSC has some new members and some old members who have
21 specific ecology backgrounds and the new -- the new SSC
22 member we just approved the other day, Dr. Tomberlin
23 and Jason Link, who has -- from the Northeast Fisheries
24 Science Center, has given us a presentation in the past.

1 And also Ed Hoode, who's a long-time member of our SSC.
2 They might be three people who could serve on that
3 subcommittee.

4 I'm not obviously stepping on Dr.
5 Boreman's toes, but those are three people I know who
6 have ecological backgrounds.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
8 you, Gene. And this does follow discussions we've had
9 at the SSC. John, could you comment on the possibility
10 of moving forward with such a subcommittee?

11 JOHN BOREMAN: Yeah, I've already
12 spoken with Jason Link about this, and he's very
13 enthusiastic, and I probably will ask him to chair this
14 subcommittee. David Tomberlin would be a good
15 addition. I might even join it, too, because of my
16 background with ecosystems.

17 The idea here, again, is to help the
18 Council respond basically to requests that we've seen
19 coming in from the outside when we're setting our ABCs,
20 to set aside part of an ABC for forage species; in other
21 words, have a special case for forage species that also
22 are important for the productivity of other species in
23 the ocean, should we be -- should we be including that
24 consideration in our ABC recommendations?

1 And just look at the whole ABC-setting
2 process, just to ensure that questions like that and
3 similar questions related to ecosystem interactions and
4 the associated uncertainties with the ABCs as they
5 relate to productivity within the ocean ecosystem are
6 being accounted for. So, I think it's a good move and
7 we'll definitely come back with some advice to the
8 Council.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
10 you, John. I think Dr. Fogarty pointed out that the
11 highest order of ecosystem management would be a
12 comprehensive spacial plan, but along the way it
13 certainly seems like we ought to be able to identify
14 some transitional and interim objectives and I think
15 this is probably a solid step in that direction. But
16 we can get it in the SSC and have some additional
17 discussion, but we would have an opportunity as a full
18 Council to review the draft terms of reference that we'd
19 be sending to the committee at the October meeting.

20 So, with that, is there any further
21 discussion on the motion?

22 (No response audible.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: Is
24 there any objection to the motion?

1 (No response audible.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there any objection to the motion?

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Seeing none, it's approved by consent. Thank you.
7 Thanks, Gene.

8 EUGENE KRAY: Thank you, Mr. Chairman.

9 I was going to mention this before, but one of the things
10 we want to take a look at is some of our FMPs are --
11 bluefish, Tom told me this morning, the Bluefish FMP
12 is about 15 years old. We might want to take a look
13 at that, plus some other FMPs to update the habitat
14 characterizations that are in each, at least take a look
15 at them and maybe highlight them a little bit more than
16 they are in the existing FMP.

17 Two more points, Mr. Chairman. We are
18 -- Chris already -- Chris Moore already touched on this.

19 We're planning for an all-day Ecosystem and Ocean
20 Planning Committee meeting for the October meeting, if
21 we can get everybody together to address the broad range
22 of ecosystems issues.

23 And I've asked Tom if he would just give
24 us a quick summary as to what some of those issues might

1 be.

2 THOMAS HOFF: Certainly. Thank you,
3 Gene. First of all, to set the stage, let me acknowledge
4 Chris in that Chris before he joined us as the new
5 Executive Director had a lot of conversations with
6 people in headquarters, Tom Bickford, Ned Cyr, Mike
7 Fogarty, about how the Council can become reengaged in
8 our habitat, and then therefore ultimately ecosystem
9 efforts.

10 So, that's what's kind of energized
11 this, and he's given us the okay to plan a full-day
12 meeting. And I've had conversations -- follow-up
13 conversations with a lot of the people that Chris had
14 those conversations while he was in headquarters with,
15 and we have a conference call -- kind of a steering
16 committee, Tom Bickford, Pete Colossi from the Regional
17 Office, Mike Fogarty and myself, to try and see what
18 topics we can put into a full-day meeting that would
19 be very beneficial for the Council to become engaged
20 with right now.

21 We have the whole issue of deep sea
22 corals, the restoration program that's under -- that's
23 under the Habitat Division. We're not that familiar
24 with the restoration program. There's certainly an

1 opportunity for us to become involved, and perhaps steer
2 some of their activities in a more ecosystem or certainly
3 in a more defined area that would benefit this committee,
4 or this Council.

5 So, that's what we're trying to do. I
6 can know more -- I will know more next week once we've
7 formed -- once we get this thing off the ground. But
8 there's at least ten different groups of people that
9 we should become engaged with through habitat or
10 ecosystems. Certainly, Ned Cyr in the Science and
11 Technology Group, that we want to put together this --
12 that we will use to put together this full-day workshop
13 in October.

14 The ideal time will be October. It's
15 potential that it would be the December meeting, and
16 that is somewhat a function of the budgetary cycle and
17 people from headquarters having so much difficulty
18 traveling in October if they're operating under a
19 continuing resolution.

20 The one thing we don't want to do is
21 create a full-day workshop and have less than half the
22 people that are planned to be on there show up. So,
23 I'll know more next week, but that's kind of what we're
24 looking at, a full-day meeting in either October or the

1 December Council meeting.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thanks, Tom. Chris, did you have a comment?

4 EXECUTIVE DIRECTOR CHRIS MOORE: Just
5 quickly, the other thing that we need to consider in
6 October are EFH designations. This is to your point,
7 Gene. We're required to do -- every five years? Yeah.
8 So, we're behind in all our FMPs.

9 So, your comment that the Bluefish FMP
10 is old and -- you know, the habitat stuff needs to be
11 revisited, actually all our FMPs need to have that done.

12 So, that's one of the jobs that Tom has on his list
13 as a priority is to go back and look at all those EFH
14 designations with the Ecosystem Committee.

15 COUNCIL CHAIRMAN RICHARD ROBINS: All
16 right. Anything else, Gene?

17 EUGENE KRAY: Just one last item. The
18 -- September 15th, I will be representing the Council
19 at American Fisheries Society, their annual meeting is
20 in Pittsburgh this year, and Paul Perra asked me to sit
21 on a panel just to give an update on what we're doing
22 with ecosystems approach to management. And of course
23 there's a lot of things on the horizon, nothing hard
24 to deal with, but a lot of things possible on the horizon.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
2 you, Gene. Any questions for Gene?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.
5 Seeing none, we'll go to Squid, Mackerel, Butterfish.
6 Erling, Amendment 14.

7
8 SQUID, MACKEREL, BUTTERFISH COMMITTEE REPORT

9 ERLING BERG: Thank you, Mr. Chairman.

10 The Squid, Mackerel and Butterfish met on Monday
11 afternoon, and -- to -- Jason made a presentation on
12 the public comments for Amendment 14. Those comments
13 are in the briefing book behind Tab 3, Pages 7 through
14 98. So, there's quite a few of them.

15 And he identified some potential next
16 steps for the -- for us. And one was to delay
17 consideration of catch shares in the FMP after the
18 visioning project is completed, and we are meeting in
19 Baltimore September 9th, the visioning committee.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Excuse me, Erling. That's on the board right now as
22 a motion. Do you want to go ahead and handle that?

23 ERLING BERG: Oh, okay. All right.
24 I'll just make a motion.

1 COUNCIL CHAIRMAN RICHARD ROBINS: So,
2 we have a motion: Move to delay consideration of catch
3 shares until completion of the visioning project.

4 On behalf of the committee, does not
5 require a second. Discussion on the motion?

6 PAT AUGUSTINE: Call the question.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Council, ready for the question? Is there any objection
9 to the motion?

10 (No response audible.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: Is
12 there any objection to the motion?

13 (No response audible.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Seeing none, it's approved by consent. Thank you,
16 Erling.

17 ERLING BERG: We can go to the next one
18 then, if you want. Get this over with.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Go
20 ahead.

21 ERLING BERG: Do you want me to read it?

22
23 COUNCIL CHAIRMAN RICHARD ROBINS: So,
24 the second motion is: Move to recommend adoption of

1 Goals A through F for Amendment 14.

2 For the committee, doesn't require a
3 second. Discussion on the motion?

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: Is
6 there any objection to the motion?

7 (No response audible.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: Is
9 there any objection to the motion?

10 (No response audible.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Seeing none, it's approved by consent.

13 ERLING BERG: There's one more, Jan.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Third
15 motion is: Move to request staff plan a non-decisional
16 meeting regarding Amendment 14 science issues, and for
17 FMAT to begin generating alternatives pertinent to goals
18 of Amendment 14.

19 Motion for the committee, does not
20 require a second. Discussion on the motion?

21 (No response audible.)

22 COUNCIL CHAIRMAN RICHARD ROBINS: Is
23 there any objection to the motion?

24 (No response audible.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Is
2 there any objection to the motion?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Seeing none, that's approved by consent. Thank you.

6 ERLING BERG: That's all I have, Mr.
7 Chairman. Thank you.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
9 you, Erling. That brings us to the Executive Committee.

10 _____
11 EXECUTIVE COMMITTEE REPORT

12 COUNCIL CHAIRMAN RICHARD ROBINS: The
13 Executive Committee met and had several items that were
14 update items.

15 We had a couple of minor action items,
16 as well. We reviewed the Ricks E. Savage Award criteria
17 nomination process, and recommended a couple of very
18 small modifications to the details of the award and the
19 process. I don't believe we had a motion on that. That
20 was a minor change.

21 We also had a brief update on the
22 excessive share project, and that project, as you may
23 recall, we discussed at the last Council meeting. We
24 requested additional funding for the project, and that

1 funding request was successful. So, that project is
2 being funded.

3 That related back to the surfclam
4 amendment, in terms of the need to identify an excessive
5 share for that fishery, and so that's being initiated
6 and the project's going to be led by the Science Center.

7 But that is going forward. And as we heard, I think
8 yesterday, we would expect that that would go on to a
9 CIE review, and that review would be done perhaps by
10 next spring, approximately.

11 So, we look forward to the results of
12 that analysis, but we did have some issues with the
13 Statement of Work, as we discussed at the last meeting,
14 and I'm pleased to report that the Science Center was
15 very cooperative in terms of working with us to resolve
16 those differences and those concerns have been since
17 been incorporated in the Statement of Work. And that
18 should be on the street very soon. So, that is moving
19 forward.

20 We also had an update on the Visioning
21 Project and we have our first meeting scheduled for
22 September 9th at BWI, and so we look forward to getting
23 that project going. Excuse me.

24 We also had a recommendation from the

1 SSC to consider David Tomberlin and his potential
2 appointment to the SSC. The Executive Committee did
3 vote to appoint David Tomberlin to the SSC. His CV
4 appears in your briefing book.

5 I would move on behalf of the committee
6 that we appoint David Tomberlin to the SSC. And again,
7 his CV is in your briefing book. If there are any
8 questions about David Tomberlin or his background, we'd
9 be glad to take those at this time.

10 Is the Council ready for the question?

11 Any objection to the motion?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there any objection to the motion?

15 (No response audible.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Seeing none, that's approved by consent. We'll appoint
18 David Tomberlin to the SSC.

19 John, thank you, and Lee, thank you, for
20 bringing him to our attention.

21 That's all I have for the Executive
22 Committee Report. And with that, we're on to Continuing
23 and New Business.

24 COUNCIL CHAIRMAN RICHARD ROBINS: And

1 we have a request from Chris Zeman to consider initiation
2 of an Anadromous FMP. I believe there's a one or
3 two-page document in the briefing book. And with that,
4 I'll look to Chris.

6 CONTINUING AND NEW BUSINESS

7 CHRISTOPHER ZEMAN: Thank you,
8 Chairman, and thank you for including this on the agenda
9 as new business. I wanted to just point out that this
10 is Tab 18, and there is a preliminary summary of --
11 basically sort of a very quick comparative evaluation
12 between the benefits of going with an FMP approach versus
13 addressing river herring and shad management under
14 existing plans as an FMP amendment.

15 And just before -- as just background
16 here, I think the intent of bringing this up today is
17 not to have the full -- full discussion and deliberation
18 on whether to initiate a FMP on this, but really more
19 just to actually have the Council set up an ad hoc
20 committee to evaluate this in a more formal and organized
21 way, because what I've -- you know, of course,
22 development of a new FMP is a significant effort and
23 requires a lot of resources and time. There are a lot
24 of questions to ask, especially in this case.

1 And just because there are a lot of
2 stakeholders involved, different agencies, state and
3 federal, and there is a -- there is already existing
4 initiatives going on in place right now.

5 But I came into this late into the game
6 and there was already existing initiatives, but what
7 I was -- the purpose -- the reason why I thought it was
8 important to kind of raise this is because it seems to
9 me that there are additional conversation benefits to
10 river herring and shad fish, anadromous fish, that are
11 provided to that fish by an FMP, versus just addressing
12 things through a one-time FMP amendment.

13 Before I go into those, I just want to
14 say that I've already had informal discussions with many
15 Council members here, members on the New England
16 Council, and also the ASMFC. I've heard -- you know,
17 I've heard generally positive -- positive thoughts on
18 this and my discussions have been informal. I really
19 think it would be valuable to have this committee so
20 we could then formalize these kind of communications.

21 One thing I did -- one refinement to this
22 I already made was that it seems that the term anadromous
23 is just too broad for us, so I would -- I think it would
24 be more to propose that we look into developing a river

1 herring and shad complex FMP, just because, again,
2 anadromous is too broad, it really -- people have
3 questions as to what are we actually doing and how broad
4 -- which fish are included in this. By just going back
5 to the Tab 18 and a quick comparative summary, which
6 is really just based on the Magnuson-Stephens Act
7 required provisions, I think that there are additional
8 benefits and two that we have that we aren't utilizing
9 right now to conserve for the for the herring shad
10 stocks. For example the whole system we have in place
11 for stock assessments, rebuilding and overfishing
12 provisions, determination of MSYs or Ys, ACL/AMs. That
13 is something that we have -- that existing in this year
14 we have not addressed and I don't believe there are any
15 plans to, but I think that would be something else very
16 helpful because rebuilding these river herring shad
17 stocks is -- it's going to be a long term committed effort
18 but -- you know, I personally feel that is a thing we
19 can do but, until we have the those -- until we have
20 that analysis and the resources to do these continuing
21 reviews that FMP managed fisheries enjoy, it's going
22 to be very hard to rebuild these fisheries; especially
23 at a time when a lot of states have various (inaudible)
24 budget issues and do not have the staff or resources

1 to do those continued reviews.

2 Secondly, another thing that would --
3 that would be added in this situation within the FMP
4 Amendment is designation of EFH; and once you designate
5 the EFH for these species then there is a no amend --
6 a requirement -- or it's a requirement that all federal
7 agencies consult with NOAA regarding any non-fishing
8 impacts that may adversely affect river herring and shad
9 habitat. EFH has be designated for these fish and we're
10 really missing out a tool here where the Council and
11 NOAA can become a stronger player and a -- and compliment
12 all the great work done by the ASMFC and the Fish and
13 Wildlife Service.

14 You know, NOAA should be there as well
15 and indirectly we should be there as well -- we benefit.

16 A couple more things, just that in terms of observer
17 coverage and SBRM, that is something -- you know, FMP
18 does designation would then incorporate -- include river
19 herring and shad into the FBR analysis and you have also
20 -- you know, you would have oversight every year and
21 that will require the SBR review and it's because --
22 and finally, I think it's important that -- you know,
23 I think the -- this is a situation where we need a sort
24 of centralized body that -- you know, leads this effort.

1 There are many questions still in terms of the
2 organizational structure, what's the best way to do
3 this, and that's something really what the committees
4 meant to, meant to resolve and I'll be very open to
5 recommendations on this and I'm just, I'm keeping an
6 open mind approach here, and I think that's -- and I
7 definitely want to come up with that -- that off into
8 sort of this review, this more organized review.

9 But finally, in -- you know, I think in
10 terms of benefits of this, obviously I think of -- I
11 mean additional benefits to river herring and shad, but
12 also as benefits to us. You know, the Mid-Atlantic
13 Council has been like the leader in stop-and-go fishing
14 this region and it -- the opportunity to basically make
15 a sort of single species step toward ecosystem
16 management and again the Mid-Atlantic Council is going
17 to be leader on implementing ecosystem based management
18 just like it has been with solving overfishing. I think
19 that this will be a strong sign to all the constituents
20 that have been contacting us about this. I think it
21 shows that when we, we're responsive, we do care, and
22 we're really showing that by participating in efforts
23 to get emergency action -- unfortunately that was not
24 successful so I see this as sort of comp -- as really

1 the only, the only step that we have to sort of obtain
2 those same benefits.

3 In the final -- you know if after a long
4 term commitment -- you know, we should be proud to have
5 a rebuilt fishery, rebuilt river herring shad complex
6 up and down the coast. That's, again it's a long term,
7 it's going to be a long term commitment, it's going to
8 be a lot of work, but I think at the end of the day,
9 we'd be proud to sort of be a part of that process and
10 assist all the other entities involved as well.

11 So with that, as one I would like to make
12 a motion to that -- a motion that the council establish
13 an ad hoc committee to evaluate the development of a
14 river herring and shad complex FMP.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 there a second to the motion? So is there a second to
17 the motion, second by John McMurray. Discussion on the
18 motion? Pat?

19 PAT AUGUSTINE: Thank you mister
20 chairman. As you may or may not know, I've had several
21 conversations with Chris about this and he approached
22 me about it, it was a matter of what can we do in terms
23 of forage species particularly with herring and shad,
24 river herring and shad. And the more I thought about

1 this proposal raises a number of issues. If the council
2 decides to go forward with this, and that's their
3 decision, some of the major issues that you're going
4 to have to confront are -- implicate National Standard
5 7 and National Standard 1.

6 With respect to National Standard 7,
7 since you haven't a commission plan for shad and river
8 herring, you're going to have to show that doing a plan
9 for the federal zone is beneficial in terms of --
10 National Standard 7 says that, to paraphrase that --
11 you know, reduce cost and avoid unnecessary duplication;
12 and the guidance for that says -- you know, you really
13 have to do sort of cost benefit analysis; and the
14 benefits of doing a federal plan have to outweigh the
15 costs. So that's something you're going to have to go
16 through and demonstrate yes, you've got a positive
17 outcome to that.

18 Maybe of more concern is National
19 Standard 1. Can this prevent overfishing? Now, the
20 reason being is, because of the nature of the beast here,
21 the fish and the fishing for them, often times during
22 parts of the year beyond the jurisdiction of the federal
23 government in terms of management. Even if you accept,
24 just for the sake of discussion, that the federal

1 management authority can extend these state waters by
2 virtue of the preemption provision in Section 306,
3 that's sort of a non-starter, but, when you think about
4 it, the preemption provision has a serious limitation
5 with respect to, particularly in anadromous fish that
6 migrate up -- you know, many of the river systems. That
7 is, it cannot go inside of the internal waters. So
8 there's a huge area where there is no federal
9 jurisdiction. This is reminiscent of the situation
10 back around 1990, when Dick Schaffer was the Regional
11 Director. This council submitted the first bluefish
12 plan and it proposed to manage only the commercial sector
13 of the bluefish fishery in state wat -- I'm sorry, in
14 the federal zone. Dick wrote that and said: look, you
15 can't prevent overfishing because you're only
16 controlling a small component of the fishery. What you
17 have to do is partner with the states and -- you know,
18 cover the board, if you will, so that you can control
19 -- you know, fishing for the species. And that's
20 essentially the genesis, if you will, of the joint plans
21 system that we have today for many of the species.

22 So these are things -- I'm not saying
23 you can't do it, but these are things you are going to
24 have to consider in moving forward. If you decide to

1 do it, you've got to address these. My perspective,
2 whatever the council's talking about doing something
3 is: can we defend this? Is it going to be approvable?

4 And, you know, I don't know right now, I don't have
5 all the facts but it's something -- you know, that we
6 have to go through and establish a record in support
7 of yes it is -- you know, if we decide to go forward.

8 So, these are things that -- you know, we have to put
9 on the table and consider in going through this process.

10 COUNCIL CHAIRMAN RICHARD ROBINS: And,
11 if I can follow with another question on this issue
12 because, it seems to me just listening to Joel -- you
13 know, part of the question is how -- how can we prevent
14 overfishing in the federal zone. And if it's necessary,
15 for example, to control catch and manage interactions
16 in the federal zone to do that. I guess my question would
17 be, is there some aspect to the existing FMP architecture
18 within the council FMP's that would not allow us to do
19 that because what we've proposed in Amendment 14 is
20 specific to addressing those interactions that we
21 believe occur in the lolligo and the mackerel fisheries;
22 and if there are options in here that would include
23 identifying river herring possibly as a stock in the
24 fishery even. If you did that you've have potentially

1 a catch limit that went with it. I'm wondering how --
2 how initiating an FMP versus managing through the
3 existing architecture of our FMP's would -- would allow
4 us to prevent overfishing in the federal zone.

5 UNIDENTIFIED: Did Joel respond to
6 that? I think he had his hand up.

7 JOEL MACDONALD: I had another thought.
8 Certainly it's going to create difficulties trying to
9 establish ACLs, AMS -- you know, for this type of
10 species. But it's so early in the game you can't really
11 say what the outcome is going to be until you go through
12 the process and make some determination. But I had a
13 thought. In fact Pat mentioned this to me at breakfast
14 that, maybe instead of going and doing an MFP, one
15 consideration might be for the service to investigate
16 whether complimentary regulations in the federal zone
17 that is complimentary to the commission plan under the
18 Atlantic Coastal Act may be a way to go. I don't think
19 we should discount that out of hand. Maybe it's
20 (inaudible) that we should -- you know, maybe
21 investigate a little further. But I'm just putting that
22 on the table as a possibility. You know, we shouldn't
23 dismiss it.

24 COUNCIL CHAIRMAN RICHARD ROBINS: John.

1 JOHN BOREMAN: One of my jobs when I
2 first got to Woods Hole in the early 80's was to do
3 assessments of shad and grouper herring - the first done
4 by the center in a hundred and some odd years. But,
5 the thing to point out, the shad ranges, I suppose you
6 mean american shad, Chris, and not gizzard shad, hickory
7 shad. Just american shad?

8 CHRISTOPHER ZEMAN: When I said the shad
9 complex -- I am not a, by the way, I am not a river herring
10 or shad expert. I'm an expert in sort of knowing what
11 councils do and what we can do.

12 JOHN BOREMAN: Well, just to point out
13 the american shad ranges from Florida to Canada and it's
14 quite a wide range and there are inter -- and the stocks
15 do mix. Most of the summer the stocks are mixing up
16 in the Canada waters. River herring also range
17 collectively and there's blueback and there's alewife,
18 but collectively they range from Florida to Canada as
19 well. So, if there is any action, management action,
20 they would have to think about taking it for the entire
21 Atlantic coast.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Chris.

24 CHRISTOPHER ZEMAN: Okay, I have a

1 couple of responses here. I've just been keeping notes
2 here. These are all very good questions and what I --
3 what I see, as part of this committee, it will be going
4 to the ASMFC, to NOAA, to the New England council, and
5 really just asking all these questions and just
6 evaluating and evaluating all the opportunities. I
7 going to come back, I would have this committee come
8 back and evaluate whether this is -- or what would we
9 need to do to justify this -- to do this and also to
10 do a comparative evaluation between just staying with
11 the existing efforts and or going forward with this.

12 In terms of the option to investigate
13 whether or not we should go to do complementary measures,
14 that's another question. Again, this is a question I
15 would address because, what's interesting, why I thought
16 this might be a good time to do this is because there's
17 a lot of -- I don't think this council is going to be
18 doing all this preparing or developing all this
19 information, we're going to be sort of standing on the
20 shoulders of giants that are already working on this
21 and incorporating that all the information from various
22 councils and the states and putting it into -- into a
23 centralized body that evaluates.

24 In terms of, in terms of how to prevent

1 over fishing in the federal zone, the first question
2 is, is to evaluate what over fishing is going on. We
3 don't have the objective criteria to even evaluate MSY
4 OY ABC. but we need to get those because that's the
5 crucial denominator in any sort of evaluation in terms
6 of controlling catch in federal waters. What we're
7 seeing now, is we're just seeing numbers of river herring
8 caught -- and shad in federal waters and they seem
9 significant and there's a lot of controversy about how
10 significant is it. The way to address that -- address
11 that is to, as quickly as possible establish these
12 objective criteria to determine the extent of over
13 fishing and then to ascertain what a stable catch is.

14 But these are all very good, again, very good
15 questions and I expect to see more questions.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Gene.

18 EUGENE KRAY: Thank you Mr. Chairman.

19 The -- John Boreman said -- you know, the range of the
20 fish -- I chaired the shad and river herring area board
21 for the ASMFC several years back, for a couple of years,
22 and there is -- every state, I think it's the largest
23 board of all of the boards for ASMFC because of the range
24 of the shad and river herring. So every state from

1 Florida to Maine were, including the Delaware River
2 Commission and several other entities like that that
3 are on that board. So it's -- and there are problems
4 with it, there are problems with dams up the rivers and,
5 yes, problems with the shad and the river herring in
6 terms of passage and going to spawn. I know
7 Pennsylvania, I've had discussions with a number of
8 people including LeRoy Young, who's like the Directory
9 of Bureau of Fisheries for the Pennsylvania Fish and
10 Boat Commission and, I think I may have mentioned this
11 before, that Pennsylvania leads the nation in dam
12 removal. Of course, that begs the question because we
13 have more dams than anybody else.

14 So the -- these species are, I think are
15 important and I would support having at least some kind
16 of ad hoc committee to look at it. I'm not sure we're
17 at a point where we have to -- where we can say we need
18 an FMP, but I think -- I think we ought to get closer
19 to it, and in my discussions with Chris, I strongly
20 suggested that we get together with Vince and some of
21 the people, they challenge the coordinator down in, with
22 the ASMFC, and discuss and see how this could work in
23 terms of a joint plan.

24 So, that's my comment.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 George.

3 GEORGE DARCY: Thank you Mister
4 Chairman. Our concerns are, are very similar to those
5 that have already been raised by Joel and by, by Dr.
6 Boreman about whether -- first of all there's a need
7 for an FMP, the associated complexities of that, the
8 costs relative to whatever benefits we might get out
9 of it. It just occurred to me, maybe rather than having
10 an ad hoc committee that -- whose roll is to evaluate
11 whether there should be an FMP, maybe it should be more
12 broad than that, to evaluate the -- the roll of the
13 council in addressing issues associated with river
14 herring and shad complex; because there may be other
15 models here that it would be more appropriate and still
16 give you a way to investigate how you might best
17 participate in that process. Just a suggestion.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thanks George, and you know I would point
20 out that, when we took action on Amendment 14, one of
21 the -- one of the taskings given to the FMAT as an example
22 was related to management integration, and in the
23 briefing book, what's laid out there is alignment of
24 sea herring and mackerel FMP requirements, management

1 integration, anadromous FMP, merge sea herring and
2 mackerel joint committee meetings, etcetera. So some
3 of this is identified in here in terms of the tasking
4 that's already gone through the
5 squid-mackerel-butterfish committee on essentially the
6 same issue, but --

7 Pete?

8 PETER HIMCHAK: This thing, Mr.
9 Chairman, this was a major agenda item when the state
10 directors met with Pat Kurkul two weeks ago at the
11 beginning of the ASMFC meeting week and she -- and she
12 couched the problem of having -- NMFS having the legal
13 authority to develop such a plan when all the directed
14 fisheries were in state waters, and we had a lot of these
15 discussions that -- you know, issues that were brought
16 up today and she had promised that at the ASMFC annual
17 meeting, when -- and the state directors will meet again
18 with the regional director the beginning of that week
19 -- that she would have Sam Rouch, or somebody else, come
20 in and actually outline -- you know, the possibility
21 and have some kind of resolution on whether or not NMFS
22 should go forward with this. So that's all I can add
23 to that.

24 The only other thing I can add is that

1 their -- (inaudible) an awful lot of moratoriums in the
2 states come January 1st, 2012.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thanks Pete. John McMurray.

5 JOHN MCMURRAY: Thank you Mr. Chairman.

6 This is a complex issue without a doubt and it requires
7 a lot of discussion and frankly, I don't know if we should
8 be having that discussion on the back end of a four day
9 meeting. Let's keep in mind here that the motion is
10 just to establish an ad hoc committee to figure these
11 things out. And with that said, I think we should call
12 the question.

13 COUNCIL CHAIRMAN RICHARD ROBINS: I did
14 have Steve Schafer with a hand up but I wanted to give
15 Steve a chance to comment.

16 STEVE SCHAFER: Thank you. Really, all
17 I wanted to say Rick was -- you know, I'm listening to
18 comments by Mr. Himchak, Mr. Kray, and Mr. Augustine,
19 and based on that, apparently no board commission or
20 panel or anything is doing anything appropriate to make
21 this problem even have any sort of progress.

22 So, it would be best -- you know, if we
23 -- you know, did something to augment at least what's
24 going on, so I agree with the formation of a committee.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Charles, your indulgence, I did have a couple of hands
3 up in the public. If I could take those, I had -- I
4 had Greg and then Patrick.

5 GREG DIDOMENICO: Greg DiDomenico,
6 speaking on behalf of the Sustainable Fisheries
7 Coalition and Garden State Seafood Association. Just
8 a few brief comments, we not support the motion nor this
9 approach. I think we've heard some even in the short
10 discussion we have today from the agency's position that
11 it's outside the scope of their authority. There are
12 -- there are numerous reasons why we don't, we don't
13 support this approach and let me just go through a few
14 of those.

15 If an anadromous FMP was completed or
16 conducted, whether it be for the entire shad complex
17 and river herring and animal life, we don't believe it
18 would do anything more to get us closer to a better
19 stock assessment. We don't believe that it would stop
20 the problem -- be successful enough or competent enough,
21 quite frankly, to establish ACL's and ACM's. We don't
22 think it would do anything to prevent overfishing.
23 Again it's clearly outside the authority of the National
24 Marine Fisheries Service, and more importantly, it's

1 not going to protect river herring or shad in it's most
2 crucial habitat; where, quite frankly, the impacts on
3 river herring and shad have -- have reduced this fishery
4 beginning since the 1950's and 1960's, long before there
5 was a bycatch issue. And again the jurisdiction issues,
6 when you have these species that not only range from
7 Maine -- well, Canada to Florida, but, in fact, most
8 of the time spend most their -- again, their crucial
9 live history inside state's waters.

10 And again, and in closing also, an anadromous
11 FMP will also not do anything to increase observer
12 coverage in the fisheries that are implicated and are
13 managed by the council. Thank you very much.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Patrick.

16 I'm sorry, is that a question? A question
17 for Gene, Greg.

18 CHRISTOPHER ZEMAN: A follow up
19 question for your comments, and that is in terms of,
20 just in terms of -- I absolutely agree with you in terms
21 of that one major component of restoring river herring
22 and shad is dealing with non-fishing impacts to their
23 very crucial river estuarian habitat and do you see a
24 benefit in designating EFH which can be done in state

1 waters and can be done in rivers, it's been done on the
2 west coast and in New England; and do you see a benefit
3 in involving NOAA in that consultation on EFH --
4 undesignated EFH, if we go to a EFH designation for these
5 species?

6 GREG DIDOMENICO: I can see the
7 designation of EFH being just like a lot of the
8 designation that has already occurred on EFH and,
9 specifically to your question, I don't think that the
10 non-fishing impacts which are crucial and -- you know,
11 arguably have had the largest impact on reducing the
12 stock. I do not think that the agency nor the council
13 will be able to do anything about non-fishing impacts.

14 Thank you.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Patrick

17 PATRICK PAQUETTE: Thank you Mr.
18 Chairman. Patrick Paquette, Recreation and Fishing
19 Community Leader from New England. I came down just
20 for this discussion right here, because with the hope
21 of the mid-atlantic reputation being a little more
22 progressive than some of the other management bodies
23 involved in this issue. But maybe you guys at least
24 take a good bite at this, because the hot potato just

1 for today is landed in your lap and this is a management
2 hot potato.

3 I would submit to you that it is
4 absolutely valuable to consider that, yes, this
5 potential motion and one of the places it could go could
6 absolutely reduce overfishing. The reason is because
7 the largest source of single mortality known is in
8 multiple at-seas fisheries, at-sea, not on shore, not
9 in state waters, in federal waters. There are hundreds
10 of thousands of pounds of river herring and various
11 shads, together more than millions of fish, and together
12 more than millions of pounds annually observed by the
13 federal observer program that are not dumped, that are
14 not recorded as by-catch but are as to use (inaudible)
15 the industry at the recent Amendment 5 hearing which
16 is incidental catch. These animals are caught and sold
17 and there is not a commercial boat with a permit to do
18 so for either one.

19 The recent ASMFC shad amendment made,
20 directed commercial fishery for shad at-sea illegal,
21 yet, hundreds of thousands of pounds are being observed
22 this year, were observed in 2009. That data's available
23 to you in analysis. So yes, they're not directing on
24 these fish but there's significant amounts of shad being

1 caught and sold. There's significant amounts of river
2 herring being caught and sold in federal waters.

3 The ASMFC did not choose in the recent
4 river herring amendment to put the same language in
5 banning, there is no ban right now on directed at sea
6 river herring commercial catch. There is none. There
7 is not a proposal in the land that's ongoing, nor is
8 there a fishery management plan that prevents that.
9 There are boats catching and selling these fish mixed
10 in with the bate supply.

11 So I would submit to you that, yes, a
12 fishery management plan or some sort of a formal action
13 by this council could affect overfishing and it's worth
14 going down that road.

15 Another thing I'd ask you to really
16 remember is, like myself, some of you saw me in a recent
17 video that came out, I'm not the river herring guy.
18 It's because this nation's recreational fishermen, and
19 this nations ethnic communities who choose to eat these
20 fish when they come in the spring, most of us are in
21 prohibition and no one wants to deal with that. Multi
22 -- it's actually now -- the new count is over a hundred
23 million dollars that's been invested into habitat over
24 twenty years.

1 I disagree with Mr. DiDomenico's
2 statement. It was from 1980's to 2000, in that twenty
3 year period, river herring declined 90%. At the same
4 time, that hundred million dollars was spent on
5 improving habitat. More than one third of the river
6 herring blockages have been removed and more than half
7 of those are more than five years old, more than one
8 complete life cycle, and we're not seeing the come back.

9 One recent run in Massachusetts lost in the last year
10 -- lost about 50%. We don't know why, it happened at
11 sea. There is an investigation to be made here that
12 the one source, that one interaction with multiples,
13 not one year type, it's not one fish's management plan,
14 but we don't have an ongoing. Amendment 5 is not doing
15 it. Amendment 14, I didn't see, even in what was passed
16 yesterday, the ability to stop incidental catch from
17 managed incidental catch.

18 So, make no mistake about it, shad in
19 Rhode Island is disappearing -- river herring are gone
20 from New England in just -- excuse me, at least to the
21 user groups, no one's managing it, however, millions
22 of fish and millions of pounds annually are being sold.

23 This is worth taking a good serious look at. Thank
24 you.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you. Howard.

3 HOWARD KING: Yes, this is simply
4 exploratory but it's too vague. It, and -- you know,
5 I'm not really opposed to an exploratory effort, but
6 I really think we're talking about having a small group
7 of council members, perhaps of the
8 squid/mackerel/butterfish committee, and I'm saying
9 that because Erling and I attend the hearing committee
10 in New England. We know more about this than most others
11 on the council at this point.

12 But, what we're really talking about,
13 looking at the legal and operational feasibility of
14 developing an FMP, I mean this reads as though there's
15 an FMP and now we're going to evaluate it. It's just
16 too vague. But before I would even further consider
17 it, yah or nay, I wonder about the ability of staff who
18 would have to very much assist an ad hoc committee or
19 any other committee of the council in investigating this
20 and would time be available on their part to do this?

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Thanks, Howard, we can ask Chris that question, and I
23 would just ask, also I think that is one of the questions
24 here that I've had is that -- again we've, as I understand

1 the action we took in Amendment 14 the other day and
2 then affirmed today -- the anadromous FMP question is
3 one of the bullets under management integration that
4 has been, that's going to be referred to the FMAT for
5 further discussion with the squid/mackerel/butterfish
6 committee. So, is this going to be a separate
7 investigation or a duplicate investigation or -- I just
8 want to make sure we're not tasking two groups with the
9 same question or three groups with the same question.

10 So I think that's something that needs to be clarified
11 as well if we're going to explore it.

12 But, I would ask Chris.

13 CHRIS MOORE: Howard, this is similar
14 to the question that John asked me the other day about
15 the ability to do an ecosystem based fishery management
16 plan.

17 The council has to decide what it's
18 priorities are in terms of the things that they want
19 to do over the next year and, in October, we'll begin
20 those discussions. But right now we have staff that's
21 devoted to squid/mackerel/butterfish, that certainly
22 have spent time on this particular topic already and,
23 with a little bit more work, would probably provide some
24 additional information to this particular committee.

1
2 If we went beyond that, if we actually
3 got into FMP development, then we'd have to talk about
4 -- you know, where that FMP fit into all the other things
5 we are doing. And, it's likely that if that moved to
6 the top, something else would have to drop off the list.

7 So, it's the thing with the ecosystem
8 based fishery management plan, if the council as a whole
9 decides that -- you know, that ecosystem based fishery
10 management plans are a priority for the council, then,
11 in fact, something else would have to drop off. We'd
12 have to consider that.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Pres.

14 PRESTON PATE: Thank you Mr. Chairman.

15 I wasn't aware of the presentation that -- or discussion
16 that took place at the ASMFC meeting a couple of weeks
17 ago, and I'm certainly interested in the statement that
18 Peter Himchak made about Pat Kurkul's commitment to do
19 the analysis that he described and present it to the
20 ASMFC at their November annual meeting. And I'm curious
21 to, I regret that Pat's not here to answer this question,
22 whether or not she would have that available for us at
23 our October meeting. I'm certainly supportive of the
24 idea of the commission getting as engaged as it possibly

1 can from a legal and logistical standpoint to do whatever
2 we can do and need to do to assist in the recovery of
3 river herring. What's happened with that species just
4 has some, to me, has some horrendous ecological and
5 social tragedies associated with it that, I think, that
6 doesn't speak very well to the way that society has
7 treated one of the -- one of the most environmentally
8 friendly species there are on the face of the earth;
9 and they taste very good and I regret not having access
10 to those from the standpoint of a consumer.

11 But, having said all of that, I'm also
12 sensitive to the constraints that we all work under and,
13 when I had my conversation informally with Chris last
14 week, my very first reaction was that I can support this
15 but only after we go through a thorough analysis of the
16 value added product, that the commis -- that the
17 council's involvement would bring to the ongoing efforts
18 from the ASMFC and other sources.

19 I'm wondering if there isn't some value
20 instead of going forward with, with this motion, to table
21 it, to have an opportunity to get some benefit from the
22 analysis that Pat Kurkul has committed to on behalf of
23 the commission.

24 And I say that Mr. Chairman, because,

1 again, I support the idea of getting involved with it
2 formally to the extent that we can; but it sounded to
3 me like based on what Peter described very briefly that
4 that is the starting point that we would make in that
5 analysis and there's nothing that we can -- that we can
6 do efficiently until we get that baseline information
7 made available to us.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 So are you moving to table it?

10 PRESTON PATE: Yes sir, I'll move to
11 table it.

12 PAT AUGUSTINE: Second

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Motion to table, there's a second to the motion. Second
15 by Pat Augustine.

16 UNIDENTIFIED: No discussion

17 COUNCIL CHAIRMAN RICHARD ROBINS

18 Okay. Is the council ready for the question?

19 (Inaudible response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Joel, is that debatable?

22 JOEL MACDONALD: (Inaudible.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 The motion is not debatable. Is the Council ready for

1 the question? The motion is to table the above motion.

2 All those in favor, please raise your hand.

3 (Response.)

4 COUNCIL CHAIR RICHARD ROBINS:

5 Thirteen. Opposed, like sign.

6 (Response.)

7 COUNCIL CHAIR RICHARD ROBINS: Two --

8 three -- two. Abstentions.

9 (Response.)

10 COUNCIL CHAIR RICHARD ROBINS: One

11 abstention. The motion carries. Motion is tabled.

12 Pres.

13 PRESTON PATE: Following that motion,

14 Mr. Chairman, and I would like for the staff to pursue

15 with Pat Kurkul the idea of expediting the completion

16 of her review and coming back with that presentation

17 to us at our October meeting.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 So we'll request a report from her at the October

20 meeting. Put that on the agenda.

21 PRESTON PATE: Yes sir, a report that's

22 consistent with the commitment she's already made to

23 the ASMFC.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Is

1 there any objection to doing that?

2 UNIDENTIFIED: (Inaudible.)

3 COUNCIL CHAIRMAN RICHARD ROBINS: Go
4 ahead.

5 GEORGE DARCY: I'm not --

6 UNIDENTIFIED: George objects.

7 (laughs.)

8 GEORGE DARCY: No, I'm not going to
9 object and I wasn't at that meeting so I'm not exactly
10 sure what your perception of the product is going to
11 be. So, whether that can be done by October, I couldn't
12 say, but I'll certainly make her aware of your desire.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 George, we'll request that and, if she's able to
15 deliver at the October meeting, then we'll look forward
16 to that. Chris.

17 CHRISTOPHER ZEMAN: I'm not familiar
18 with that discussion and I just would like to have Peter
19 elaborate on what exactly that discussion was. Yeah,
20 thank you.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Mr.
22 Himchak.

23 PETER HIMCHAK: Yes, thank you Mr.
24 Chairman. I've had my hand up for some time. I mean

1 -- you know, this issue of river herring. First of all
2 I take offence to councilman's Schafer's comment about
3 the ASMFC doing nothing. We -- there will be a lot of
4 directed fisheries shut down January 1st, 2012, all of
5 them in New Jersey. Since banability (phonetic) plans
6 have been submitted so far, there have been only two
7 approved. One in South Carolina and a small research
8 set aside program in North Carolina. The complicating
9 issue is that, if you don't -- and I know of state
10 directors there that have -- we have no sustainability
11 plans. These fisheries are being closed. Would I have
12 liked to have seen them closed January 1st, 2011, yes,
13 because we're not going to have any better data in
14 another year. But the other issue is that the -- the
15 shad and river herring board had -- the discussion came
16 out about the states that have moratoriums and have
17 landings of river herring especially from high volumes,
18 they pound that fisheries in the Potomac River and they
19 put in culling panels to reduce it, but they don't have
20 a directed fishery on river herring. Can they still
21 sell those river herring?

22 And this is something that the board --
23 I mean this became a hot potato two weeks ago and it's
24 like, well, the technical committee wants documentation

1 on all those by-catch because of the impact and it's
2 inclusion in the stock assessments. So, the board
3 kicked the issue up to the policy board, and the policy
4 board gave a luke warm answer says, well, if you have
5 a directed fishery, you have to have a sustainability
6 program in by July, whatever, I don't know the date
7 off-hand. But, anyway, the bottom line is that the
8 issue of the by-catch in federal waters became a central
9 piece of discussion at the board and, the discussion,
10 it needs to be resolved by the board at the annual meeting
11 and the TC is essentially not going to approve any of
12 these plans.

13 So, you may, I would vote to support the
14 tabling the motion for that. You may have all these
15 answers before you develop another committee to explore.

16 That's what I'm getting at, I guess, make it short.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Okay,
18 I appreciate that additional information and just, I
19 just want to clarify with staff, again Jason, I don't
20 know if you could clarify this for me, but, in at least
21 the draft write up that you have for Amendment 14, and
22 I'm reflecting on what Pete said about tolerances and
23 catch and some of these other fisheries, but, it seems
24 to me that one of the things we would address is

1 considering cap -- potentially capping total mortality
2 of river herring in the S and B fisheries. And that's
3 at least one of the options under consideration, or that
4 you detailed out of the possible issue for the Fmat to
5 address, is it not.

6 JASON DIDDEN: It is yes and, on the
7 management integration issue in general, as you
8 mentioned, it is an item, tasked the Fmat in that,
9 needing kind of the informational (inaudible) meeting
10 in September, October, my plan had been to try to get
11 the commission involved, the New England council
12 staffers involved, the observer program bureau, kind
13 of all the relevant folks, so I imagine -- you know,
14 it will be a rather significant item of discussion at
15 that meeting and it will be kind of a gathering of all
16 those management partners hopefully is my goal. And,
17 maybe if (inaudible) has some of that input on, kind
18 of the reality issues, that could enter into that at
19 that time also.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Jason

21 --

22 JASON DIDDEN: It's kind of as soon as
23 I could get all of the relevant actors to, that they
24 could make a date in the committee. I've been thinking

1 late September but already now in terms of getting
2 everyone organized -- you know, but late September,
3 early October, is what I imagined it will be.

4 COUNCIL CHAIRMAN RICHARD ROBINS: But
5 certainly before the October meeting of this council.

6 JASON DIDDEN: As long as all the
7 relevant parties can gather.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Okay,
9 it seems to me then that we would have an opportunity
10 to follow-up on this in some detail when that committee
11 report is out. Gene.

12 EUGENE KRAY: Just a follow-up on Pete's
13 comment about moratoriums, the Pennsylvania Fish and
14 Game Commission has already announced a moratorium on
15 river herring for January 1, 2013. I don't know why
16 it's 2013, but that's what they chose.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Thanks Gene, I saw that in a brief book to. Pat

19 PAT AUGUSTINE: Just to follow-up. You
20 know it's awful difficult to be on ASMFC and involved
21 will all these various boards and then have someone out
22 of hand, just make a comment that we're doing nothing.

23 I would just refer you back to the notes from the ASMFC
24 and, in particular, one state got so aggressive on this

1 they moved -- the shad river herring board, recommend
2 to our policy board to write a letter to the Joint
3 International Commission, with a copy going to the
4 Marine Resource Committee of the main state legislator
5 US Fish and Wildlife and NOAA, urging a more aggressive
6 and comprehensive plan for restoring alewife to their
7 historic (inaudible) river water shed. I don't know,
8 many states that are making some effort to take down
9 dams and blockages so that these river herrings can go
10 back up to their original grounds. And, I think that's
11 part of it.

12 The other part that was made, ASMFC has
13 asked for information help and support from, I'll say
14 from national fishery service.

15 We need help in reporting discards and
16 that's happening in the ocean fishery. And, that's what
17 we need to make, or to take more aggressive action.
18 ASMFC is state waters and, in the context of our
19 responsibility we all will be going to a moratorium
20 between 12/11, I mean 2011 and 2012 and/or 2013.

21 So, please be careful when you make
22 comments out of hand, that you know what has been done
23 or has not been done. Thank you Mr. Chairman.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Thank

1 you Pat. Further discussion? Chris.

2 CHRISTOPHER ZEMAN: I just want to
3 concur with Pat's comments. I fully agree with him and
4 I'm very impressed by the states ASMFC's efforts to go
5 forward with full moratoriums in those states. That's
6 as strict as you can get, I mean, and the purpose of
7 me wanting to get the council involved here in an FMP
8 amendment, is to make sure that the sacrifices is of
9 those directed fishermen are not lost, by other sources
10 outside of the authority of the ASMFC, because the worst
11 thing -- just working in New England since 1999, the
12 worst thing I saw -- I can't stand is when you have a
13 complete shut down of directed fishery but then that
14 conservation benefit is lost due to the interactions
15 of other fisheries on that fish stock; and that is just
16 the worst case scenario. And that's why -- you know,
17 I think it's time for the council to make sure that we
18 have complementary measures in place in federal waters.

19 So that those benefits -- the benefits
20 of those moratoriums are seen, and actually more with
21 the herring runs and shad runs and that a moratorium
22 is quickly eliminated as soon as possible to the recovery
23 of these stocks.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you Chris. Is there anything else to come
2 before the council? Erling.

3 ERLING BERG: Thank you Mr. Chairman.

4 On a lighter note, as you are all aware we are meeting
5 in Cape May in October and, of course, we look forward
6 to having you there and welcome you.

7 I do want to point out one thing that's
8 come to my attention. Navigation -- talking to some
9 people who have used their GPS to get to Congress Hall,
10 it is not on Ocean Drive. If you put in Ocean Drive
11 for a destination, you're going to end up very far from
12 the hotel -- you're going to be in Delaware Bay.

13 (Laughs.) It's Ocean Avenue and, if you get lost, give
14 me a call and I'll get you to where you're going to go.

15 Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
17 you Erling, I'd just like to take this opportunity to
18 acknowledge and thank the council staff for their
19 excellent work on the development of the Omnibus
20 Amendment. I'd also like to commend the council on it's
21 final passage and full development. We are now, I
22 believe, the first council to have fully completed the
23 ACL and ALM requirements required by the Magneson Act.

24 And I want to commend the council for that.

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With that, seeing no further business
before us, we are adjourned. Safe travel.

WHEREUPON:

THE MEETING WAS CONCLUDED AT 1:40 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 20th, day of September, 2010.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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