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MID-ATLANTIC FISHERY MANAGEMENT COUNCIL  
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COUNCIL MEETING

13-15 DECEMBER 2011

at

Kingsmill  
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Williamsburg, VA 23185

TUESDAY DECEMBER 13, 2011

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1 [1:05 p.m.]

2  
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Let's go and take our seats so we can get started,  
6 please. I hope you find the venue to be  
7 satisfactory. I spent all night decorating it for  
8 the holidays, so. The view behind us here is rich  
9 in history.

10 As a Virginian, I'm obligated in any  
11 fisheries discussion to channel Captain John Smith,  
12 who of course sailed 403 years ago from just up  
13 river to chart the Chesapeake Bay and its natural  
14 resources.

15 He found it to be teeming with  
16 herring and what he called white salmon, what we  
17 would now call striped bass or rock fish, sturgeon,  
18 and certainly very thick with oysters.

19 It's an area very rich in, I think,  
20 lessons for the management of marine ecosystem and  
21 anthropogenic impacts on those resources. All of  
22 those fisheries have gone through very trying times,  
23 and some of them significantly recovered and are now  
24 quite productive.

1 Others have been essentially wiped  
2 out. So there's a lot of history here behind us in  
3 the river, and I think it's quite a neat setting for  
4 a council meeting and discussion on fisheries.

5 But our first item today is going to  
6 be a presentation by John Walden from the Northeast  
7 Fisheries Science Center on the CIE report covering  
8 the excessive shares study in the Surfclam and Ocean  
9 Quahog Fishery. That study was commissioned last  
10 year and now is completed, and it has been reviewed  
11 by the CIE. So we have a review of that by John  
12 Walden. John.

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13  
14 CIE REPORT - EXCESSIVE SHARES

15 JOHN WALDEN: Thank you, Rick. Thank  
16 you, Mr. Chairman, for the opportunity to come here  
17 and talk a little bit about the excessive shares  
18 work. I appreciate this time that the Council has  
19 given me.

20 I'd like to thank everybody for their  
21 patience through this whole process. I recognize  
22 that the whole issue causes anxiety for many people,  
23 and I'd just like to say thank you for your patience  
24 and everybody who cooperated with the project.

1 I'd also like to introduce to my  
2 right John Bender, an economist with the Antitrust  
3 Division at the Department of Justice. And I'm  
4 going to hand the mic. over to John after I'm done.

5 He has a few points he'd like to make concerning  
6 excessive shares and perhaps his perspective on this  
7 whole issue.

8 I'm going to start off talking about  
9 the Compass Lexecon Report, which was the report we  
10 had originally commissioned. And it was completed  
11 in May of 2011.

12 The consultants involved were Bob  
13 Willard, Clyde Mitchell and Steve Peterson. Bob  
14 Willard was one of the original authors of the  
15 Horizontal Merger Guidelines that Department of  
16 Justice has. And we were quite pleased to get these  
17 three individuals. They were very qualified, and I  
18 think they did a good job with what they were given.

19 You have to understand when we do a  
20 contract there's two things key about a contract.  
21 One is the time that you give the consultants. And  
22 the second is really the funding level you have for  
23 them.

24 And we gave the consultants a very

1 short timeframe for this report. We gave them  
2 essentially six months to come up with something.  
3 And I just want to bring that up because in some of  
4 the comments by the CIE you need to take them  
5 understanding that perspective, that the contract  
6 was a very short duration contract and really we  
7 didn't have the money to do this contract until June  
8 of 2010.

9 And so we had to put the contract in  
10 place in a very short timeframe and get the  
11 consultants that we were able to get for this and go  
12 forward.

13 Now, they started the work in  
14 September of 2010, and we had a webinar in October  
15 so they could gather information from industry  
16 participants and they could ask questions of the  
17 various participants. And I thought that was very  
18 successful. They finished their draft in February  
19 of 2011, and again, we conducted another webinar so  
20 people could comment on that draft. And I must say  
21 that I think we had excellent cooperation from  
22 industry through this, and I really appreciate their  
23 time and effort.

24 They presented their final report in

1 May of 2011, and then we put together the CIE panel  
2 to review this, and we had that meeting in June of  
3 2011.

4 Now, these were the terms of  
5 reference they were given. And I don't want to read  
6 the whole thing, but the key to this is that we  
7 started them off saying: using the U.S. Department  
8 of Justice Horizontal Merger Guidelines or another  
9 accepted rule.

10 So we sort of gave them that out,  
11 that they could use the Department of Justice  
12 Horizontal Merger Guidelines if they couldn't come  
13 up with another rule, and that's the path they  
14 proceeded down.

15 They used the Department of Justice  
16 guidelines to form their recommendations, and in  
17 some ways that's good because it's consistent now  
18 with other industries, but it's not the only way to  
19 look at this issue. Now, there were a lot of  
20 challenges, and one thing I'd like to point out is  
21 that the challenges they saw were the same that the  
22 FMAT faced. I was somewhat relieved because during  
23 the FMAT process, I was worried we'd miss something,  
24 and we really didn't. They saw the same challenges

1 that we did, the first being lack of information  
2 regarding control of quota and arrangements between  
3 quota holders, vessels, and processors.

4 Really the key to this is  
5 understanding who controls the quota, and we didn't  
6 have good information on the FMAT, and they didn't  
7 have really good information when they started  
8 looking at this issue.

9 Lack of valid price data. This was  
10 something that was seen by all of the consultants  
11 with price data that we have really don't reflect  
12 market prices. They all saw it as a problem.

13 Lack of cost data. We don't have  
14 good cost data for the vessels. We certainly don't  
15 have it for the processors. It's difficult to come  
16 up with an excessive share rule when you don't have  
17 cost data or valid price data.

18 Lack of quantity and price in  
19 downstream markets, meaning who the processors sell  
20 to. Really, once the clams leave the dock, we don't  
21 have good information going past that point: who  
22 are the downstream customers, how much do they buy,  
23 what prices are they paying, information like that.

24 They also made this point, that really an excessive



1 share cap is a blunt instrument for controlling  
2 market power. We were told to come up with an  
3 excessive share cap, and that's the way they  
4 proceeded, but they all understand -- and the CIE  
5 pointed out this too -- that excessive share cap is  
6 a blunt instrument.

7 And finally, another point that they  
8 made: really a share cap you have a tradeoff  
9 between controlling market power and over  
10 regulating, so people are less efficient.

11 And so it's a fine line that you  
12 walk, and sometimes it's difficult to tell when  
13 you've crossed over that line. So what they really  
14 came up with was a process, a seven-step process for  
15 determining excessive shares, and they're really  
16 based on this modification of what we call the  
17 Herfindahl-Hirschman Index or HHI, which is used by  
18 Department of Justice, Federal Trade Commission, and  
19 others for examining mergers.

20 And the seven steps are: the first,  
21 we have to accurately access existing levels of  
22 concentration and ownership of quota. And that's a  
23 difficult thing to do at this point. I believe part  
24 of Amendment 15 we're supposed to be able to collect

1 that information so we could do that, but at this  
2 point we don't have that information. You need to  
3 access the availability of required competitive  
4 information, meaning supply of substitute products,  
5 excess capacity in both the processing and harvest  
6 sector, private heritage innately [phonetic]  
7 bargaining power of buyers and sellers, ability to  
8 price discriminate, things like that; and questions  
9 like if you're a processor and you have a hundred  
10 percent of the quota, are your competitors going to  
11 be able to either obtain supply from state fisheries  
12 or import to make up for that lack of quota from the  
13 federal resource? So those are all questions that  
14 need to be examined to put in a share cap.

15 The other four steps, really, number  
16 three, that was an easy one to answer. The  
17 threshold condition required no cap as if the  
18 monopoly output is less than the TAC, which we know  
19 is not the case in surfclams and ocean quahogs.

20 Surfclams and ocean quahogs you have  
21 a TAC which isn't binding. In other words, the  
22 fleets are not taking the available quota. So we  
23 know that if number three held, you could stop and  
24 not go any further. You wouldn't need an excessive

1 share cap. But it doesn't so you need to go forward  
2 with the excessive share cap. Establish appropriate  
3 concentration thresholds. In the standard  
4 literature and the way other agencies look at  
5 concentration, 2500 is considered highly  
6 concentrated, and the consultants thought that  
7 that's a threshold you shouldn't cross. Moderate  
8 concentration might be okay, but 2500 was certainly  
9 too high. Determine the market relationship between  
10 excessive share cap and market concentration, Step  
11 No. 5.

12 There you have to look at  
13 substitution possibilities, determine percent share  
14 of fringe quota holders, which means people who are  
15 small producers, like might have one percent of the  
16 market.

17 Determine the HHI based on the  
18 percent of large shareholders. You have to get that  
19 kind of information. Six, identify regulatory and  
20 practical constraints. This is a question that came  
21 up. If you're trying to put in a share cap to  
22 prevent market power from accumulating it all, that  
23 may be a very different share cap than if you put in  
24 a share cap to say, okay, we're not going to allow

1 too much market power.

2 So you have to identify which is it  
3 going to be: do you want the share cap to just not  
4 let concentration get too high, or do you want it to  
5 totally take out the possibility of market power?

6 And then Step 7 is once you've done  
7 those six steps, you just set the excessive share  
8 cap. So here's a table. And it's in the document.

9 Basically, the yellow is where you're too  
10 concentrated, and the blue is okay. The white is  
11 sort of an intermediate band. But, for example, if  
12 in this case you have zero percent of the quota  
13 controlled by fringe firms, you have imports of 20  
14 percent, so you could have an excessive share cap of  
15 40 percent.

16 Now, if your fringe firms increase to  
17 25 percent of the market, that share cap could go up  
18 to 50 percent. And we have the spreadsheets that go  
19 behind these tables, so it's quite a simple process  
20 right now to go in and change those numbers to come  
21 up with what a share cap should be.

22 So they wrote up this process for us,  
23 and they said -- you know, really you might have to  
24 do some more work and really look at Steps 1 through

1       6, and based on that you may come up with a  
2       different recommendation than what we're seeing.

3               But first of all, we told them in the  
4       process that this whole process was not to make  
5       people divest their shares, that we're not trying to  
6       do that. That's what my understanding was.

7               So their recommendation is if there's  
8       somebody who's above that share cap that they have  
9       now, that they just be frozen. They looked at the  
10      state fisheries that were involved and kind of  
11      looked at -- we didn't really have a good idea about  
12      imports, but they came up with: if you're going to  
13      go with a single fixed cap, set it at 40 percent.  
14      And the method shows that really if state-regulated  
15      fisheries don't exceed 20 percent and -- I should  
16      say imports and state fisheries don't exceed 20  
17      percent, then a 40 percent cap is probably  
18      appropriate.

19              What this does is it provides a  
20      modest level of protection against the risks that  
21      processors could foreclose entry or expansion by  
22      withholding unused quota from the market. Now, that  
23      was one danger that they pointed out to us that we  
24      had to be aware of.

1                   But they also said they liked -- they  
2                   kind of thought this idea might be better: If you  
3                   had a two-part cap where long-term holdings were 30  
4                   percent and then within a season if conditions  
5                   warranted it, you could let that cap go up or down.

6                   So it would take more work as a  
7                   season approaches trying to determine within a  
8                   certain year you could let that cap to perhaps go up  
9                   to 60 percent if you thought it was okay.

10                  And then the final recommendation  
11                  that they talked about, which all the consultants,  
12                  both the CIE and the Compass Lexecon consultants,  
13                  said was that there should be some sort of open  
14                  auction for a modest portion of the TAC to try to  
15                  understand what really the market price is for the  
16                  quota. So I wanted to just go over that quickly  
17                  before I jumped into the Center for Independent  
18                  Experts review. And I just want to remind everybody  
19                  that really this isn't in the report, but the CIE  
20                  the purpose is to provide scientific expertise to  
21                  conduct independent peer reviews.

22                  The CIE is not there to set policy.  
23                  So their whole purpose is to really examine  
24                  scientific merits of the reports and not make policy

1 recommendations. So our CIE review panel: Ragnar  
2 Arnason from Iceland, Ani Katchova from the  
3 University of Kentucky, and Rigoberto Lopez from the  
4 University of Connecticut. Dr. Jim Wilen from UC  
5 Davis who is also on your SSC was chair at the  
6 meeting.

7 We met in Falmouth in late June.  
8 Steve Peterson and Glenn Mitchell attended and  
9 answered questions. And I must say I've never seen  
10 a meeting like this really take place within the  
11 National Marine Fishery Service.

12 It was really a wide-open discussion  
13 about the report and about setting excessive shares  
14 and about the economics of the industry. And from  
15 an economist's viewpoint, it was just, it was a  
16 great meeting.

17 We talked about things that have  
18 never been discussed before. So I was quite pleased  
19 with it. And we did have a couple of comment part  
20 of the meeting. I think everybody that came from  
21 industry and that was involved in the meeting was  
22 given a lot of opportunity to participate and  
23 comment, and I thought that added a lot to the  
24 meeting. So we gave these guys five terms of

1 reference. And I just abbreviated what they are.

2 We described the method or process  
3 that the Compass Lexecon economists came up with:  
4 evaluate the strengths and weaknesses, evaluate the  
5 applicability to the Surfclam, Ocean Quahog ITQ  
6 Fishery, evaluate whether the approach outlined is  
7 reasonable for catch share fisheries, and provide  
8 any recommendation for further improvements.

9 In hindsight we might have been more  
10 narrow on our terms of reference or maybe added some  
11 additional ones. Part of the problem with the  
12 process was that we were coming up with these terms  
13 of reference at the same time we were coming up with  
14 the Compass Lexecon terms of reference, and in  
15 hindsight if we had had the Compass Lexecon report  
16 first and reviewed it thoroughly, these might have  
17 been a little bit different.

18 But I think they were good terms of  
19 reference. We got agreement among both the Council  
20 staff and the Center, and this is what we asked them  
21 to do. Really, if you read the reports from the CIE  
22 consultants, it was very wide ranging opinions. But  
23 I think there was four points of agreement that I  
24 really pulled out of their work. The first, they



1 said that the method that the technical group came  
2 up with was based on the HHI, which means that if we  
3 use that, we're being consistent with what's done in  
4 other industries. So they thought that was a  
5 positive point.

6 The second point was that the  
7 technical group they appropriately modified that HHI  
8 to account for competition from other nonfederal  
9 fisheries as well as imports and aggregate shares  
10 held by fringe holders. So within that framework,  
11 the HHI framework, it was fine. They didn't really  
12 make any errors.

13 The third one was they all thought we  
14 needed more transparency for quota prices. They  
15 thought an auction mechanism could be used to reveal  
16 quota prices.

17 And fourth, they didn't pay enough  
18 attention to the monopsony problem, which is the  
19 ability of the processors to exert market power in  
20 the harvesting sector.

21 They all raised that as an issue, and  
22 they pointed out it may of greater concern than the  
23 monopoly problem, which is primarily what the  
24 Compass Lexecon report focused on. So I'm just

1 going to go briefly through these findings. I can't  
2 possibly list every finding by each consultant.  
3 There is over a hundred pages in that report, so I  
4 just tried to pick out one from each for each terms  
5 of reference. For Term of Reference No. 1, there  
6 was no disagreement. They all knew what the  
7 consultants did, and they all understood the  
8 methodology; although, Dr. Lopez -- and I'm not sure  
9 why he put this under Term of Reference No. 1 -- but  
10 he did make an interesting observation; and that's  
11 this: that if you look at the business literature,  
12 there's this widely accepted notion that a rule of  
13 three structure is optimal because three big and  
14 efficient companies act as a tripod to ensure that  
15 neither destructive competition nor collusion  
16 prevails.

17 So there was a lot of talk at the CIE  
18 review about this 40 percent share, and he was kind  
19 of hinting about why that might be good in his  
20 report.

21 Strength and weaknesses. All three  
22 reviewers felt there's a strength was if the method  
23 was based on Horizontal Merger Guidelines which made  
24 it consistent with other industries. The

1 weaknesses: people felt it did not deal with issues  
2 in sufficient depth, that the excessive share cap  
3 would need to be updated over time, the relevant  
4 product and geographic markets are not well defined  
5 in the report, and it does not explore the monopsony  
6 problem. Three, evaluate the methods in terms of  
7 Surfclam and Ocean Quahog ITQ Fishery. This is  
8 where the panel really diverged I think. Dr.  
9 Arnason thought that the method was superficial and  
10 it does not go into sufficient depth.

11 I think part of that was these guys  
12 had six months to do this report. It was hard to go  
13 into the depth, I think, he was looking for. Dr.  
14 Katchova said that the group did the best possible  
15 analysis given the substantial problems related to  
16 data limitations and availability.

17 Lopez, he thought if there's a strong  
18 efficiency effects in processors' fees a much larger  
19 market than just what the federal fisheries provided  
20 -- I'm sorry, efficiency considerations may be more  
21 significant.

22 So, in other words, he's saying if  
23 these guys can obtain some sort of scale economies,  
24 that may be more important and pricing power may

1 diminish.

2                   Number 4, evaluate whether the  
3 approach outline is reasonable for setting share  
4 limits in fisheries management catch shares. Part  
5 of what we're looking for we both wanted them to  
6 look at the Surfclam, Ocean Quahog Fishery, but also  
7 to say something about catch share fisheries in  
8 general because the agency has adopted catch shares  
9 nationally as a policy. Arnason didn't like it. He  
10 said it's inadequate as a general framework.

11 Katchova said that the approach outlined by the  
12 technical group is applicable to other fisheries  
13 managed through catch shares, and Lopez said the  
14 approach is generic and applicable to just about any  
15 fishery providing that we get the right information.

16       So this is what I'm seeing, this panel kind of  
17 splits; two thought it was fine, and one person did  
18 not like the method.

19                   Terms of Reference No. 5, providing a  
20 recommendation for further improvements. Dr.  
21 Arnason thought that we're going to require a  
22 considerable amount of high-level expertise and will  
23 inevitably be quite consuming and costly.

24                   Again, I'm not sure he understood the

1 parameters of the contract that was placed on the  
2 contractors, but it's already been quite time  
3 consuming and costly. So I wasn't real happy with  
4 that recommendation, but it is what it is.

5 The main challenge Katchova said is a  
6 lack of appropriate data on the size of the market,  
7 the major participants in market shares, relevant  
8 markets.

9 These were things that I think the  
10 FMAT struggled with when it first looked at the  
11 issue a couple years ago, and she was seeing the  
12 same thing. Lopez thought recommendations would  
13 fall into two areas: consideration of monopsony  
14 power, particularly if monopoly power seems weak and  
15 consideration of efficiency effects of excessive  
16 share caps that may correspond to high HH levels.  
17 So, in other words, if you're above that 2500, are  
18 there efficiency effects that may make that okay?

19 I'm going to wrap up there, but  
20 before I turn it over to John, I'd just like to  
21 thank the people involved: Jose and Tom  
22 particularly for helping through this process, Lee  
23 who's been very supportive and I appreciate all his  
24 input and time that's he's given to this issue.

1                   The NERO staff was great. They gave  
2                   us data when we needed it. They were very  
3                   supportive. I'd particularly like to thank industry  
4                   participants for their time and effort. I realize  
5                   that it was a timely process, and I appreciate  
6                   everything that they contributed.

7                   Galen Trombeau. Galen's not here I  
8                   think, but he came up with the money for this; and  
9                   if Galen hadn't, then I don't know where we'd be  
10                  today. Compass Lexecon I think gave us a very good  
11                  product, and also the Center for Independent Experts  
12                  provided us with three really good experts.

13                  So I'd just like to thank everybody  
14                  that was involved. And that concludes what I'm  
15                  going to say, and now I'm going to just turn it over  
16                  to John who has some comments that he'd like to add.

17                  JOHN BENDER: Good afternoon. My  
18                  name is John Bender, and I'm an economist with the  
19                  Antitrust Division. I've been working for the  
20                  Antitrust Division for about 29 years, and I have  
21                  been working in the fishery areas for about the last  
22                  five years.

23                  I must say working in fisheries is  
24                  very different from other product areas I've worked

1 in. The intersection of regulations and politics  
2 and small businesses and large businesses is quite a  
3 challenge to come up with a thorough analysis.

4 I do have to give a preamble to my  
5 comments, and that is, what I'm saying this  
6 afternoon is not the official position of the  
7 Antitrust Division. This is my own personal take on  
8 things. So be warned.

9 The slides that I have were actually  
10 prepared for a presentation to NOAA headquarters in  
11 Silver Spring back in 2008, and most of what I have  
12 there I don't think is relevant for here, but we did  
13 go through the issue of the Merger Guidelines and  
14 how they may pertain to fisheries and the issue of  
15 monopsony power.

16 Really, I'm not going to make too  
17 many comments on the slides. There's one slide in  
18 particular that I think kind of summarizes the  
19 position of the Antitrust Division when it comes to  
20 these issues of excess shares and when is a share  
21 too much or on the verge of being too much. John  
22 talked about the Herfindahl Index, the HHI. This is  
23 not something that's very mysterious. It's  
24 something that's described in our Merger Guidelines.

1                   It's basically taking the shares of  
2                   the individual competitors, squaring those shares,  
3                   and summing them. And when you do this, you end up  
4                   with a minimum value of close to zero and a maximum  
5                   value of 10,000.

6                   And this scale is designed by  
7                   squaring the numbers. You're putting the emphasis  
8                   on the larger firms, that is if one firm has a  
9                   larger share, it tends to bump up the scale in a  
10                  disproportionate amount suggesting that larger firms  
11                  have more power and can influence the market more.

12                  And these numbers, like John  
13                  mentioned the 2500 limit number, is a general  
14                  guideline. We consider that if you have an HHI  
15                  number above 2500, the market is highly  
16                  concentrated.

17                  Now, that means that you're starting  
18                  to have problems with prices being raised  
19                  artificially. That is the possible exercise of  
20                  market power. We use these numbers mostly in this  
21                  analysis with the HHI in the context of mergers.  
22                  The Antitrust Division gets a chance to review  
23                  mergers when an acquisition is taking place that  
24                  involves over a hundred million dollars in revenues



1 of one of the companies, of the acquired company.  
2 That threshold rarely gets met in the fishery area,  
3 and we generally do not see that many mergers  
4 related to fisheries.

5 One that is discussed in the slides  
6 here has to do with pollock in Alaska where there  
7 was a large acquisition. It triggered the  
8 threshold, and we did the analysis.

9 One point I'd like to emphasize is  
10 that doing an analysis of competition in a market is  
11 complex and fact driven. We spend months analyzing  
12 these markets.

13 In the case -- I'm trying to  
14 remember. In the case of pollock, I think we spent  
15 about three months. And there was myself and a  
16 staff of three attorneys who spent pretty much full-  
17 time analyzing the market.

18 And that kind of intensity of  
19 analysis sort of limits how many markets we actually  
20 get a chance to look at and what we have the  
21 resources to provide oversight to.

22 The thing that struck us about --  
23 let's just hold off a bit -- that struck us about  
24 pollock is the monopsony issue, that is, the

1 harvesters themselves are restricted and not allowed  
2 to have -- let's advance this; I think we have --  
3 right button. Okay. Five. Okay. Nine is the one  
4 that I want. Okay. Product market retail. Yeah,  
5 nine. Okay. In analyzing the pollock, decide that  
6 on the retail side customers actually have a lot of  
7 substitutes, that is, white fish, crab.

8 Different things could be considered  
9 a substitute for pollock, and there's unlikely to be  
10 significant market power, that is, in selling out of  
11 the processing market that is selling into the  
12 wholesale market.

13 So the problem turns out to be -- the  
14 problem that we focused on was the issue of  
15 monopsony power and could the processors exercise  
16 power in buying the fish from the fishermen, that  
17 is, the margins on the fishermen would be squeezed  
18 to the point where it would be unprofitable to be a  
19 fisherman anymore. And it's that threat that we  
20 were most concerned about in the pollock industry.

21 Like I mentioned, the law limited the  
22 amount of share that the fishermen themselves, the  
23 harvesters, could have; but it did not provide a  
24 limit on the processors. The ACT did provide for

1 17.5 percent, and I think that's a very safe number.

2 Generally, people do use -- John had  
3 alluded to the rule of three -- use numbers like 30  
4 percent, 35 percent as a maximum share. I know the  
5 Federal Reserve Bank of New York uses a 35 percent  
6 share when people are buying in the government  
7 securities market. They don't want anybody to own  
8 more than 35 percent of a government security  
9 because they could manipulate the market in  
10 government securities. That's their independent  
11 rule.

12 We have the Merger Guidelines, and  
13 like I mentioned, the HHI Index, and the  
14 concentration levels and the 2500 Rule. That is --  
15 you know, useful when you have time to do the  
16 analysis.

17 And if what you're looking for is  
18 something more generic -- this is an example here of  
19 how you would do the analysis to do an HHI  
20 calculation.

21 In this example there are five  
22 processors and assign the shares. You square the  
23 number, and then you sum those squares. In this  
24 particular example when you sum the squares, you end

1 up with 2,450 as an HHI. That's just below our  
2 threshold of 2500.

3 A merger between the A and the D,  
4 that is between a 30 percent shareholder and a 15  
5 percent on D to give you a combined share of 45  
6 percent. And the total change in the Herfindahl is  
7 900, and it gives you a combined Herfindahl of 3350.

8 Now, what that means is that we wouldn't just  
9 automatically say this merger could not occur, but  
10 we would say this is a merger they've got to have  
11 some explanation for why it should go forward.

12 There can be mitigating conditions, such as  
13 efficiencies, that is, there are substantial  
14 efficiency gains by the merger. We can take that  
15 into account.

16 There could be regulatory issues or  
17 other restraints on the exercise of market power.  
18 It could be that the market that they're selling  
19 into has some very large customers who are well  
20 capable of taking care of themselves.

21 And all those factors we take into  
22 account. So it isn't an automatic rule that if you  
23 had an HHI calculation that came up 3350, that we  
24 would block the merger or object to it, but it is

1       one we would look at very seriously and consider the  
2       consequences.

3               We have a summary here of the way we  
4       considered this issue. One interpretation is if you  
5       have an industry with a dominant firm and other  
6       small players, we would assume there is market power  
7       being exercised if they had a market share of over  
8       60 percent or 60 to 70 percent.

9               Again, I'm saying there can possibly  
10       be mitigating circumstances here, wouldn't  
11       automatically say that a firm that has a 60 percent  
12       share has market power if they're selling to  
13       customers who are very large and very capable of  
14       finding alternative sources of supply, developing  
15       their own sources of supply, or finding some  
16       alternative. But the burden of proof would be on  
17       the parties to show that they don't have the market  
18       power because the presumption would be that they do.

19               On the other end of the scale, if  
20       somebody has a share below 30 percent, we would  
21       assume that they really don't have market power, and  
22       the burden would be to show that they do have market  
23       power. I think in my experience you never find  
24       anybody with a 30 percent share has anything like

1 market power.

2 And then the last bullet point there  
3 is that when you have that uncertain range between,  
4 say 30 percent and 70 percent, that's where the  
5 analysis gets involved and where we have to do our  
6 work to try to determine whether concentration is  
7 too high.

8 I'm not sure I have a lot more to say  
9 about this. The Merger Guidelines have been in  
10 existence since 1982. They've changed their form  
11 somewhat over the years. But the Merger Guidelines  
12 are shared with industry.

13 We have people in the private sector  
14 come in and consult on these guidelines to try to  
15 determine what's appropriate and what's not. So we  
16 rely on people's comments and feedback about the  
17 guidelines. And we have found over the last almost  
18 30 years now of having the Merger Guidelines that  
19 they work very well and they help a lot in guiding  
20 industry and knowing when companies can merge and  
21 when they're likely to face significant antitrust  
22 review.

23 Right now we have a very public  
24 matter taking place between AT&T and T Mobile, and

1       it's getting a lot of press these days. That's a  
2       rather concentrated industry, and it's getting a  
3       very serious look from the Antitrust Division as it  
4       well deserves. But that's an example of sort of a  
5       highly concentrated industry that's requiring a lot  
6       of effort on our part.

7                 Examples of monopsony power and the  
8       concern here in the fisheries are rarer to find.  
9       Usually, there's, of course, the problem with the  
10      U.S. government and the Department of Defense being  
11      a monopsonist in buying aircraft carriers,  
12      submarines and fighter aircraft.

13                And the Defense Department has a  
14      problem in maintaining competition, because the  
15      tendency is always for the government to squeeze the  
16      suppliers to get the lowest price, but the  
17      government or the Defense Department knows that they  
18      need to keep those suppliers to keep as much  
19      competition and innovation because they rely on the  
20      innovation. So they need to keep firms in business,  
21      and they can't squeeze them to the point where they  
22      exit the business. And that's the dilemma of a  
23      monopsonist is they can squeeze their suppliers, but  
24      they can't squeeze them out of business. So I think

1       that's all I have. Thank you.

2                   JOHN WALDEN: Thank you, Rick. And  
3 I'll answer any questions, or John's willing to  
4 answer questions, too, or however you want to handle  
5 things. Thank you.

6                   COUNCIL CHAIRMAN RICHARD ROBINS:  
7 Thank you, John. Yeah. Why don't we go ahead and  
8 take whatever questions we have from the Council of  
9 the review as it's been presented to us, and then we  
10 can discuss next steps as well. Questions then for  
11 John? Pete Himchak.

12                   PETER HIMCHAK: Yes. Thank you, Mr.  
13 Chairman. And I have to admit that a lot of this  
14 economics is certainly out of my area of expertise.  
15 I've been following along in this process for the  
16 last couple of years.

17                   But I think I have a fair amount of  
18 common sense, so I'll ask my question on that basis.

19       Okay. When the economic consultants had the first  
20 webinar with the industry and the Mid-Atlantic  
21 Council staff, that was October 22, 2010, like a 4  
22 1/2 hour webinar on a Friday afternoon, they and I -  
23 - the complexities of the system really became  
24 apparent to me. And when you talk about processing



1 and market power, there's something that became very  
2 evident to me at this first webinar was that there's  
3 even a higher tier of processors in who's ultimately  
4 going to use the product, and I'm referring  
5 specifically to Campbell's Soup and Progresso and  
6 some of the large food service companies like Sysco.

7 And it just appeared to me that who  
8 actually has the power on the processors of clam  
9 products when Campbell's or Progresso can either  
10 resort to an imported product if they're not  
11 satisfied with haggling over a price, or they can  
12 essentially switch their operation into some other  
13 substitute product. Well, we can switch over the  
14 production line to chicken noodle soup; we're not  
15 happy with the price.

16 So, I mean that became readily  
17 apparent to me at that website, that webinar rather,  
18 and I'm wondering how that concept translated  
19 through the following discussions because -- you  
20 know, these HHI equations and stuff -- you know, I  
21 understand when you explain them, but this is a  
22 central hang-up for me that I'd like some comment  
23 on.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 John.

2 JOHN WALDEN: Yes. I think we all  
3 recognize that the processors are selling to markets  
4 that are probably competitive. I think that's been  
5 recognized from the start. And that's certainly,  
6 the seven-step process that was laid out to us by  
7 Compass Lexecon that's part of the information you  
8 have to figure out. And I think -- you know, as I  
9 said, we don't have information about quantity and  
10 prices that processors are being offered or the  
11 prices that they're being offered and the quantities  
12 that are going into that market. So that's an  
13 information gap.

14 But I think we recognize that, yeah,  
15 they're selling probably to competitive markets.  
16 The monopsony problem that all the consultants  
17 talked about was really the relationship between the  
18 processors and the harvesting sector and the ability  
19 to if you have independent processors that aren't  
20 really aligned -- independent harvesters that aren't  
21 really aligned with processors, the ability to  
22 either not buy the quota or offer them a lower price  
23 than perhaps one in our competitive market would  
24 offer.

1                   That's a monopsony problem that I  
2                   think all the consultants were referring to.  
3                   So that's the side that we're talking about when we  
4                   talk about monopsony.

5                   And the other point that the  
6                   consultants make is the ability -- you know, if  
7                   you're a processor and you need raw clams for your  
8                   product, whether it be clam chowder or breaded clam  
9                   strips or whatever, where are you going to get that  
10                  besides the federal fishery? I mean there's state  
11                  fisheries where you can certainly get some from, but  
12                  is there an ability to import product from someplace  
13                  else to overcome any shortfall that you may  
14                  experience because you can't get enough quota? So  
15                  that was another issue that was identified. So  
16                  that's what they call -- I forget how they term it.

17                 It's basically a predatory behavior: the ability  
18                 to shut out a processor by another processor  
19                 controlling a large amount of quota.

20                 So the monopsony problem was in  
21                 relation to the processors and harvesters, not the  
22                 processors and the downstream market like Campbell  
23                 or Progresso. Did I answer your question because  
24                 you still look a little puzzled.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Pete.

3 PETER HIMCHAK: Yes, you did. You  
4 explained where the concentration of the discussion  
5 and the product. But, again, who really then has  
6 the market power?

7 So, you're saying even if you capped  
8 a processor at 40 percent with its own vessels and  
9 its long-term leases with its fishermen and  
10 everything, I mean can they still dictate terms to  
11 the higher tier? That's what I'm finding very  
12 difficult to accept because you talk about, well,  
13 get an imported product at a much lower cost. So I  
14 don't --

15 JOHN WALDEN: It depends on which  
16 market. I mean there's not just one market.  
17 There's multiple markets here. There's markets for  
18 the quota, for the case guys. There's markets  
19 between processors and harvesters, between  
20 processors and people like Campbell's and Progresso.

21 It's not just one market. Do you want to comment  
22 on that?

23 JOHN BENDER: Yeah. I don't think  
24 without doing some analysis, you can't presume that

1       there's market power here at all. I mean I don't  
2       think anybody has -- well maybe you folks have.  
3       Maybe you know there's market power in surfclams.

4               But usually in the retail side of  
5       things, the assumption usually is there is no market  
6       power because retail processors have a lot of  
7       options, like you're saying.

8               And I doubt that Campbell Soup has a  
9       lot of market power in selling soup. The margins,  
10      as I understand, the margins on soup are pretty  
11      small for companies like Campbell's. So there's not  
12      a lot of evidence that there's market power at that  
13      level.

14              The question here is: When you go  
15      down the food chain, are you finding market power at  
16      the level between the processors and the harvesters?  
17      And that's the issue.

18              That's where when we were looking at  
19      pollock, that's where we looked because we thought  
20      that was the place that things were the most  
21      concentrated. Like I said, I haven't looked at the  
22      situation in detail in surfclams to know what  
23      processors control, how much of the TAC they control  
24      here in surfclams. But if they have a share over 30

1 percent, then there's something that needs to be  
2 analyzed and looked at in detail.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Peter deFur.

5 PETER deFUR: Thank you, Mr.

6 Chairman. I had a question that was not unlike  
7 Peter Himchak's and I guess it sort of builds upon  
8 it. Has anybody determined, I mean tested, whether  
9 or not a multi-part market system like we're talking  
10 about now works; if the HHI index works in that?

11 Because, as Peter was raising:  
12 you've got the harvest quota, you've got the  
13 processor, you've got the purchasers at probably two  
14 different levels, so you've got at least a three-  
15 part system, if not four; and there's an error in  
16 the estimation at each stage.

17 So I don't know whether that HHI  
18 works independently at each stage or cumulatively  
19 and whether or not the error is propagated through  
20 that if you do it in a cumulative fashion or it's  
21 covered differently. Can you comment on that? And  
22 then the other question I had was whether or not the  
23 2500 is arbitrary and applicable to fisheries.

24 JOHN BENDER: Okay. The analysis is

1 very much dependant on what you define the market to  
2 be. Here I think what the market that we're talking  
3 about is the market for selling clams, that is,  
4 clams on the boat. What does the harvester, what  
5 does he do with those clams now that he's got them  
6 and they're on his boat?

7 Now, presumably, he's made a contract  
8 or has some agreement about what he's going to do  
9 with them. He's not just going to catch the clams  
10 and then decide where he's going to sell them. But  
11 it's that market. It's the market of selling raw  
12 clams to a processor.

13 Now, the 2500 number you can view  
14 that as an arbitrary number. It has some basis and  
15 intuition, and that is, if you think four firms of  
16 equal market shares is reasonable, 25 percent share,  
17 and you have four firms at 25 percent share, that  
18 gives you 2500 as an HHI index.

19 And I think sort of intuitively you  
20 figure, yeah, four equally sized firms that's  
21 probably a competitive industry, unless there's some  
22 other facts that would lead you to conclude  
23 otherwise.

24 And that's part of what is going on

1 here with the analysis when we talk about shares.  
2 This is very much of a first cut analysis. We're  
3 not talking about profit margins. We're not talking  
4 about costs or anything else. It's just a straight-  
5 up share. Now, there's some question about how you  
6 measure share. You can measure that in terms of  
7 value for the product, that is, what's the value of  
8 the clams that are sold to the processors. You can  
9 measure the share that way.

10 Or is it the weight of clams; is that  
11 the way you measure capacity? Usually when we're  
12 doing an analysis, we do it both ways, and usually  
13 you come up with numbers that are very similar no  
14 matter which approach you take. In some industries  
15 there are differences. Does that answer your  
16 question?

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Other questions of John from the Council? Howard.

19 HOWARD KING: Yes. Thank you both for  
20 your presentation. In some of your examples, for  
21 instance, the merger in some of the northwestern  
22 fisheries, was all the quota accounted for; was it  
23 all being purchased, otherwise used or consumed?

24 JOHN BENDER: Yes. Pollock is always



1 almost a hundred percent caught. To my knowledge,  
2 surfclams is the only one that routinely comes in  
3 under quota.

4 HOWARD KING: I expect I would have  
5 further comments, but I'd like to hear from industry  
6 first.

7 COUNCIL CHAIRMAN RICHARD ROBINS:  
8 Other questions at this point? Lee.

9 LEE ANDERSON: John, thank you very  
10 much for your report. In listening to the report,  
11 you talk about that meeting that went on in Woods  
12 Hole, and it was, indeed, an interesting meeting;  
13 but unfortunately it ended too soon, which is why we  
14 have these three divergent reports that are  
15 sometimes contradictory.

16 And I think that's a shame in a way.  
17 We don't have as much advice as we could get. I  
18 noticed that you quoted Dr. Lopez saying the rule of  
19 three is a good thing, but in the same report, Dr. -  
20 - what's her name -- Katchova said the rule of three  
21 does have support in the literature, but it's  
22 unclear if the rule should be applied if there was a  
23 conflict between the two.

24 And I don't really want to get into

1 an argument on this. The thing that goes on here is  
2 as both Compass Lexecon and Dr. Bender said, when  
3 you interpret the HHI rule, if it starts the --  
4 where are my notes here? In the Compass Lexecon  
5 view, they say the HHI is important but does not  
6 provide enough information to make a final  
7 judgement.

8 And, Dr. Bender, you were saying the  
9 same sorts of things in different ways. You've got  
10 the numbers. It doesn't mean we stop. You go on,  
11 and you study more. So this is what kind of  
12 concerns me about what Compass Lexecon did when they  
13 started using these things as absolute numbers and  
14 you come up with a number that says 40 percent is  
15 justified by something; whereas, an application of  
16 the HHI would say we've got to do more studies; we  
17 have to look at it.

18 The bottom line is we have a report  
19 from Compass Lexecon that if you read it, based on  
20 the rule of three or predatory pricing or whatever,  
21 you got 40 percent; but then if you read the rest of  
22 this stuff, we get two of the three CIE experts  
23 saying that the rule in the clam industry could be  
24 anywhere between 60/70. I think even -- what's his

1 name -- Lopez says that you could have a natural  
2 monopoly. So we still have a lot more to learn  
3 about what is an excessive share.

4 JOHN WALDEN: Is that a question or  
5 just --

6 LEE ANDERSON: That was a comment.

7 JOHN WALDEN: Okay. All right.  
8 Yeah, I mean there's a lot to go over. I think  
9 there's a lot in the Compass Lexecon report that  
10 perhaps needs to be discussed again.

11 But the problem is -- and you're  
12 correct in pointing out that you need more  
13 information. But we don't have that information,  
14 and nobody's willing to divulge it. So I think the  
15 problem is it's like looking through an opaque  
16 glass. So what do you do? I mean if you have to  
17 set an excessive share cap, you can use the HHI with  
18 the information you have, or you can not and then  
19 try to get the information, more complete  
20 information. I guess that's the Council's call.  
21 But that's the way I'm seeing it is that we just  
22 don't have that extra information that people want  
23 to see.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Howard.

2 HOWARD KING: Yes. Thank you. Since  
3 Lee brought up the notion, the rule of three, I just  
4 wanted to mention that in the report it's termed a  
5 notion. I would hate to put a constraining,  
6 crippling effect on an industry based on a notion.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Peter.

9 PETER deFUR: Thank you, Mr.  
10 Chairman. I have a question about the process that  
11 is perhaps for you. It says in the early part of  
12 the report that the CIE did not allow the three  
13 panelists to send independent reports to be  
14 summarized. I think I've got that right. What was  
15 that about?

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Peter, there was an administrative issue with the  
18 way in which the reports were concluded. Normally,  
19 if the Center is conducting or is involved in a CIE  
20 review, the reviews are done and the group reaches a  
21 consensus on the findings, or the findings are  
22 finalized in the last meeting; and the panelists  
23 determined that it was really too complex to try to  
24 do that on that day; and so they agreed to leave the

1 meeting, develop their reports, send them to the  
2 chair to be finalized. But that's outside of the  
3 CIE protocol, as I understand it. I'll let John  
4 comment further on that.

5 JOHN WALDEN: Yeah. It was the first  
6 CIE review that I had been involved with, and I did  
7 not know the CIE rules. Typically, what happens on  
8 the last day is that you basically sit in a room,  
9 and you come to a consensus, not a consensus about  
10 yes or no for the report; but the chair writes down  
11 points that each reviewer wants to make and then  
12 goes back and summarizes those points and submits it  
13 as the chair report.

14 And had I -- I expressed my concern  
15 about following through on this method, that we  
16 should try to do that, but the chair was not  
17 comfortable doing that and wanted everybody to go  
18 away and think about things some more and then send  
19 him the report, their reports, and then he would  
20 write a summary document. Well, the CIE hierarchy  
21 when they learned of that, they would not allow the  
22 CIE reviewers to do that. That's outside of their  
23 protocol because they don't want anybody to see the  
24 report until it comes to NOAA first. So, if they

1       went outside that protocol, it would be allowing  
2       somebody else to see that report, and it could  
3       influence independence of the reviewers.

4               But basically what happened is we  
5       walked away on that last day, and we didn't have a  
6       summary report from the chair, and the CIE would not  
7       allow those reports to be shared with the chair  
8       before they were due at CIE headquarters. So that's  
9       what happened. Did that answer your question?

10              PETER deFUR: Yeah, that answers the  
11       question about what happened, but I still don't  
12       understand why it wasn't allowed. I mean I  
13       understand the consensus, and I don't know whether  
14       there's some legal restriction on the protocol --

15              JOHN WALDEN: It's the CIE.

16              PETER deFUR: -- that it has to be  
17       followed that way or else it's outside the  
18       guidelines. And also I've worked on a lot of  
19       advisory committees.

20              JOHN WALDEN: Yeah. The CIE made the  
21       call. It was outside of my hands. I couldn't do  
22       anything about it.

23              COUNCIL CHAIRMAN RICHARD ROBINS:

24       And, Peter, John has synthesized and summarized

1 those reports in the report that we have in front of  
2 us. They're also included individually in what  
3 we've seen. Other questions for John? [Pause.]

4 John, there was some discussion it seemed  
5 in a number of the individual review reports that  
6 there needed to be more discussion and treatment of  
7 the monopsony question, and that's an issue that we  
8 had flagged in the terms of reference; and there was  
9 some discussion I thought in the initial meeting by  
10 Compass Lexecon of that issue.

11 But was there specific discussion  
12 about what other technical work should be done on  
13 that question or what other inquiries needed to be  
14 made about the potential for monopsony power, and if  
15 so, within which elements of the market; was it  
16 mainly between the processor and harvester, the  
17 processor and quota holder?

18 JOHN WALDEN: They all said it was a  
19 problem. They didn't say exactly how to address it  
20 or what analysis, but it's typically they're saying  
21 between the processor and the harvester that's where  
22 the monopsony problem occurs. That was the  
23 consensus of the reviewers, as far as my  
24 understanding and my read of their reports.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Do  
2 you have any additional sense for us of how much  
3 more technical work would be necessary to further  
4 define the markets in order to implement the  
5 proposed method?

6 JAMES WALDEN: That's a good  
7 question. I think we all -- I don't think there's a  
8 lot of disagreement about what the different markets  
9 are. I mean there's the harvester, the processor;  
10 there's the market for the quota itself.

11 The real key, I think, that we don't  
12 really understand is the control of the quota, the  
13 ownership and control. It's really the control that  
14 matters. It's like if you own it but you have a  
15 long-term lease with me, then really it's me that's  
16 controlling it, not you.

17 And we just don't have that kind of  
18 information. That was part of what Amendment 15 was  
19 supposed to get at. But it's kind of like putting  
20 the cart before the horse in some ways. We just  
21 don't have that data right now.

22 I think that as far as understanding  
23 what markets the processor is selling to I don't  
24 think that would be a lot of work. Yeah. We would



1 just have to ask them who their customers are.  
2 Hopefully, they'd want to reveal that. So I think  
3 that wouldn't take much time.

4 But really the ownership and then the  
5 relationship between the processing and the  
6 harvesting sector I think is where most of the work  
7 will need to take place and what would take the most  
8 time.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you, John. Other questions? I know we have a  
11 number of advisers here. Is there any public  
12 comment, or do any of the advisory members want to  
13 speak before we discuss next steps? Tom.

14 TOM ALSPACH: Thank you. Tom  
15 Alspach. I represent Seawise National Limited,  
16 which is the largest processor of surfclam and ocean  
17 quahogs in the U.S.

18 I distributed by e-mail a written  
19 summary of my own, which I hope you received. If  
20 not, Cathy has a bunch of extra copies here. I hope  
21 you have a chance to review that, and I hope you  
22 have a chance as well to take a look at not only the  
23 consultants report, but the independent experts'  
24 reports as well.

1 I want to thank John for the very  
2 transparent way he's gone about running this process  
3 through the webinars and then the work we all did at  
4 Woods Hole last June. Ample opportunity for  
5 industry to participate and know what's going on, to  
6 be heard and so forth. And so I thank you. I thank  
7 you for that, John.

8 It doesn't necessarily mean I agree  
9 with how it came out in the end, but we thank you  
10 for the process. I would start by saying the very  
11 thing that I said the first time this subject came  
12 up I believe five years ago now before this council,  
13 which is that what we have here is a solution in  
14 search of a problem. We're trying to solve a  
15 problem that does not exist in our industry.

16 Now, that's not just me saying that.

17 The consultants at Lexecon concluded. It's right  
18 there in the report that no entity holds market  
19 power in the surfclam-ocean quahog industry and no  
20 one in that industry is engaged in any competitive  
21 behavior through the abuse of market power.

22 You know this yourself because you  
23 know that we're harvesting something like 50 percent  
24 of our quotas. So no one is saying they've been

1 foreclosed from the quota market, they're not able  
2 to get access to the resource, they're not able to  
3 expand their businesses and so forth.

4 In fact, the only complaint that you  
5 all hear almost every year -- I'll come back to this  
6 in just a second -- comes from independent fishermen  
7 who come and say they can't get enough processors to  
8 buy enough of their quota and they have allocation  
9 that they can't sell or bring to market. That  
10 appears to be the only problem that we're hearing.

11 A couple of things that I think is  
12 very critical for this council to be reminded of as  
13 we go forward if we go forward with this review.  
14 The first of these is that we already have and we  
15 have had for 20 years a definition of excessive  
16 share of this resource in this industry. An  
17 excessive share in this industry has been defined by  
18 way of this council and NMFS as the control of an  
19 amount of ITQ that would permit a holder of that  
20 quota to act in violation of the federal antitrust  
21 laws. That's written into Amendment 8. That's been  
22 your definition of an excessive share for 20 years,  
23 and it's worked quite well.

24 Secondly, I think it's very critical

1 for the Council to understand and to be reminded  
2 again that there is no legal requirement that you  
3 must define an excessive share by way of a  
4 percentage cap.

5 That's what all this analysis is  
6 focused on, but your general council has confirmed  
7 that the Magnuson Act does not require in this  
8 industry -- perhaps in new programs, yes, but in  
9 this industry no -- you have no legal obligation to  
10 define the excessive share by way of a percentage  
11 cap.

12 So why are we talking about  
13 percentage caps in these reports? Why were these  
14 consultants struggling with the notion of coming up  
15 with a percentage cap? The reason is that the  
16 premise they were given in their contract was that  
17 they must assume that they were required to define  
18 an excessive share by way of a percentage cap on the  
19 resource. It's right in the terms of reference.  
20 And so, therefore, the consultants didn't have the  
21 opportunity to consider whether your existing  
22 excessive share definition is working or not and  
23 whether we should continue to be guided by it. They  
24 only had the ability to define it by way of

1 percentage cap.

2 And I would submit to you that's the  
3 reason why. That's the reason why at the end of  
4 every report after going through dozens of pages of  
5 analysis of this seven step process of what you have  
6 to do to define an excessive share -- get the  
7 information, define a relevant market, go through  
8 all the steps that are involved and define a  
9 relevant market -- as Mr. Bender said, that's the  
10 key part of the analysis -- after they do all that  
11 and tell you this is what you have to do, at the end  
12 of the report they say, oh, by the way, we think  
13 that 40 percent's a good number because that  
14 comports with this rule of three or whatever.

15 It's contradictory of what the rest  
16 of the report says, and it's only in there I submit  
17 because they were obliged by their contract to come  
18 up with a percentage cap. Now, I think it's  
19 critical that you look at those reports that the  
20 experts did after the review in Woods Hole. I've  
21 tried to summarize some of that in the paper I  
22 distributed. Reports are not that long. The  
23 appendices at the end are most of the report.  
24 They're not that long. You can read through those

1 things. And it's very clear what these three  
2 independent qualified experts said. Number one said  
3 this analysis, this framework proposed by the  
4 consultants is insufficient and unsatisfactory.  
5 Those are his words: Insufficient and  
6 unsatisfactory for use in this fishery.

7 The other two experts -- I have to  
8 respectfully disagree a little bit with John, who I  
9 think I heard say that he thought they said the  
10 analysis was fine.

11 What they actually said is that at  
12 best what the consultants' report puts out is a  
13 starting point for further analysis, a starting  
14 point. And we would agree with that at best.

15 So I think it's fair to say that the  
16 experts' review of the consultants' report were  
17 very, very leary of this notion that you might just  
18 go ahead and impose a 40 percent cap and there you  
19 have it; you're done with this analysis.

20 Now, finally, what I implore you to  
21 do is to think about some of the impacts of what  
22 you're about to undertake or what you've been  
23 engaged in will have on our industry and in  
24 particular on processors in our industry. Because

1       you've apparently decided -- I heard it again this  
2       afternoon -- that in assessing percentage share of  
3       quota, we're going to consider not just how much is  
4       owned, but also how much you lease. That puts a  
5       whole new dimension on things.

6               And I use my client, Seawatch  
7       International, as an example. My client owns zero  
8       quota. We don't own any quota at all. We're the  
9       largest processor. We own no quota. Some of our  
10      shareholders do own quota. That percentage that  
11      they own is well less than 40 percent; however,  
12      those of you who have seen the reports I think can  
13      figure out how much we process, and so you know we  
14      process a whole lot more than the quota that's owned  
15      by some of our shareholders. Half or more of what  
16      we process we have to obtain through leases.

17             And so when you add our leases to  
18      what's controlled by our shareholders, you get us -  
19      - and I've said this candidly -- above this 40  
20      percent cap. So what I hear in response to that is,  
21      well, don't worry about it because we're going to  
22      freeze where -- if you're above 40 percent, we're  
23      going to not make you divest and go backwards.

24             What we are going to say is you can't

1 go forward. What sense does that make? You're  
2 going to tell a company that's engaged in an  
3 industry where 40 percent of the resource stays on  
4 the bottom of the ocean that they cannot expand any  
5 further because you've arbitrarily set a 40 percent  
6 cap or a 50 percent cap or whatever it is and that's  
7 where you have to stay. Well, in the meantime,  
8 you've got a company like Seawide which is about to  
9 or poised to invest four million dollars in our  
10 plant in New Bedford, three million dollars in our  
11 plant in Milford to expand these plants to process  
12 more and to further benefit all the people who work  
13 in this industry.

14 We can't do that. If you adopt this  
15 40 percent cap, we're dead in the water. What sense  
16 does that make? Who's hurt by that? We're hurt by  
17 that. But some of the people who live in these  
18 communities -- I think it's Council's supposed to  
19 take into account the social effects of its  
20 rulemaking, the people who are affected by, who work  
21 in the industry, not just on the boats in the  
22 communities where the fishery is located.

23 And this comes back to the folks who  
24 come in every year and say I need to find more



1 market for my quota, and I can't get someone to buy  
2 the excess quota that I have.

3 Well, who's going to buy that quota?

4 You tell a client like mine you can't expand.

5 Well, don't come to us. We can't buy your quota.

6 Does that make sense? If we can develop more demand  
7 for the product with our clients like Campbell's  
8 Soup and Heins and Progresso, get them to advertise  
9 more to create more demand for our product; we got  
10 to say, sorry, we're capped; we can't supply you  
11 anymore; find somebody else. That's would not be an  
12 easy thing for them to do.

13 So, all right. I'll stop there. But  
14 I think that it should be clear that this is not the  
15 time to be talking about putting some kind of  
16 percentage cap on this industry when there's no  
17 problem that's being addressed, number one, and  
18 there's no requirement that you put a percentage cap  
19 in place, number two.

20 So, in our view, the analysis should  
21 end right there, and we should be done with it. If  
22 you want to proceed with this process, there's a  
23 whole lot more information that needs to be pulled  
24 together.

1                   The efficiencies that come with  
2 volume processing have to be taken into  
3 consideration. What the relevant market is has to  
4 be taken into consideration. There's a lot of time-  
5 consuming, economic analysis that has to be done,  
6 and this council's going to have to do it.

7                   I don't think you want to go down  
8 that road when there isn't any problem to be  
9 remedied here, and in my view, we ought to leave  
10 well enough alone because our industry's doing just  
11 fine so far as excessive share is concerned. Thank  
12 you very much.

13                   COUNCIL CHAIRMAN RICHARD ROBINS:

14 Thank you, Tom. Are there any other public comments  
15 on this issue before we move onto the next steps?  
16 All right. Seeing none, just looking at where we  
17 are with Amendment 15, there are a number of  
18 different elements in the amendment.

19                   One gives at the fact that it is  
20 necessary to collect more information in order to  
21 implement and address some of these issues. The  
22 other is really a question of what's an appropriate  
23 excessive share to be defined for the fishery.

24                   And it seems to me that we're at a

1 point where we've had this comprehensive technical  
2 study done. There are some areas that require some  
3 more technical analysis, but in terms of moving  
4 forward with the amendment, one side of it deals  
5 with what information we need to collect.

6 The report and the CIE commenters all  
7 made references to the fact that there needs to be  
8 some more transparency. I think we've all  
9 recognized the fact that simply looking at the list  
10 of quota ownership doesn't really reveal a  
11 comprehensive picture of control within the fishery.

12 So part of the amendment is intended to address  
13 getting the necessary information to make informed  
14 decisions and also to monitor and implement any  
15 excessive share that might be implemented. The  
16 other relates to defining what is an appropriate  
17 excessive share, and that's what much of the  
18 technical work has been focused on.

19 We had essentially put the amendment  
20 on hold while we did the technical work, but now  
21 that that's done and back to us, we're at a point  
22 that we need to determine how we would move forward.

23 And I think it's going to take a combination of  
24 staff work and committee work at this point. But I

1 would look to the committee chair and see what input  
2 he has at this point.

3 LEE ANDERSON: Thank you, Mr.  
4 Chairman. I concur exactly with what you said. As  
5 I said in my comments, the share system we have a  
6 wide range to go from. We didn't get a final answer  
7 because of a number of things, but the issue of what  
8 information needs to be collected is important.

9 And you and I and Chris and staff  
10 have talked about it, and what we want to do is set  
11 up very quickly to get some information available  
12 and get the committee working on that problem of  
13 what information to gather.

14 And as that settles up, we'll get the  
15 amendment running, and at the same time we'll have  
16 to make a decision on the particular excessive share  
17 to implement. But now it's the data collection.

18 COUNCIL CHAIRMAN RICHARD ROBINS:  
19 Pete.

20 PETER HIMCHAK: I had a question on  
21 Lee's last comment. I mean I'm looking at the  
22 scoping document for Amendment 15, and it would  
23 appear to me from what we're talking about today is  
24 that the issue five on excessive shares, that all

1 these options would come out of the amendment until  
2 we had the cost recovery information and these other  
3 items that were in the original scoping document.  
4 But now we're going to persist with putting in some  
5 kind of percentage cap in Amendment 15?

6 LEE ANDERSON: Yeah. Well, I'll ask  
7 Chris to answer that. As far as I'm concerned, we  
8 got information. We're going to look at it. But I  
9 don't think because of what we have right now we're  
10 automatically going to say that the search for a  
11 share is going to cease at this point.

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 Howard.

14 HOWARD KING: To the presenters  
15 again, if more information is available and I'll  
16 even say if enough information is available, will  
17 this still be a formulaic exercise, or will you get  
18 down to just an absolute judgement call at the end?

19 COUNCIL CHAIRMAN RICHARD ROBINS:  
20 John.

21 JOHN WALDEN: There's two Johns. I'm  
22 not sure that the -- the HHI it's very formulaic,  
23 and you can go forward with not as much information.  
24 If you had a huge amount of information, then you

1 could possibly not use the HHI and use some other  
2 sort of instrument to determine what an excessive  
3 share was.

4 Or maybe I shouldn't use excessive  
5 share, but that point where -- you know, the concern  
6 about market power will go away. So you could go  
7 either way just depending on the amount of  
8 information. Did you have something you wanted to  
9 add?

10 JOHN BENDER: As I understand this, I  
11 think kind of the tradeoff is between adding a staff  
12 and a set of rules that basically mimic what the  
13 Antitrust Division has is sort of doing this sort of  
14 complete analysis and gathering all the information  
15 that people are talking about or having a simple  
16 rule of thumb.

17 And it strikes me that a rule of  
18 thumb is a lot less costly to implement rather than  
19 having a full staff and having the resources in  
20 order to do a full blown antitrust or market power  
21 analysis.

22 There are agencies of the government  
23 that have that staff. The Federal Communications  
24 Commission has its own economists and lawyers that

1 are fully devoted to trying to analyze these issues.

2 I would suggest that's a very costly way to go, and  
3 if you have the resources, fine, go ahead and do it.

4 The issue about having the tradeoff is to what  
5 should be the rule of thumb you have, whether it's  
6 30 percent, 40 percent, 50 percent; actually, it  
7 depends, I think, a lot on issues that Tom brought  
8 up, economies of scale and are there economies of  
9 scale in this industry.

10 I would think with something like  
11 clams which are caught very locally and need to be  
12 processed locally because you can't ship them very  
13 far, that economies of scale are unlikely to be very  
14 important.

15 If there are significant economies of  
16 scale and you could process everything in one  
17 processing plant at one location, then I think you  
18 have to revisit the whole thing and say that, well,  
19 maybe that there shouldn't be any excessive share  
20 cap.

21 But if there are limited economies of  
22 scale -- and of course, everybody has a scientific  
23 bent here I think, and you want to have a very  
24 definite answer, and these issues of competition and

1 market power rarely lend themselves to coming up  
2 with a very specific answer, and they are judgement  
3 calls, and that's why a lot of times we end up in  
4 litigation arguing about exactly these issues. We  
5 don't end up in litigation all that often, but often  
6 enough, and it's, of course, very costly to end up  
7 there.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thank you. Howard.

10 HOWARD KING: Yes. Thank you, Mr.  
11 Chairman. One last comment. I would only hope that  
12 when we get this additional information and as we  
13 consider where the data takes us, that there's some  
14 assessment of whether or not if there is a cap,  
15 whatever that is, is that going to increase the  
16 market for surfclams and ocean quahogs, or will we  
17 be left with a diminishing market irrespective of  
18 market power, just overall market.

19 So I wouldn't want to be in a  
20 position where we thought we did the right thing and  
21 result in either diminished growth of market for the  
22 clams or not be able to increase market. Thank you.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Further discussion? Pat.



1                   PATRICIA KURKUL: Thank you, Mr.  
2 Chair. I'm getting a little concerned that I think  
3 I'm starting to hear we're going to go forward by  
4 collecting more information and doing more studies;  
5 and frankly, I think we're getting to the point  
6 where we're studying this one to death. And  
7 although I'm not saying it's happened here, but I  
8 have seen in the past where that technique has been  
9 used to delay making a decision or avoid making a  
10 decision. I think you're never going to have  
11 perfect information. This is no different than when  
12 we make decisions on a biological basis.

13                   You're not going to have all the  
14 information you'd ideally like to have, but I think  
15 what we know now is that we do have enough  
16 information to at least consider some alternatives  
17 and to look at this more closely.

18                   And so what I really hope is we're  
19 not talking about just moving forward with  
20 collecting more data and that we take the time to  
21 look at the information we've got and make some  
22 decisions and include those in this amendment.

23                   COUNCIL CHAIRMAN RICHARD ROBINS:  
24 Thank you. Further comment? Lee.

1                   LEE ANDERSON: Well, Pat, I agree  
2 with you completely. I think we're done, my  
3 opinion, collecting more information on the  
4 excessive share stuff, the percent. We've got that  
5 data. We know there are processors.

6                   And I think the point that Mr.  
7 Bender, Dr. Bender, brought up was it's the balance  
8 between how we want to set a rule and how we want to  
9 run our operation. My view has always been that we  
10 don't want to be the Department of Trust Fisheries  
11 Division where we're going to be hiring all those  
12 economists. We want to set up a rule, maybe a rule  
13 of thumb, something that will allow us to address  
14 our Magnuson obligations in a way that we don't have  
15 to spend all of our fortunes on economic staff doing  
16 it.

17                   And that's one of the other issues,  
18 what type of information do we need to collect, not  
19 more research on the market per se, but what's going  
20 on with the operation of the fisheries so that when  
21 if the Department of Trust comes to us or other  
22 people come to us and say what's happening, we can  
23 have information to provide them that something can  
24 be done.

1                   And in that regard, Mr. Chairman, I  
2                   would like to inform you or to request that it is my  
3                   intention to have the committee go ahead and work on  
4                   that second part of what kind of information do we  
5                   have to collect to be able to implement a share  
6                   system.

7                   And the goal that I'm going to be  
8                   looking at is we want the most parsimonious  
9                   collection system there that will allow us to do our  
10                  job well, but we're not going to be competing with  
11                  the Department of Trust for economic staff. And  
12                  that's where I intend to go, sir.

13                 COUNCIL CHAIRMAN RICHARD ROBINS:

14                 Okay. Well, if we refer this to the committee then  
15                 for further development, the share itself is still  
16                 going to have to be addressed. I mean you'd be  
17                 developing a range of options for that question, but  
18                 the information collection would be related to the  
19                 implementation of the share cap. Is that correct?

20                 LEE ANDERSON: Exactly.

21                 COUNCIL CHAIRMAN RICHARD ROBINS: All

22                 right. Further discussion? Again, we wanted to  
23                 bring this before the full council to have the  
24                 benefit of the report.

1 I know the material is highly  
2 technical, and it's been a long time in the  
3 development, but I think we'll all benefit from  
4 having a better understanding of the CIE review of  
5 the technical report.

6 And thank you very much, John and  
7 John, for your discussion and presentations today.  
8 Thank you. With that our next presentation is on  
9 the Atlantic Wind Connection Project, and we have  
10 Kris Ohleth presenting that. Kris.

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11  
12 ATLANTIC WIND CONNECTION PROJECT

13 KRIS OHLETH: How is everyone doing?

14 All right. This is a beautiful room. Again, my  
15 name is Kris. I'm here with the Atlantic Wind  
16 Connection Projects. I'm the director of permitting  
17 for the projects. I'm here with my colleague Bill  
18 Wall, Director of Marine Operations, who's here to  
19 help answer any technical questions you might have.

20 And I'd like to start out with a question: Who  
21 here in the room has heard about the Atlantic Wind  
22 Connection Project by name or by concept of the  
23 offshore super grid? Okay. So there's some  
24 familiarity in the audience. Good to know.

1 I'm just going to go through a few  
2 slides here. I think I have an hour on the agenda.

3 I have about 15 slides which won't really cover an  
4 hour's time, but what I'm hoping is that based on  
5 what I caught of your previous presentation, we  
6 could spend our time -- you know, asking questions  
7 and hearing what your concerns might be.

8 We had the good fortune of presenting  
9 to this body last year about 14 months ago, and  
10 started some dialogue. What we're hoping to do is  
11 continue that and perhaps follow up with -- you  
12 know, a smaller group meeting where we can take  
13 questions and really get into some of the details on  
14 this project.

15 Can anyone see a red dot up there?  
16 This would be like a super laser pointer if it could  
17 make it that far. I don't think it goes that far.  
18 Okay. So bear with me on the red pointing. I might  
19 have to go up to the map and show you some things.

20 But to start out, I want to talk big  
21 picture, because I mean I'm assuming most of you  
22 folks in the room are familiar with the concept that  
23 offshore wind power is coming to the Mid-Atlantic  
24 region. We are not a company who is proposing to

1 build actual wind turbines, rather just the  
2 transmission system that would take the power from  
3 those wind turbines and deliver it to shore. So  
4 what the first slide shows -- I don't know if you  
5 can see it, but I believe you have the handouts  
6 there -- is the blocks offshore where the Department  
7 of Interior has sanctioned wind farms to be built  
8 and what we assume would be the individual  
9 connections to shore that would be needed to connect  
10 those wind farms to shore.

11 What we think is a much better  
12 solution is what we've proposed, which is only five  
13 or so connections from those wind energy areas to  
14 shore that would collect the power in an efficient  
15 way and have a lot less of an environmental impact  
16 because we would only have those five shore landing  
17 points; As opposed to the other wind farms that  
18 would need dozens of cables to connect the wind  
19 farms to shore.

20 So we see that really being an  
21 environmental benefit as well as a benefit to you  
22 folks. I mean we're going to try to bring this  
23 right down to you. I mean this group represents  
24 fishermen. Some of you are fishermen. And having

1 less cables on the sea floor I assume would be a  
2 benefit to you.

3 So our project proposes to have a lot  
4 fewer cables out there even though we can still have  
5 all that great green energy that we need to meet  
6 some of our energy goals in this country.

7 And I also just wanted to say that  
8 I'm happy to take questions at any point. So, if  
9 you feel like you want to ask a question about this  
10 figure, feel free to raise your hand, and we can or  
11 just jump right in.

12 What I've highlighted on the bottom -  
13 - I don't know if you can see that -- but it's a  
14 little box that says local roads or an interstate  
15 highway. The concept is this: if we built the  
16 entire nation, the entire country, out with local  
17 roads, it would be a disaster, and that is what is  
18 going to happen in the ocean if we try to connect  
19 all these offshore wind farms with local roads.

20 We want to build one interstate  
21 highway to connect those wind farms to the strongest  
22 points of the grid, and this presentation will talk  
23 a little bit about why we think that's a benefit for  
24 multiple reasons. To give you an overview of some

1 technical aspects of the project, we essentially  
2 will have three components to the project. Again,  
3 no wind turbines associated with our project  
4 specifically.

5 We will have offshore converter  
6 platforms. That's that big yellow thing on the  
7 jacket foundation on the bottom left. Those  
8 jacketed structures will be offshore, about 14 to 16  
9 miles offshore, collect the power from the offshore  
10 wind farms, and convert the power to direct current  
11 power or DC power.

12 The cable that will connect those  
13 hubs to the wind farms and then the hubs to shore --  
14 and I'll show you a picture of that in a moment --  
15 will be DC cables. They will be submarine cables  
16 buried on the sea floor about three to six feet  
17 depending on where they are and then deeper in the  
18 main channels. That will be a DC cable.

19 We should have brought some with us.

20 But it's about -- can you see? It's about like  
21 that big around, six inch diameter. I was going for  
22 the visual. Six inch diameter. I got to spice this  
23 room up a little bit.

24 There would be two of those large



1 power cables because you're going back and forth  
2 with the power and then a fiber optic cable --  
3 that's that smaller cable you see -- in the middle  
4 of those cables. The third component is a  
5 terrestrial component which is -- you know, when we  
6 bring the power ashore, we will need a substation or  
7 electrical switching gear, and we'll need a few  
8 acres of land to upgrade the current substations on  
9 land. So that's the third component. Those are the  
10 three kind of technical components there.

11 To give you an idea of the phased  
12 outline project configuration, our proposal is to  
13 build this project as we see the wind farms  
14 developing. So the first projects we envision being  
15 off the coast of the Mid-Atlantic would be we assume  
16 in New Jersey because that's where there's the real  
17 financial incentives to do it and a lot of goodwill  
18 as well as excellent sediments to construct the wind  
19 farm as well as a gently sloping shelf, as many of  
20 you know I would imagine. So it's a really ideal  
21 place to build offshore wind.

22 So we think the Phase A of our  
23 project would deliver wind power from wind farms off  
24 the coast of New Jersey and Delaware, collect that

1 power and bring it to shore. The subsequent phases  
2 we've proposed essentially would build out the  
3 project to service the wind farms.

4 And we really feel the project can  
5 serve wind farms as they come online. So,  
6 essentially, if wind farms -- you know, start coming  
7 in New York before they do in Maryland or in  
8 Virginia before New York or however the market  
9 starts to roll out, our project can be responsive to  
10 adapt to that type to roll out.

11 So this is just an overview of the  
12 five phases of the project. We hope to start  
13 building the first phase in 2015, laying that cable  
14 offshore. Of course, the wind farms need to get  
15 going too. So there are various proposals for those  
16 wind farms.

17 Are there any questions at this point  
18 about the phases of the project or where exactly the  
19 cables might be? Yes.

20 LAURIE NOLAN: Hi. Yeah, just a  
21 couple. When you talk about the cables coming into  
22 shore like three to six feet deep, will those be  
23 closed areas now for fishing, to cross over those  
24 lines?

1 KRIS OHLETH: Well, from what I  
2 understand -- and you know, my experience is more in  
3 the wind farm business than cables -- but the cables  
4 will be charted on the maps and that fishing will  
5 not be restricted in the area; however, I guess  
6 there are certain gear types that do make contact  
7 with the sea bottom. And correct me if I'm wrong,  
8 Bill. It is the responsibility of the folks who are  
9 fishing to know where those cables are at all times.  
10 We wouldn't close them per se. I mean that  
11 wouldn't be our jurisdiction.

12 LAURIE NOLAN: How many windmills  
13 will one of these platforms support?

14 KRIS OHLETH: Well, each one of these  
15 platforms will be rated at a thousand megawatts, and  
16 so depending on the size of the turbine, that would  
17 serve two to three medium-sized wind farms.

18 For example, the Cape Wind Project,  
19 we could service about three of those with one of  
20 our platforms. If that gives you any idea. But  
21 several hundred.

22 COUNCIL CHAIRMAN RICHARD ROBINS:  
23 Erling.

24 ERLING BERG: Yeah. Thank you, Mr.

1 Chairman. I was very interested in your lines are  
2 going to go north and south along the coast of New  
3 Jersey as a starter.

4 There are quite a few transatlantic  
5 telephone cables that start in New Jersey. They are  
6 buried. But at some point, you got to cross these.

7 Are you going to go above them? below them? How do  
8 you intend to deal with them?

9 KRIS OHLETH: Well, there are  
10 industry standards that have been established for  
11 cable crossing agreements, and we would plan to  
12 conform with all of those. We have already started  
13 conversations with those folks who run the cables.  
14 Fortunately, Bill actually lives a couple miles from  
15 those cables and was instrumental in participating  
16 in a lot of those projects.

17 So we are familiar with how we would  
18 perform a cable crossing agreement and then  
19 negotiate exactly technically how that would happen.

20 But it's certainly not unheard of to have two  
21 cables crossing.

22 COUNCIL CHAIRMAN RICHARD ROBINS:  
23 Peter deFur.

24 PETER deFUR: Thank you, Mr.

1 Chairman. I guess there are two things. Number one  
2 is a more complicated question that related to  
3 Erling's, and the other one was you said you  
4 anticipated that the project is building the network  
5 as described here on this slide. Right?

6 KRIS OHLETH: Sorry?

7 PETER deFUR: You described the  
8 project as building the network as described here --

9 KRIS OHLETH: Exactly. In phases.

10 PETER deFUR: -- which is a major  
11 parallel to the coast trunk line with several  
12 connectors to land. Right? It would occur to me  
13 that we should think more broadly that somewhere  
14 along the line someone's going to think about a  
15 broader connection, too, that maybe that network  
16 might be extended both northward and southward.

17 CHRIS OHLETH: Exactly.

18 PETER deFUR: So that would be the  
19 first one. And then the second one. I'm glad Kevin  
20 came back to the room because those of us who have  
21 been out in coastal waters also recognize that there  
22 are certain features that are now subject to  
23 Homeland Security's attention.

24 But I can't imagine that both

1 communication lines and major power grids wouldn't  
2 fall under that jurisdiction. But some of us still  
3 remember when New York had the lights turned off  
4 more than once. That's an issue.

5 So where does that fall both within  
6 Homeland Security from your perspective as well as  
7 maybe has the Coast Guard had that conversation?

8 KRIS OHLETH: Kevin. Does Kevin want  
9 to say anything? Oh, are you Kevin?

10 KEVIN SAUNDERS: Thank you. We've  
11 had talks about this, and typically in the past, the  
12 Coast Guard might have responsibility, but there  
13 might be a requirement for whoever's setting up the  
14 project to provide their own security, and then if  
15 there's an enforcement issue, that the Coast Guard  
16 might take that up.

17 I don't think we've reached any final  
18 resolution what capacity we're going to have with  
19 any sort of offshore wind facility, but there  
20 absolutely is a recognized potential for Homeland  
21 Security issue that is going to be addressed on one  
22 or many different levels. So that's as firm an  
23 answer as I can give you right now. Thank you.

24 KRIS OHLETH: Thank you, Kevin.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Erling.

3 ERLING BERG: Have you reached any  
4 agreements with the people that are building these  
5 offshore sites to carry their power to shore? I  
6 would assume that some of them say, well, we don't  
7 need you; we're going to do our own.

8 I'm not trying to get into your  
9 business, but I'm curious to see if you have some  
10 agreement before you go ahead with this. It's going  
11 to be an expensive process. It's not going to be  
12 cheap, so.

13 KRIS OHLETH: Absolutely. The  
14 network we're connecting to -- and I don't want to  
15 get too far into the technical weeds -- it's called  
16 the PJM grid, and that stands for Pennsylvania,  
17 Jersey, Maryland, one of the first grid systems in  
18 the United States now encompasses 13 states and the  
19 Washington D.C. area. It's the largest grid after  
20 China. So it's a huge system. Our system would  
21 integrate and be part of the PJM network. And what  
22 we have been doing and actually tomorrow have, in  
23 fact, another meeting where we go with the wind farm  
24 developers to PJM to figure out technically because

1 all of this is novel how we will best integrate with  
2 the wind farm developers technically, financially,  
3 and how that will all work.

4 From the models that we've produced,  
5 and we're in close contact with all the offshore  
6 wind developers is showing substantial cost savings,  
7 10 to 15 percent, for capital costs for offshore  
8 wind developers.

9 So, at first I would say, yeah, they  
10 were a little hesitant. They said, oh -- you know,  
11 what is all this brand-new super grid technology?  
12 But just talking to their financial folks for 10  
13 minutes, it was pretty clear.

14 They said, wait, we don't need to run  
15 our own 20 miles of cable to shore. That's a huge  
16 cost savings. We don't need to get any state  
17 permits? We just need to plug and play into this  
18 federal system? We love that.

19 So the wind farm developers have by  
20 and large been very supportive of our system. And  
21 we need them. They're our customers. So we've been  
22 very close with them.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Red.



1                   RED MUNDEN: Thank you, Mr. Chairman.

2                   How many platforms occur like proposed for the  
3 Mid-Atlantic?

4                   KRIS OHLETH: Right now we have  
5 proposed to BOEM, the Bureau of Ocean Energy  
6 Management, to have seven platforms.

7                   RED MUNDEN: And would each of those  
8 platforms have three transmission lines connecting  
9 to shore that you had in your first slide, in one of  
10 your first slides?

11                   KRIS OHLETH: That bundled cable.  
12 It's a single cable in a bundle with three  
13 components. Yes.

14                   COUNCIL CHAIRMAN RICHARD ROBINS:  
15 Okay, Kris.

16                   KRIS OHLETH: All right. I'm going  
17 to forge on to the next slide. So, speaking of the  
18 BOEM, that's the Bureau of Ocean Energy Management.  
19 They're the folks within the Department of Interior  
20 who are processing our application to get a grant  
21 for the submerged lands offshore. So they're the  
22 folks who have the authority and jurisdiction over  
23 the submerged lands and can give us the right to lay  
24 that cable.

1                   What we're asking for is a right of  
2                   way that's 200 feet wide and that will cover about  
3                   300 blocks on the outer continental shelf. Those  
4                   are three-by-three nautical mile blocks. I'm not  
5                   sure how familiar folks are with this grid, but BOEM  
6                   has created a grid by which to do their leasing  
7                   process. So, back in March, we submitted an  
8                   application to BOEM to ask them to see if there was  
9                   any competition for this area and to consider us for  
10                  a grant application.

11                  Right now they're still reviewing our  
12                  application. And something that we wanted to let  
13                  you know about to keep it on your radar was that  
14                  there will be a Federal Register notice coming out  
15                  we hope -- you know, within the next weeks, maybe  
16                  the next couple months asking for comments on our  
17                  proposed project.

18                  Not only are BOEM looking for  
19                  comments to see if there's competition, but just  
20                  general comments about what things we should all be  
21                  considering, essentially almost a first step in a  
22                  scoping process.

23                  So I would encourage you folks to be  
24                  looking out for that Federal Register notice, and I

1 will be happy to send it to Tom, and he could maybe  
2 distribute it to you guys, whatever networks you  
3 have, to make sure that you're aware that that  
4 notice has come out and the comment period has  
5 started. So we expect to see that in the next month  
6 or so.

7 All right. I can barely see that  
8 slide. It's a beautiful room, but the glare is  
9 really special. All right. So what we did was go  
10 through a siting analysis. And I know these are  
11 maybe three dirty words with you guys, but we went  
12 through essentially a marine spacial planning  
13 exercise. We looked at all the currently available  
14 data in the public domain and said, okay -- you  
15 know, where are there already cables, where are  
16 there fish havens or essential fish habitat and  
17 marine protected areas and whatever might be  
18 happening off the coast of the  
19 Mid-Atlantic and most importantly where will the  
20 wind farms be, where has DOI said the wind farms  
21 should be so that we could figure out where to site  
22 our cable.

23 So we kind of did in parallel with  
24 the Department of Interior this smart-from-the-start

1 initiative, came up with essentially the same areas  
2 that work for offshore wind so that we would know  
3 where we should be putting our platforms and cables  
4 with respect to the uses that are already going on  
5 out on the outer continental shelf.

6 So I could go into a lot of detail  
7 about the siting analysis. We went through  
8 essentially a two tiered approach, first looking at  
9 all the real firm constraints that were a really go  
10 or no go; and the second level of the tier was to  
11 look at things that were more subjective like, well,  
12 the further offshore the wind farms will be the less  
13 people will see them, so then chances are the wind  
14 farm will actually get built. So those were more of  
15 the subjective criteria. We are drilling down to a  
16 Tier 3 level of siting where we will microsite the  
17 cable based on geotechnical and geophysical  
18 information we'll receive in a survey we're doing  
19 early next year.

20 Any questions on the siting analysis?

21 I can provide further slides and the data we've  
22 used. All of these information are public in our  
23 application to BOEM as well. Yes.

24 HOWARD KING: Yes. Thank you. I

1 don't know if this is the time for this question,  
2 but at what depth would that bundled cable be  
3 submerged, and is there any sensitivity to  
4 electromagnetic environments?

5 KRIS OHLETH: Fields. Yeah. So we  
6 plan to bury the cable three to six feet below the  
7 sea bed, which is an industry standard, as I've come  
8 to understand from my colleague here, Bill.

9 And the issue with EMS will be  
10 modeled. It will be part of our environmental  
11 review with the Bureau of Ocean Energy Management.  
12 We're not sure exactly what type of cable we'd be  
13 using.

14 Regardless, it will be armored and  
15 buried, and the type of cable we use, as I said,  
16 will be modeled to see -- you know, what type of  
17 electromagnetic fields would be emitted from the  
18 cable. A recent study came out from BOEM again  
19 somewhat inconclusive on what the impacts might be  
20 to elasmobranch species, which I understand are most  
21 sensitive and then some of the critters that are  
22 making contact with the sea floor. So, again, I  
23 just want to stress that we will be looking at that  
24 issue very closely and think that having just five

1 of these cables will be a much better solution than  
2 having several dozen if there are, in fact, impacts  
3 from the EMF.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Kris, you said you went through a marine spacial  
6 planning exercise early on in the process. What  
7 sort of fisheries inputs did you have in that  
8 process in terms of what sort of data analysis or  
9 consultations went into those considerations?

10 KRIS OHLETH: We struggled with  
11 finding publicly available information with respect  
12 to fishing; however, we did collect the data that  
13 was available through the Nature Conservancy's  
14 process of collecting human use data, that included  
15 both commercial and recreational fishing that was  
16 anonymized. That came from NMFS.

17 COUNCIL CHAIRMAN RICHARD ROBINS: So  
18 is that the data portal that they've been developing  
19 with MARCO?

20 KRIS OHLETH: Exactly.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Okay. Thanks. Other questions? Kris.

23 KRIS OHLETH: Thank you. So,  
24 stepping back a second to think about the big

1 picture, why we think this project kind of -- you  
2 know, makes sense on a national scale for our  
3 national energy independence and our national energy  
4 goals. This is an illustration that shows where the  
5 winds blow strongest in the United States including  
6 the offshore areas.

7 As you can see, there's a big windy  
8 belt right in the center of the country. That's  
9 kind of the T boon pickings proposal back in the day  
10 that put wind farms all the way up the center of the  
11 country.

12 And then there are very strong winds  
13 off the coast, as you can see, off the Mid-Atlantic  
14 area as well as off the Pacific coast and in the  
15 Great Lakes Regions.

16 So, when you transpose this map with  
17 the map of the transmission that crosses the  
18 country, this is kind of what puts it together for  
19 us. It's extremely difficult to get all that wind  
20 energy out to where the population centers are,  
21 which our area, the Mid-Atlantic, being one of the  
22 largest in the nation.

23 So what we can do is we can build  
24 offshore wind farms off our coast; we can harness

1       that energy locally; we can create jobs and an  
2       industry in our sector of the country; or we can  
3       build wind in that midwestern portion of the country  
4       and build transmission lines and deliver that power  
5       out to us. We think harnessing that local resource,  
6       which is actually a more robust resource to begin  
7       with -- as you can see it's in red, as opposed to  
8       orange there on the map -- makes a lot of sense, and  
9       it makes a lot of sense to help drive the economy in  
10      our areas, which there are many of the states where  
11      we're proposing our project -- Delaware, Maryland,  
12      New Jersey -- are all clamoring for jobs, and they  
13      have really great port access facilities that can be  
14      outfitted to manufacture cables, manufacture  
15      turbines, and put people working in our area, as  
16      opposed to exporting those jobs out to the Mid-  
17      Atlantic.

18                       Right now we don't even have a  
19      submarine cable facility, manufacturing facility, in  
20      our nation that could build the cable we need for  
21      our project. So we need water access for our  
22      project. We can bring those jobs to where they're  
23      needed in our Mid-Atlantic states. And this is kind  
24      of the message we're shopping around Washington, why



1 we have a large degree of political support, because  
2 we think we can build a new industry, a brand-new  
3 industry for the United States here before we  
4 continue to ship more of those manufacturing jobs  
5 overseas. When we talked about why the wind farms  
6 are interested in connecting to our system, one of  
7 the primary reasons is that the grid off the coast  
8 of the Mid-Atlantic region is not very robust. Many  
9 of the places where offshore wind farms would want  
10 to connect because it makes sense from an offshore  
11 perspective doesn't make sense for terrestrial  
12 perspective because there aren't the upgrades  
13 associated with all the electrical facilities  
14 onshore would be cost prohibitive.

15 So what we can do is take all those -  
16 - you know, wind farms offshore, collect the power,  
17 and deliver it to the strongest point on the grid so  
18 they can put their wind farms where they may, put  
19 them further offshore, put them in places that are  
20 environmentally responsible, and then use our cable  
21 to deliver the power.

22 So we think -- you know, I mean  
23 before I came to the Atlantic Wind Connection, I  
24 worked for two different offshore wind farm

1 developers, and I always thought to myself why are  
2 we developing cables?

3 I mean it was always kind of the last  
4 thought was, okay, we need to erect a wind farm, and  
5 then at the end, oh yeah, we need to put a cable out  
6 there, too.

7 And the transmission of that power is  
8 -- I mean think about it. It could be the weakest  
9 link in the whole project so critical to the success  
10 and also very important when you're thinking about  
11 the environmental impacts. So for me it really made  
12 sense to kind of divorce the two sides, to have wind  
13 farm developers developing their projects and for us  
14 to enable that power to move ashore.

15 Again, touching on the job creations,  
16 we know that -- well, we really hope these offshore  
17 wind farms are coming. I mean it seems like  
18 momentum is building. We're very excited about the  
19 way the industry is going, and we hope to be there  
20 to deliver their power.

21 But recent studies by the DOE show  
22 that if the type of power, 54 gigawatts of offshore  
23 wind is fully developed to scale and we're talking  
24 about huge amounts of jobs, a brand-new industry for

1       our nation, and we can help facilitate that type of  
2       job creation.

3               I can't specifically read all the  
4       things on this slide, and I don't want you to  
5       either, but I do remember when I wrote this slide it  
6       was about the benefits for fishing and the benefits  
7       for the environment of our project versus those  
8       radial connections.

9               If we accept the premise that  
10       offshore wind is coming, which is a completely  
11       different conversation, to be honest; but if we  
12       accept that premise, then we feel we have a much  
13       more ideal solution for delivering that power for  
14       fishing, for fisheries, for the environment, and for  
15       the rate payers. One of the controversial things  
16       about offshore wind was the cost. Our project can  
17       bring the cost down in the way I described with  
18       reducing the capital cost for offshore wind  
19       developers, and we think we can help see those wind  
20       farms actually developed.

21               We think we can work together, which  
22       is something we're interested in, and I think when  
23       our president, Markian, came to talk to you last  
24       year, he -- you know, may have mentioned some of

1       these ideas.

2                       Now that we're really drilling down  
3       into more specifics of micrositings and the  
4       development -- you know, does it make sense to have  
5       some type of workshop like happened in New Bedford?

6                       I don't know if you remember a few  
7       months ago when Maureen Burnholt was there and folks  
8       talked about what their needs were with respect to  
9       transmission.

10                      Fishermen talked about, okay -- you  
11       know, this does not work for us, this does work for  
12       us, getting down further in the weeds. I mean this  
13       is kind of a big group to do that. So does having  
14       some type of workshop make sense to work together  
15       and just helping us further understand what the  
16       fishing community's concerns are with respect to our  
17       project and how something I think I forgot to  
18       mention is that essentially our project is driving  
19       where and to some degree where offshore wind farms  
20       will be. So how can we work together to get the  
21       wind farms in a better place if they're going to be  
22       there at all.

23                      So to conclude the presentation  
24       portion, though, I'm happy to take questions, Bill

1 and I both, just to reiterate, we are a project that  
2 will connect about 350 miles of the offshore area  
3 with offshore wind farms with a DC cable system.

4 We can connect those wind farms to  
5 shore in a more environmentally friendly way and a  
6 more efficient way. And I absolutely cannot even  
7 remember what that third bullet is, and I can't read  
8 it. But it was a really great point, so I hope you  
9 take a look at what it is.

10 And that's me. I'm Kris. This is  
11 Bill. You have the slides. There's our contact  
12 information. I'm going to be in touch with Tom to  
13 follow up to see -- you know, what makes sense for  
14 next steps for us.

15 I think I originally envisioned a  
16 kind of smaller group, a working group. Can we take  
17 that to the next level for folks who are interested  
18 in engaging with us about this concept?

19 I do think we have very strong  
20 project sponsorship. I mean Google is nice. But I  
21 think this project's going to happen. This type of  
22 project will happen. If not ours, it will happen so  
23 that it benefits you folks to be engaged with  
24 transmission developers. There's a -- you know, is

1 proposing a transmission system in New England.  
2 Deep Water Wind is also proposing cables up off the  
3 coast of Rhode Island. So what's the best way to  
4 engage with respect to this component of offshore  
5 infrastructure. Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thank you, Kris, for the presentation. I just  
8 wanted to ask: With the data that you got from the  
9 Nature Conservancy and their maps and information in  
10 their data portal, is that something that you're  
11 able to use to avoid sensitive fisheries habitat?

12 In other words, to the extent that  
13 those are mapped out in that data set, have you been  
14 able to consider those in actually routing the  
15 proposed transmission cables?

16 KRIS OHLETH: Well, absolutely. And  
17 I'm happy to forward the series of different tiering  
18 maps we used. We kind of laid them like pancakes on  
19 top of each other and looked at where all the  
20 different interactions were.

21 And when you're looking at a more --  
22 I mean we showed a figure of the cable, but it's not  
23 obvious from that scale. But when you look at a  
24 more detailed scale's image, you can see how -- you

1 know, there are different points where the cable  
2 will make what looks like an unusual turn because  
3 we're trying to avoid a certain habitat that was  
4 designated on one of the data sets, for example. So  
5 I'm happy to share that information if that's  
6 useful. I mean you folks know better than I do  
7 where those areas are. These are just data that we  
8 got from NMFS through TNC.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you very much. Other questions for Kris?  
11 Warren.

12 WARREN ELLIOTT: Thank you, Mr.  
13 Chairman. I'm just curious. Putting the fiber  
14 optics in the center of the cable in the  
15 transmission line is that new technology, and are  
16 the reason you're doing that just another  
17 opportunity since you're already running a cable run  
18 that as well, or?

19 KRIS OHLETH: Oh, I see. I should  
20 have been more clear. So the fiber optics would be  
21 just for our kind of, yeah, our connection with the  
22 system so that we could understand what was going on  
23 on the platforms and coming back and forth. So it  
24 wouldn't be like a commercial fiber optic cable.

1       It's just for the system operation.

2                   COUNCIL CHAIRMAN RICHARD ROBINS:

3       Steve.

4                   STEVEN SCHAFER:   Thank you, Mr.  
5       Chairman.   Kris, on Slide 6 the right of way  
6       application submitted to BOEM, your siting analysis,  
7       so is this an application that's already been  
8       submitted to BOEM?

9                   KRIS OHLETH:   Yes, it has been.   And  
10      I'm happy to elaborate a bit on the process.   We  
11      submitted the application, which is a right of way  
12      application to BOEM back in March.   So that's the  
13      first step in a grant application.

14                   There are actually three steps.   The  
15      first is a right of way application that we  
16      submitted in March.   The second is the general  
17      activities plan.   We plan to submit that by the end  
18      of next year, and that starts our official  
19      environmental review.

20                   And because the grant would be issued  
21      from that process, it triggers NEPA, so our EIS  
22      process would start next year with that general  
23      activities plan.

24                   And then our final plan that we



1 submit to BOEM is called the facility design report,  
2 the FDR. And that really drills down into more than  
3 just conceptually but exactly what we'll be  
4 constructing and all the exact details of the  
5 project. So it's a three step, three stages.

6 STEVEN SCHAFER: And once again, you  
7 have a timeline that's based on 2015 or 16?

8 KRIS OHLETH: For construction. So  
9 we would start building 2015 to start servicing wind  
10 farms in 2016/2017.

11 STEVEN SCHAFER: It's my feeling that  
12 you're siting analysis may be based on a narrow  
13 selection of data in that there's a significant  
14 amount of data still to be introduced into the  
15 portal from our region, and this was covered at our  
16 recent Ecosystems and Ocean Planning Committee  
17 meeting. Is this siting analysis amendable?

18 KRIS OHLETH: Absolutely. I mean  
19 this is an iterative process. What we expect to  
20 hear back from stakeholders and from BOEM is this  
21 lease block is not going to work; you need to move  
22 it to another lease block; you need to put your  
23 platform here; the cable needs to go around this.  
24 That is exactly what -- you know, the whole scoping

1 process will be.

2 We've made an attempt to give it the  
3 best college try, but certainly it's with  
4 stakeholder input that we will come up with a final  
5 configuration.

6 STEVEN SCHAFFER: And the final it's  
7 just a comment. Maybe it's not relevant to you, but  
8 it just seems to be an instance where CMSP is coming  
9 into play and we don't even have a regional planning  
10 body.

11 KRIS OHLETH: Yet.

12 STEVEN SCHAFFER: Right.

13 COUNCIL CHAIRMAN RICHARD ROBINS:  
14 Pat, when this process goes through scoping, at what  
15 point would the regional office have some  
16 interaction with BOEM on this question? In other  
17 words, would there be a task force involvement by  
18 the regional agency early on?

19 PATRICIA KURKUL: I suspect there  
20 would be task force involvement, but I'm not really  
21 sure. Chris is nodding yes in the audience, though,  
22 Chris Boelke, who is one of our task force members.

23 So it would be through the BOEM  
24 discussions and then, of course, as they get further

3 KRIS OHLETH: Back in June, Frank who  
4 is our liaison at BOEM hosted a series of  
5 teleconferences and webinars that enabled folks on  
6 the task force -- and Chris, maybe you were involved  
7 in that -- to look at the proposed Federal Register  
8 notice for the right of way application and gave  
9 kind of a 101 on our project. So we have been  
10 introduced by a task force to task force members in  
11 all the Mid-Atlantic states so far.

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 Thank you, Kris. Other questions for Kris? Dave.

14 DAVID MIKE: Kris, looking out into  
15 the future at some point when this technology  
16 becomes no longer usable or obsolete, has there been  
17 consideration to setting funds aside for  
18 decommissioning or removal of the infrastructure?

19 KRIS OHLETH: You know, I'm not  
20 completely familiar with the industry protocol for  
21 what happens when a cable goes barren. There  
22 certainly are quite a few on the sea floor. Bill,  
23 did you want to elaborate on that?

24 BILL WALL: There is a bonding system

1 where a developer has to put a bond at the beginning  
2 of the project, and then you're right, in 30 years  
3 or whatever the life of the project is, there will  
4 be a decommissioning process. And that's the same  
5 for oil and gas structures and for wind turbine  
6 foundations also.

7 KRIS OHLETH: Now, are there some  
8 telecommunications cables, for example, that are  
9 still on the sea floor that are no longer being  
10 used?

11 BILL WALL: There are some. Some of  
12 the areas have some of the states. For instance,  
13 New Jersey DEP, which I've worked with a lot in the  
14 past, has certain rules about recovering cables.

15 I think from a fisheries cable  
16 interaction process on the shelf, it will be in both  
17 our best interest if definitely buried and make sure  
18 they're kept buried for the whole life of the cable  
19 system. And from what I've seen in the past,  
20 burying cables off the Mid-Atlantic mainly telecom  
21 cables three to six feet burial should not interact  
22 with any of the fishing processes currently going  
23 on.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Erling.

2 ERLING BERG: Thank you, Mr.  
3 Chairman. The newer cables are buried. You're  
4 right about that. The older ones are not. And I  
5 have had encounters with a lot of them, and they're  
6 not easy to get off the ocean floor, and nobody's  
7 taking responsibility for these cables, so they're  
8 just going to lay there forever.

9 But all the newer cables are buried.  
10 There's a sled that they use to tow behind the  
11 ship, and it buries them.

12 KRIS OHLETH: And I mean if -- I'm  
13 sorry. Is there a protocol for being called on?

14 COUNCIL CHAIRMAN RICHARD ROBINS: Go  
15 ahead, Kris.

16 KRIS OHLETH: I'm sorry. I'm  
17 breaking rank. I would be curious to hear more from  
18 you folks on what your experience is as fishermen  
19 with cables and what -- you know, what you're  
20 thinking right now.

21 I mean I've been doing all the  
22 talking, and I can't even see any of you. So I  
23 would love to hear if you're just like, I'm full of  
24 crap, or, wow, this is cool 'cause my grand kids are

1 going to have clean power. I mean I'd just love to  
2 hear more about your perspective. I mean are we  
3 passing a laugh test here? I mean let us have it.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Erling.

6 ERLING BERG: Well, I think my  
7 background is commercial fishing. I spent 35 years  
8 doing that, so. But, yeah, you would have to bury  
9 the cable. There's a lot of traffic, nets, scallop  
10 dredges, clam dredges which go into the sea bed.  
11 So, if you leave them on top, that's going to be a  
12 lot of interactions and especially with the amount  
13 of electricity that's going through these cables.

14 KRIS OHLETH: Right.

15 ERLING BERG: So, yeah, definitely  
16 you would have to bury them. But I'm still  
17 concerned about how you're going to cross the  
18 transatlantic telephone cables because they are very  
19 real. I think they're fiber optic. From time to  
20 time they do break. Very expensive to fix is my  
21 understanding.

22 Like I said, the old cables there's  
23 an awful lot of them. If you look at an old chart  
24 for the Mid-Atlantic, you're going to see all the

1 little jiggly lines. Those are all cables. Some  
2 are very heavy. If you happen to snag them, you got  
3 a problem.

4 KRIS OHLETH: Right.

5 ERLING BERG: But, yes, you do need  
6 to bury them. Then I had a question, if you don't  
7 mind. I think that you said, and maybe I didn't  
8 hear it right, that the cable is not available in  
9 this country. There's no manufacturers here to make  
10 this cable. Where would you get this cable from  
11 then? Are there people in the foreign lands that  
12 are making these?

13 KRIS OHLETH: That's right. Yes.  
14 Submarine cables they're made in Europe, in Asia,  
15 but none in the United States.

16 ERLING BERG: I think the Danes they  
17 have offshore windmills.

18 KRIS OHLETH: They have offshore  
19 wind, but with respect to just the submarine cable  
20 component -- Bill, you want to --

21 BILL WALL: Yeah. Basically, the  
22 industry has five large manufacturers in the world.  
23 Three are based in Europe, two in Scandinavia, one  
24 in Italy, and then two in Japan. They are the major

1 manufacturers of this type of cable HVDC.

2 And what we're trying to do is build  
3 an industry in the Mid-Atlantic where we could  
4 attract one of these manufacturers with the amount  
5 of cable in our project to put a plant in the Mid-  
6 Atlantic somewhere.

7 ERLING BERG: Yeah. I thought I saw  
8 you had 315 miles. That's a lot of cable at that  
9 gauge, pretty heavy cable.

10 KRIS OHLETH: And it's a double  
11 circuit cable.

12 BILL WALL: It's a double circuit, so  
13 it's 700 miles of cable. And that particular type  
14 of cable is not made at every factory. I mean it's  
15 quite limited. So we would take up a lot of  
16 existing factory capacity. So we've got quite a  
17 strong case to persuade a manufacturer to come and  
18 relocate a plant in the Mid-Atlantic.

19 ERLING BERG: Now, do you have a ship  
20 to do this? I mean the telephone company they have  
21 theirs.

22 BILL WALL: We would have to acquire  
23 contractors. And that is another item that we could  
24 get built in the Mid-Atlantic because the type of



1 vessels we need there are only basically eight or  
2 nine in the world to carry the amount of cable we  
3 need to carry to do it cost effectively.

4 We need to carry approximately 140  
5 kilometers. Unfortunately, because the cable  
6 industry is mainly manufactured overseas, it's done  
7 in kilometers instead of miles and feet.

8 KRIS OHLETH: And you're British.

9 BILL WALL: And I'm English. But we  
10 need to carry for each leg between 140 and 150  
11 kilometers of cable. That's just under a hundred  
12 miles of cable. And there's only at the moment  
13 about eight vessels in the world that have the  
14 capacity to carry and lay that type of cable length.

15 So it could be vessels. It could be the burial  
16 tools that we will need to bury it could be built  
17 here in the U.S. So we are really trying to push a  
18 local, supply-chain industry in the Mid-Atlantic.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Peter deFUR.

21 PETER deFUR: Thank you, Mr.

22 Chairman. It sounds like the Committee, the  
23 Ecosystem and Habitat Committee, needs to coordinate  
24 closely and work with staff and NMFS over how this

1 project is going to go forward to make sure that  
2 we've got both essential fish habitat for commercial  
3 and recreational purposes as well as its protected  
4 area is covered.

5 And so what I suggest is what we'll  
6 do is work with Tom, and we'll see about some  
7 interested parties and get a schedule coordinated  
8 and see when information is going to be out because  
9 as we predicted, there's a lot of interest around  
10 the Council on this.

11 And then I'll just make the note that  
12 maybe John from the Antitrust Division wasn't  
13 listening about only five companies in the world  
14 manufacturing. I wonder if they have a 40 percent  
15 rule for that?

16 COUNCIL CHAIRMAN RICHARD ROBINS: All  
17 right, Peter. I think our biggest concern has been  
18 with the siting of these projects to ensure that  
19 they're appropriately sited and also that fisheries  
20 considerations with respect to habitat, fisheries  
21 resources and fisheries uses are considered fully  
22 and early in the process.

23 So I think Peter's right. The  
24 committee can play a constructive role, I think, as

1 the scoping process moves forward in terms of making  
2 sure that we have a detailed understanding of what's  
3 proposed at the siting.

4 Also I think the Council can play a  
5 positive role in terms of helping to get the word  
6 out to the fisheries interest about the proposed  
7 project. And so hopefully we can play a positive  
8 role there from a communications standpoint. Any  
9 other questions for Kris? Jim.

10 JAMES FLETCHER: James Fletcher, the  
11 United National Fishermen's Association. I've  
12 listened with interest, and I heard you dance around  
13 the electromagnetic field question that was asked by  
14 a council member.

15 But since the majority of eels and  
16 the majority of larval fish migrate and move from  
17 offshore to inshore using electromagnetic navigation  
18 the best our science can figure out, if these have  
19 any leakage at all, it will effect the larval  
20 migration of fish. So first question is: What do  
21 you propose to do to study it before you build it?  
22 And then the second question is: As a fisherman I  
23 have used the transatlantic cables to fish up and  
24 down it for scallops knowing that the

1       electromagnetics are collecting the animals there,  
2       so how do you propose to address your cables  
3       becoming basically magnets for certain types of  
4       marine life?

5                       And once it happens it's too late.  
6       So my question to you is two faced; (1) What about  
7       the electromagnetic's affect on (inaudible) and (2)  
8       How do you propose to rectify if there becomes a  
9       problem of the species attracting around cables?

10                      KRIS OHLETH: Thank you, Mr.  
11       Fletcher. Well, we have -- I didn't mean to dance  
12       around the question if I did the first time. But,  
13       essentially, we have looked at all the literature;  
14       we've looked at all the studies and haven't been  
15       able to see that there is a correlation between or a  
16       negative effect on cables to marine organisms.

17                      And every single piece of information  
18       we have backs that up including all of the DOI  
19       research that was recently published. This will all  
20       go through our environmental review process. And, I  
21       mean, that's what we're basing our judgement on.  
22       Can you share with me -- you know, some type of  
23       documentation that would show that this is, in fact,  
24       a phenomenon?

1 JAMES FLETCHER: I would encourage  
2 you. Apparently, you have not read the U.S. Navy  
3 ran an inference project, offshore electromagnetics  
4 on high frequency ships and their repellant.  
5 Written in small phrases in that is what is does to  
6 the larval of a number of species of fish.

7 So I would encourage you to get U.S.  
8 Navy's two books Inference Program.

9 KRIS OHLETH: But these weren't  
10 buried submarine armored cables. Correct?

11 JAMES FLETCHER: They weren't buried,  
12 but they're effects of any electromagnetics. But  
13 I'm not here to discuss it. I want to bring it up  
14 to the Council. The Council is supposed to be  
15 protecting the marine resources, and I don't hear  
16 them asking the questions.

17 I don't see science here from the  
18 Center asking questions. And even the lab at  
19 Milford, Connecticut knows the effects of  
20 electromagnetics on scallop larval, but they will  
21 not publish it.

22 COUNCIL CHAIRMAN RICHARD ROBINS:  
23 Jim.

24 JAMES FLETCHER: But anyhow.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Jim, if you have any reports that you want to make  
3 available to the developer and/or to the Council in  
4 the future, please do that. I would look forward to  
5 further discussion and input as we go through the  
6 scoping process and have some more dialogue at the  
7 committee level. Frank, do you have a comment?  
8 Okay. Any further questions? Okay. Seeing none,  
9 Kris, thanks again for the presentation.

10 We're going to go ahead and take a  
11 10-minute break and come back. And at that point,  
12 we have another presentation from the Habitat  
13 Division. Thank you.

14 [Break: 3:29 p.m. to 3:47 p.m.]

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Let's go ahead and come back to our seats so we can  
17 get started, please. Chris Boelke and Lou Chiarella  
18 both from the Regional Office Habitat Division. And  
19 I'll go ahead and welcome Chris. If you want to get  
20 started. Thank you.

21 \_\_\_\_\_  
22 PRESENTATION FROM REGIONAL OFFICE HABITAT DIVISION

23 CHRIS BOELKE: Thank you. Again, my  
24 name is Chris Boelke. I'm with the Fisheries

1 Service, the Habitat Conservation Division in  
2 Gloucester. And what I'd like to talk a little bit  
3 about today is provide a brief overview of the  
4 Habitat Conservation Division, some of the  
5 nonfishing activities as well as some coordination  
6 with the Mid-Atlantic Fisheries Management Council.

7 So for this presentation what I mean by nonfishing  
8 activities, we're talking about those coastal and  
9 ocean alteration projects that are not related  
10 directly to commercial fishing or recreational  
11 fishing activities. So overview of this  
12 presentation. What I'd like to do is provide an  
13 update on the Bureau of Ocean Energy Management and  
14 Renewable Energy task forces because that seems like  
15 the -- well, that is the primary issue that's going  
16 on in federal waters right now as far as coastal  
17 development.

18 Then I'd like to provide some  
19 examples of other activities and other nonfishing  
20 consultations that the Habitat Conservation  
21 Division's involved with. And then I'd like to talk  
22 a little bit about potential coordination and  
23 notification process with the Council as well as the  
24 Ecosystems and Ocean Planning Committee.

1                   So to start out, just to make sure  
2                   everyone's on the same page here, the Bureau of  
3                   Ocean Energy Management federal state task forces  
4                   they've been established in eight states in the  
5                   Northeast, Maine through Virginia.

6                   There is one established for North  
7                   Carolina; however, I'm not going to talk about that  
8                   because the NMFS southeast office sits on that task  
9                   force.

10                  The BOEM federal task forces are made  
11                  up of federal, state, local and regional  
12                  governments. They focus at this point on renewable  
13                  energy in federal waters, and task forces serve as  
14                  advisory to the Bureau of Ocean Energy Management.  
15                  And the Fishery Service is a member of all federal  
16                  state task forces. We have a representative from  
17                  the Habitat Conservation Division as well as our  
18                  Protected Resources Division.

19                  Just for clarification, with the  
20                  Bureau of Ocean Energy Management, these federal  
21                  state task forces are not related to the Mid-  
22                  Atlantic Regional Council on the ocean, and they're  
23                  not related to any regional planning bodies that may  
24                  be set up under the National Ocean Policy.



1                   So for the Bureau of Ocean Energy  
2 Management task force updates, I'd like to run  
3 through these. But basically, to date the primary  
4 thing that has occurred with some exceptions has  
5 occurred through these task forces is that the  
6 individual state and the Bureau of Ocean Energy  
7 Management have formed a task force.

8                   They have identified areas in the ocean  
9 that they would like to put out for call for  
10 information or request for interests. And those are  
11 -- requests for interest and call for information  
12 that is asking potential developers as well as  
13 affected parties for interest in lease areas as well  
14 as potential environmental and use data that could  
15 be used to help inform that process. So basically,  
16 for the main task force, the most recent task force  
17 meeting was last week, December 8th. At this point,  
18 there has been no area identified by the state and  
19 BOEM; however, they have received an unsolicited  
20 request for a deep-water, offshore wind pilot  
21 project that's going to be in 460 to 520 feet of  
22 water, and it's about 12 nautical miles offshore of  
23 Portland.

24                   For Massachusetts the most recent

1 task force call was in October of 2011. What has  
2 happened so far with Massachusetts is that BOEM has  
3 issued a draft call for information, and that was  
4 based on a revised request for interest of which the  
5 Mid-Atlantic Council, the New England Council, and  
6 NMFS all provided information to that processes.

7 The draft call for information that's  
8 an informal, internal task force process right now.

9 We provided comments on integration with the data  
10 portals, some issue on climate change and ships and  
11 fisheries and fish habitats, cable corridors  
12 somewhat similar to what Kris talked about earlier  
13 as well as coordinated fishery studies.

14 For the Rhode Island task force, the  
15 most recent meeting -- Rhode Island started its  
16 individual task force, but now moving forward, the  
17 task force is actually a Rhode Island and  
18 Massachusetts task force combined looking at  
19 something called the area of mutual interest  
20 offshore of both states. The task force meeting  
21 most recent was in June of 2011. BOEM has issued a  
22 call for information as well as a notice of intent  
23 for site assessment activities, and that happened in  
24 August of 2011, and Fishery Service provided

1        comments on all of those.

2                For New York the most recent task  
3        force meeting was in November of 2010. To date the  
4        state and BOEM have not identified an area, a  
5        specific area, for interest; however, in early 2012  
6        there will be some discussion at the next task force  
7        meeting the New York City Offshore Wind  
8        Collaborative Project, something it's being  
9        developed with Long Island Power Authority, Con Ed,  
10       and I'm not sure of the third entity. But that's  
11       being proposed 13 miles off the Rockaway Peninsula.

12               For New Jersey, the most recent task  
13       force meeting was in November of 2010, where BOEM  
14       issued a call for information and solicited  
15       responses in April of 2011.

16               One thing that's interesting about  
17       the New Jersey and Delaware task forces is that when  
18       BOEM was making their final regulation in process  
19       for review, they issued four interim policy leases,  
20       three in New Jersey and one in Delaware.

21               So, for the three interim policy  
22       leases in New Jersey, those were issued in November  
23       of 2009, and they go for a five-year term. In  
24       Delaware the most recent task force meeting was in

1 July of 2010, and the one interim policy lease that  
2 went to Deep Water Wind in Delaware. So, based on  
3 that, the Bureau of Ocean Energy Management issued a  
4 request for competitive interest to determine  
5 whether or not which process that BOEM would go  
6 through.

7 And based on the information  
8 presented by Deep Water Wind as well as another  
9 developer that did not have sufficient information,  
10 there was a determine of no competitive interest.  
11 So now Deep Water Wind is undergoing a  
12 noncompetitive leasing process that BOEM has  
13 outlined.

14 For Maryland the task force meeting  
15 most recent was in June of 2011, and there was a  
16 discussion of task force comments to include a call  
17 for information that will be coming out.

18 For Virginia, the task force meeting  
19 August of 2011. An area has not been identified  
20 specifically by the state and BOEM; however, there  
21 have been two unsolicited requests. So those are  
22 some updates on the BOEM task force activities.

23 What I'd like to talk about now is  
24 some of the essential fish habitat consultations on

1 nonfishing activities that are under way in the Mid-  
2 Atlantic.

3 Basically, some of these examples  
4 include bridge reconstruction, harbor dredging, port  
5 and marina expansions. And those are occurring in  
6 all Mid-Atlantic states. Tidal power that's  
7 something that we're really concerned about,  
8 anadromous fish and other fishery migration, inshore  
9 and offshore migrations, primarily inshore at this  
10 point in New York, New Jersey and Delaware. There  
11 hasn't been really anything requested for offshore.

12 Traditional gas pipelines, cable  
13 corridors, as we heard earlier with the Atlantic  
14 Wind Connection, traditional and nuclear power  
15 facilities. We're concerned here about the intakes  
16 for cooling water intakes as well thermal  
17 discharges.

18 We are involved in tidal wetland  
19 mitigation banking, living shorelines as  
20 alternatives for coastal shoreline stabilization.  
21 One thing of concern that you might find interesting  
22 is we're involved in the Atlantic geophysical and  
23 geotechnical problematic GIS by BOEM.

24 The environmental impact statement is

1 going to be analyzing the effects of geophysical and  
2 geotechnical activities in both the Mid-Atlantic and  
3 the Southeast planning areas. And they're looking  
4 primarily at oil and gas, renewable energy, as well  
5 marine minerals, extraction of marine minerals.

6 So being involved in these EFH  
7 consultations, we're involved with a number of  
8 federal agencies, for example, the U.S. Army Corps  
9 of Engineers, the U.S. Coast Guard, Federal Energy  
10 Regulatory Commission, the Nuclear Regulatory  
11 Commission, EPA, BOEM, and Federal Highway  
12 Administration. We're involved through the EFH,  
13 Essential Fish Habitat, consultation process where  
14 essential fish habitat assessments are developed by  
15 the action agency, and the Fishery Service provides  
16 essential fish habitat consultations.

17 So the reason that I bring up these  
18 examples and these consultations there is  
19 significant amount of coordination and activity  
20 that's ongoing right now. And one of the things  
21 that we discussed at our November Ecosystems and  
22 Ocean Planning Committee meeting was trying to  
23 determine what the best way for the Council to be  
24 engaged in this type of process.

1                   So as many of you know, the Essential  
2 Fish Habitat regulations authorize Councils to  
3 provide essential fish habitat conservation  
4 recommendations to federal and state agencies;  
5 however, I can understand that it's very hard to  
6 keep track of all these different types of  
7 activities that are ongoing right now, so that EFH  
8 final rule, that regulation allows for councils to  
9 establish coordination procedures to review these  
10 actions.

11                   They focus on three things: the  
12 council tracking these projects can be assigned to  
13 someone on the staff, the council tracking the  
14 projects can be assigned to the Habitat Committee of  
15 the Council, or you can enter into an agreement with  
16 the regional office for notification for projects,  
17 upcoming projects, something like we just talked  
18 about in the last presentation, trying to figure out  
19 when that Federal Register notice is going to be  
20 coming out. That's something that can be  
21 coordinated better with the regional office.

22                   The way it currently works right now  
23 is that it's done primarily on an ad hoc basis as  
24 far as the coordination and the notification of

1 council activities. And I'm not talking only about  
2 the Mid-Atlantic Council. The same thing happens  
3 with the New England Council.

4 Or the other way that you have really  
5 notification of these types of activities is through  
6 annual presentations or anytime that someone from  
7 the Fishery Service will come up to the committee  
8 meetings and provide a presentation there.

9 So, if this type of thing is to be  
10 considered, any kind of an agreement or process  
11 established with the regional office, the types of  
12 things that would have to be outlined there would be  
13 the types of actions that the Council would want to  
14 be notified about, the location of these actions  
15 that the Council would want to engage in or to be  
16 notified of those types of projects, whether they  
17 just focus on offshore projects, such as the BOEM  
18 energy task forces, whether we're talking about  
19 anything in the coastal bays or we're really talking  
20 about river systems as well.

21 Also want to consider some of the  
22 magnitude of projects that would be considered. We  
23 are dealing with everything from docks and piers on  
24 up to something on the scale of the Atlantic Wind



1 Connection.

2 So whether this is for a discussion  
3 today or sometime in the future through the  
4 committee process, we certainly look forward to  
5 working with the Mid-Atlantic Council to better  
6 describe that notification process moving forward.  
7 Thank you. And I'll be happy to answer any  
8 questions.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Chris, on this final point, it seems like sort of an  
11 obvious step that we need to take, that is, to go  
12 ahead and develop a clear procedure for coordination  
13 and notification to the council staff and then at  
14 some level the council committee so that the  
15 committee could play a role of developing council  
16 comments that would be reflected back on a specific  
17 project. But it sounds like we have to go through  
18 some consultative process here to lay that out and  
19 identify what sort of thresholds have to be met in  
20 order for a project to get kicked up to the council  
21 staff.

22 CHRIS BOELKE: I don't know of  
23 another council that has actually undertaken this  
24 step to formalize any agreement with the regional

1 offices for notification, but certainly it's not  
2 really defined what exactly that would look like,  
3 but some type of process that accounts for -- kind  
4 of whittles down the types of projects and the most  
5 important projects that the council would really  
6 like to get notification of.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you. Steven.

9 STEVEN SCHAFER: Thank you, Mr.

10 Chairman. Going back to the tracking of projects.

11 And this comment actually is for the Council.

12 There's benefit in all three of these areas for the  
13 council staff to track these projects, for the  
14 council committee to track these projects through  
15 the regional office.

16 My feeling is that it would be best  
17 for the council staff or the council committee to do  
18 it in that by creating this process internally or  
19 council wide, it may be adapted or give us another  
20 inroad into the entire process as a council.

21 COUNCIL CHAIRMAN RICHARD ROBINS: I

22 think that follows on the discussions that have

23 already been taking place in the Ecosystem Committee

24 about putting the council in a position where we can

1 effectively comment on projects that are coming up  
2 within the region. But in the past, the  
3 notifications have been more or less ad hoc, so I  
4 think we would benefit from having a more systematic  
5 approach to how those projects are made available  
6 and notice to the council staff and to the committee  
7 so that the committee can play a role, again, in  
8 developing the comments and identify concerns to be  
9 reflected back on the project. Peter.

10 PETER deFUR: Thank you, Mr.  
11 Chairman. I guess this is for both Chris and Pat  
12 and to follow up on Steve's comment about making  
13 some sort of formal determination because we  
14 discussed in the committee that the sorts of things  
15 about which we could be notified ranged from, as  
16 Chris pointed out, everything from dock permits and  
17 applications all the way up to big things, and we  
18 don't want to be looking at Corps of Engineer dock  
19 applications.

20 I don't know if anybody else around  
21 the table has been subjected to that privilege, but  
22 it can occupy a lot of time. It's a black hole.  
23 So, if none of the other councils -- and I assume we  
24 mean not just New England and Mid-Atlantic and South

1 Atlantic -- but none of the other eight councils  
2 have gone through a formal request, then is there an  
3 advantage or a disadvantage? And I guess we should  
4 have the conversation to having a formal discussion  
5 about how we get notified and how we get involved  
6 versus the ad hoc.

7 PATRICIA KURKUL: Yeah. I agree with  
8 the points that Chris made and Rick, that I think  
9 intuitively we all know which ones that the Council  
10 would have interest in, and the Council has also  
11 been made aware of these through other means and  
12 through us because they tend to be the high profile  
13 projects.

14 Nonetheless, I think that it does  
15 make sense to have some sort of I don't think a  
16 formal agreement but a discussion about how to -- I  
17 want to say it's something like 1700 consultations  
18 we do a year, somewhere around that number, and I  
19 don't even see all of those.

20 So one potential way to look at it is  
21 anything that would rise to the regional  
22 administrator's level is something that the Council  
23 might be interested in. But I do think it's worth -  
24 - you know, having three or four people sit down and

1 try to put down on paper exactly which ones the  
2 Council would be looped into. I think it's a good  
3 suggestion.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Peter.

6 PETER deFUR: Yes. And particularly  
7 because we have some council members who have been  
8 on for shorter periods of time and maybe have a  
9 large number of people who haven't looked at the  
10 full range of what those 1700 might look like, it  
11 would be a good idea to get some sort of profiling,  
12 give at least the committee and any other interested  
13 members an idea about the scope of what those are,  
14 and then we can sit down without going through a  
15 formal agreement process because that sounds like it  
16 might be more trouble and time than it's worth.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Peter, I think we can set that up as a follow-up  
19 action to this briefing, and I think that's a  
20 reasonable way to go forward. We don't want to put  
21 the committee or the council in a position of  
22 commenting on every dock proposal in the Mid-  
23 Atlantic obviously. We get to do that at the state  
24 level.

1                   So I think that's a reasonable  
2           approach. But we would benefit, I believe, from  
3           having a better established program and methodology  
4           for notifying the Council of these projects so that  
5           we can develop our comments and be aware of projects  
6           in the region.

7                   Obviously, the big ones come up to us  
8           regardless, but there are other intermediate  
9           projects that may be of interest either to habitats  
10          that are important or to specific fisheries that are  
11          important. So I think we want to be aware of all of  
12          those. Okay. Chris, did you have anything else?

13                   CHRIS BOELKE: No. That's all, Mr.  
14          Chair.

15                   COUNCIL CHAIRMAN RICHARD ROBINS: All  
16          right. Thank you very much. Lou, did you have a  
17          follow-up presentation? Thank you, Chris.

18                   LOU CHIARELLA: Thank you. I'm going  
19          to change focus a little bit and head further  
20          offshore, talk about some deep sea coral issues and  
21          deep sea coral conservation in the submarine  
22          canyons.

23                   This past summer we were asked by our  
24          headquarters to -- all the regions were asked by

1 headquarters to come up with pilot projects that we  
2 can utilize to help showcase the types of activities  
3 that the habitat conservation does, things that we  
4 would want to show to the public as being beneficial  
5 to habitat, things where we are partnering with  
6 other entities to make strides in habitat  
7 conservation.

8                   So what we came up with in the  
9 regional office was developing a strategy for deep  
10 sea coral conservation in the Northwest Atlantic, an  
11 activity that we've been working on with the  
12 regional office, the science centers, and New  
13 England and Mid-Atlantic Fishery Management Council  
14 but figured it would be a really good idea to kind  
15 of put this all on paper and give us a better format  
16 for how we should go forward in developing a  
17 strategy for conservation.

18                   So why deep sea corals? Corals are  
19 complex systems, ecosystems, that are found in the  
20 world's oceans. They provide habitat, mainly  
21 substrate and refugia for diversity of organisms  
22 including many commercially important fish and  
23 invertebrate species.

24                   The ecosystems primarily occur on

1 hard substrates on the continental slope, the  
2 submarine canyons as well as sea mounts. The  
3 ecosystems have been shown to be vulnerable to  
4 various fishing activities and other manmade  
5 impacts, such as energy development.

6 And as you'll see in a lot of our  
7 conversations lately within the world of habitat,  
8 energy development is a huge factor in so much of  
9 what we do nowadays.

10 So the goal for what we are proposing  
11 is to achieve effective, long-term habitat  
12 conservation in the highly fragile and vulnerable  
13 deep sea coral ecosystems of the Northwest Atlantic  
14 utilizing existing management and scientific  
15 resources.

16 That was one of the constraints we  
17 were given upon us when we were developing a pilot  
18 project was we were constrained to doing things with  
19 existing resources. Of course, doing more with less  
20 I guess you could say. So what is it that we are  
21 proposing to do? First of all, we wanted to take  
22 this partnership that included the regional office,  
23 the Fishery Science Center, the Mid-Atlantic  
24 Council, and the New England Council to develop and



1       implement a strategy for conservation.

2               The implementation of this strategy  
3       we're looking as being proactive. We're trying to  
4       conserve an ecosystem prior to it being impacted.  
5       Implementation would be done utilizing the existing  
6       Magnuson Act authorities and collaborative outreach.

7               The approach would fully integrate  
8       habitat protection, fisheries management and  
9       research, and the project we believe would establish  
10      a template for future ecosystem management planning.

11              Essentially, this is looking at one  
12      kind of very small ecosystem, the submarine canyons,  
13      and we'd essentially be developing an ecosystem plan  
14      for that small area, and then that could be adapted  
15      into larger ecosystems in the future.

16              So the approach we're planning on  
17      taking is first to complete a Tier 1 habitat  
18      assessment, which means an evaluation of historical  
19      and contemporary data on the distribution and  
20      identification of the threats, distribution within  
21      the canyons and the sea mounts, and developing map  
22      products and technical documents. These are all  
23      activities that are currently underway with the  
24      partners that I've mentioned already. Next step

1 would be to develop a conservation strategy. We  
2 would identify coral protection zones, those areas  
3 that we think have corals that are in some need of  
4 protection, focus on minimizing fishing impacts, and  
5 also focus on minimizing impacts from energy  
6 development.

7 And when we talk about energy  
8 development out in the canyons, like Chris was  
9 talking about before, there are a lot of activities  
10 ongoing now with respect to future oil and gas  
11 development in the continental slope area, so we  
12 want to make sure that we're going to be in a  
13 position to potentially protect deep sea coral areas  
14 should we get additional oil and gas exploration off  
15 our coasts.

16 And then also we want to develop a  
17 research agenda in developing a monitoring plan. If  
18 there's any types of management that would come out  
19 of identifying coral protection zones, we want to  
20 make sure that we're in a situation where we can  
21 monitor it's effectiveness.

22 Implementing the strategy. We would  
23 be looking for the councils to identify these coral  
24 protection zones for management of potential impacts

1 from fishing activities. Currently, the New England  
2 Council is taking somewhat of a lead in this  
3 activity through their EFH Omnibus Amendment, and  
4 they're in the process of identifying coral  
5 protection zones and then determining what types of  
6 management measures would occur in these zones.  
7 This is being coordinated closely with Mid-Atlantic  
8 Council by having participation on their Habitat PDT  
9 as well as participation in their Habitat Committee.

10 The regional office is going to  
11 coordinate and consult with federal offshore energy  
12 licensing agencies, such as BOEM, to make sure that  
13 we work with them on ways that they can minimize  
14 impacts to deep sea corals in any development  
15 activities that they're proposing to license.

16 The Science Center is committed to  
17 assessing the existing data, undertaking additional  
18 research to define local coral ecosystems and come  
19 up with models to predict their distribution.

20 We're actually supposed to be the  
21 beneficiaries of coral research money in FY 13 that  
22 would allow us to undertake a lot more offshore  
23 research to look at some of these coral questions.  
24 So that's where this research would be funded.

1                   And then the Science Center would  
2           also work on developing a monitoring plan to  
3           evaluate coral protection strategies. So the  
4           deliverables that we're proposing for this the Tier  
5           1 assessment, as I said, is ongoing. This is  
6           primarily being done under the auspices of New  
7           England's habitat PDT, which I said has involvement  
8           from Mid-Atlantic Council. The Science Center is  
9           pretty heavily engaged in that as well as other  
10          academics. So this is ongoing. I think we're going  
11          to see the results of the Tier 1 assessment -- you  
12          know, basically the beginning of 2012.

13                   The identification of the coral  
14          protection zones that's something that we're looking  
15          for the councils to be working on. And based upon  
16          New England's schedule for completion of their EFH  
17          Omnibus Amendment, I'm expecting that we're going to  
18          start seeing the identification of these coral zones  
19          sometime in the spring of 2012.

20                   Development of the conservation  
21          strategy all the partners are going to be working on  
22          that. Here again, I think we're going to see that  
23          develop sometime around the spring of 2012.

24                   The outreach to the energy

1 development agencies, which the regional office is  
2 going to undertake, will probably begin sometime in  
3 the summer of 2012 where we start taking them  
4 information, the information collected in the Tier 1  
5 assessment, looking at the coral protection zones  
6 and the conservation strategy and providing those  
7 outreach materials to agencies, such as BOEM and  
8 Army Corps of Engineers. The research action plan  
9 is also ongoing. There were a couple of workshops  
10 that were held in the fall to start talking about a  
11 research plan, an agenda, what are some of the  
12 management needs, what are the gaps of information.

13 So they're in the process of developing that, and I  
14 think we're going to see that here again also early  
15 in 2012.

16 The Science Center will be working on  
17 implementing a coral research program in 2013  
18 contingent upon that coral funding still making it  
19 through the process.

20 They've been giving out that coral  
21 money, coral research money, for the past three  
22 years, and they started in the West Coast, and in  
23 2013 they're coming to the East Coast. Hopefully,  
24 that funding is still going to be around, and that

1 would allow us to initiate the coral research  
2 program.

3 And then longer term development of a  
4 monitoring plan also being done by the Science  
5 Center would be done somewhere around 2015 in time  
6 for us to start being able to monitor the  
7 effectiveness of any management measures that may be  
8 implemented through the Magnuson process.

9 And when I talk about implementation  
10 through the Magnuson process, we're talking  
11 primarily of utilizing the discretionary provisions  
12 within Magnuson that allow for the protection of  
13 deep sea coral areas. I'll take any questions if  
14 you have them.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Lou, this issue came up in the NRCC. We raised it I  
17 believe over a year ago just to explore the various  
18 issues related to it and the relevant authorities  
19 under which we could address deep sea corals and so  
20 forth.

21 And at that time, I think it was our  
22 understanding that we really didn't have enough  
23 information yet to identify exactly which areas  
24 might be conservation areas. But I'm looking at

1 your schedule up here, and it indicates that  
2 councils will be identifying protection areas in the  
3 spring of 2012?

4 LOU CHIARELLA: Right.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Are  
6 you suggesting we have mapping information of those  
7 resources --

8 LOU CHIARELLA: We have a fair  
9 amount. That map up there right now basically shows  
10 areas where we currently know the deep sea corals  
11 exist. It's just a map of presence because we don't  
12 know where they don't exist because there's been a  
13 fair amount -- limited surveys within these canyon  
14 areas; however, a workshop that we just sponsored  
15 about a month ago brought in a bunch of the  
16 scientists that have been doing the submersible  
17 dives and have a long history of research within  
18 these areas, and what they're doing is looking at  
19 the information, the data, the papers on a canyon-  
20 by-canyon basis to determine whether or not corals  
21 are physically located there, whether or not the  
22 geology would be supportive of the growth of corals  
23 if the areas haven't been surveyed.

24 So what we're going to end up with is

1 essentially a matrix, a canyon-by-canyon matrix,  
2 determining whether or not corals exist there  
3 through observation, whether or not we can infer  
4 that corals would exist based upon the geology of  
5 the area, and that's going to be the information  
6 that will be available to the councils for  
7 identifying the coral protection zones.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Lou, when is the submersible survey work scheduled  
10 to be done in the northeast region? Is that for  
11 2013, or will some of that be done also in 2012?

12 LOU CHIARELLA: The new work would  
13 occur in 2013 contingent upon the coral research  
14 funding.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Okay. Peter.

17 PETER deFUR: Thank you very much, Mr.  
18 Chairman. Lou, thank you very much for your  
19 presentation. I guess I'll ask one of the questions  
20 that's floating around the council members. Can we  
21 get a copy of your presentation particularly so that  
22 we can see that schedule and have that. I assume we  
23 can get that and have it posted? Some of us want to  
24 see it distributed so that we remember that.



1 LOU CHIARELLA: Sure.

2 PETER deFUR: And then at what point  
3 do you anticipate that we, and I think that means  
4 first Tom and me and then the rest of the committee,  
5 will see the information on the coral data that you  
6 were talking about prior to determination of zones?  
7 Because we'll want to see what do we know and what  
8 do we not know and where are the big gaps.

9 LOU CHIARELLA: Sure. Tom Hoff has  
10 been very involved in this process. He participated  
11 in the workshop and has been at the New England PDT  
12 meetings where this information is being discussed.  
13 So Tom has a lot of the information, and I'm sure  
14 that he'll be able to provide that information to  
15 the Ecosystems Committee next meeting.

16 PETER deFUR: I guess the question  
17 that I was wondering is whether or not there will be  
18 additional information coming out in the next few  
19 months prior to what Rick pointed out is on the  
20 schedule, a spring determination of what the coral  
21 zones are.

22 CHRIS CHIARELLA: Yeah. And that's  
23 where I think it would really be beneficial for the  
24 Mid-Atlantic Council to engage more with New England

1 in actually determining what the coral protection  
2 zone should be as opposed to just New England  
3 developing them and then handing them off to Mid-  
4 Atlantic for --

5 PETER deFUR: Tom and I will be there  
6 in January.

7 CHRIS CHIARELLA: Okay.

8 PETER deFUR: We can bring more if  
9 you want.

10 CHRIS CHIARELLA: So I think that is  
11 going to be the best approach: to keep it as  
12 integrated as possible so it's not just one council  
13 that's working on it, and that you guys are invested  
14 in working in this together.

15 COUNCIL CHAIRMAN RICHARD ROBINS:  
16 Thank you, Lou. Pete.

17 PETER HIMCHAK: Yes. Thank you, Mr.  
18 Chairman. You don't have to convince me about the  
19 importance of this work. And I'm trying to grasp  
20 the order of magnitude of what's involved in  
21 locating and identifying and mapping.

22 I mean I can go down 80 feet and see  
23 beautiful coral reefs. What you're talking about in  
24 these deep sea, what does a cruise cost for upper

1 deep submersible? Can you just give me some orders  
2 of magnitude, like what kind of money this costs?

3 CHRIS CHIARELLA: I'm not able to  
4 give you exact dollar figures because I'm not on  
5 that research end of things, but it is extremely  
6 expensive. Obviously, it's far offshore. It  
7 requires larger vessels. It requires the use of  
8 submersibles, ROVs, AUVs. The logistics here of  
9 doing those types of surveys are extremely  
10 expensive.

11 Part of what we're hoping to be able  
12 to look at is taking existing information and also  
13 being able to do some modeling to help determine  
14 where we think coral should be, based upon  
15 bathymetry and biology and known biology of the  
16 area.

17 And once you can infer where you  
18 think the corals might be, then you might be able to  
19 narrow down your cruises and where you might go and  
20 look for those organisms. But it's expensive.

21 COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Other questions for Lou? Okay. Lou, thank you very  
23 much for that. And we look forward to a follow-up  
24 between Peter deFur and Tom Hoff and yourself in

1 terms of next steps and how that information would  
2 flow to the committee.

3 CHRIS CHIARELLA: Okay. Thank you.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thank you. Okay. Our next item is the Ecosystem  
6 and Ocean Planning Committee meeting summary, and  
7 I'll turn to Peter deFur.

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8  
9 ECOSYSTEM AND OCEAN PLANNING COMMITTEE REPORT

10 PETER deFUR: Thank you very much,  
11 Mr. Chairman. If you look in your briefing book,  
12 it's in Tab 4. What we have is a committee meeting  
13 that was held in November, November 14th. We have a  
14 fairly substantial number of new members on the  
15 committee, and of those new members several of the  
16 members are new to the Council. So it was a good  
17 idea to have a reforming, consider what we want to  
18 be doing, who we are, what's our vision and mission  
19 about.

20 One of the things that we talked  
21 about -- I mean there are several items that are  
22 important for us to consider. Number one is we  
23 started the process of discussing what's our  
24 mission, and so we identified the elements of that.

1                   And in the last few weeks while Tom  
2 Hoff was on vacation and I was involved with sort of  
3 keeping the wheels on my bus at work and at home --  
4 and there was a holiday in there if memory serves --  
5 we didn't get all of that written down into proper  
6 English. So that's one of the tasks that we will be  
7 working on.

8                   The other one is get a great briefing  
9 both from Tom as well as you've heard from Chris and  
10 a couple of other people about the activities that  
11 we carry out both as a committee and as a committee  
12 that supports the Council's work, and we considered  
13 what the priorities are and what they want to do,  
14 and they're listed here. One of the important  
15 activities that the committee carries out with the  
16 excellent support, leadership, competent technical  
17 work is from Tom and Jim.

18                  We have coordinating responsibility  
19 with at least five outside groups, and you've heard  
20 of them: BOEM and MARCO; and we have MARCO  
21 represented here, so if we have any questions about  
22 MARCO we have in the audience; MERICUS, the regional  
23 planning body, and marine spacial planning and the  
24 Habitat Committee from New England.

1                   And those are only the ones that  
2                   exist today. I'm sure within the next 12 months we  
3                   can anticipate yet another coordinating function to  
4                   come along. So we have these that keep our  
5                   interests in front of other people and keep other  
6                   people in front of our agenda so that we don't wind  
7                   up discovering after the fact that fishing interests  
8                   have been completely ignored and left out.

9                   And so we discussed what we need to  
10                  do there, and the Committee recognized that we can't  
11                  afford to let any of those slip off of the agenda.  
12                  We have to maintain those coordinating activities.  
13                  Not all of them are equally as important, but we  
14                  can't ignore any of them. Clearly, right now BOEM  
15                  is a very high priority. Tom pointed out that he's  
16                  been spending a substantial amount of his time  
17                  remaining engaged, keeping the council activity and  
18                  the committee engaged, and that has to be  
19                  maintained. In conversations then with the  
20                  Executive Committee and with Council Chair Robins  
21                  and our executive director, I was trying to figure  
22                  out how we could accomplish more with the same  
23                  resources.

24                  And one of the things that we can do

1       that we had some discussion is have some of the  
2       committee members take up some of these coordinating  
3       functions so that some of our committee members can  
4       be our presence in some of these outside activities.

5       And so we're going to be sorting out exactly how we  
6       can accomplish that.

7                 The other big-ticket item is the  
8       discussion of what ecosystem-based fishery  
9       management activities we can undertake and how we're  
10      going to accomplish that between the committee and  
11      the SSC subcommittee on ecosystems.

12                And so we've started that  
13      conversation, and I think there are some very  
14      specific activities that came out of our workshop in  
15      December a year ago that we'll be undertaking as a  
16      committee and that we'll be working with the  
17      Executive in order to complete that process and  
18      figure out what roles are best taken up by the  
19      committee and which ones are best taken up by the  
20      SSC subcommittee. The first of those, however, is  
21      probably to sort out for both the committee and the  
22      entire council a matrix of options in terms of  
23      ecosystems-based fishery management, marine spatial  
24      planning, and fishery ecosystem plans and several

1 other probably variations on the theme; which ones  
2 fit where and where are they within our jurisdiction  
3 and which ones might best serve our particular  
4 interests and agendas. So those are the big-ticket  
5 items that came out of our committee. I'm going to  
6 turn to my vice chair to see if there's anything  
7 I've missed. Okay. Nothing to add. And any other  
8 committee members if they want to add something?  
9 Warren.

10 WARREN ELLIOTT: Well, given some of  
11 the discussion here today, I think it's important we  
12 talk and have a good discussion about digitizing  
13 some of the data from the old EFH maps. And I  
14 think, given some of the presentations we had  
15 earlier, if we had that information, I think it's  
16 going to become increasingly important in the  
17 future. I think that's a good project we're looking  
18 at.

19 PETER deFUR: That's right. And for  
20 those people who aren't quite sure what we're  
21 talking about, most of the other or all of the other  
22 councils I think have all of their essential fish  
23 habitat maps digitized, and that information then  
24 becomes more readily available and usable by outside



1 interests so that they know and can deal with that  
2 on a more effective basis so that they know our  
3 agenda and they know where our essential fish  
4 habitats are. The other EFH question that came up  
5 was the fact that we need to update them. And there  
6 are several that are due for an update.

7 Is there any other committee members  
8 that want to add anything? I know Jack Travelstead  
9 had a bunch to offer because he's also been in this  
10 coordinating matter for a number of years as a state  
11 fishery manager and has seen some of those 1700 per  
12 year that Pat has to look at. Okay. Any council  
13 members have any questions, comments for the  
14 committee and their work? Mr. Chairman.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Peter, do you have any other decision points for us  
17 today? I know when the executive report's out,  
18 we'll be talking about the potential development and  
19 recommendation for moving into developing an  
20 ecosystem-based fishery management plan or fishery  
21 ecosystem plan for the region, and that, in effect,  
22 will give us another opportunity to consider the  
23 roles of the committees. But are there any other  
24 specific decision points that you have for us?

1                   PETER deFUR: I don't think there are  
2 any decision points that we have specifically for  
3 the Council today. We will be fleshing out and  
4 completing the conversation about priorities. And  
5 the reason that matters for the Council, for  
6 everybody else, is that we have to provide guidance,  
7 and there may be Council action on allocating our  
8 resources at the council staff.

9                   And I know the Executive Committee's  
10 had that conversation, too. So that will come down  
11 for the future. We have not yet completed a mission  
12 statement, which I think does require Council  
13 approval. I'm not sure.

14                   And we had a conversation about an  
15 advisory panel which would clearly be going to the  
16 full council. And our discussion was that at this  
17 particular time we don't have enough specific need  
18 identified for an advisory panel, but we do envision  
19 that it could be possible in the future to have such  
20 a thing.

21                   COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Well, Peter, if we, in fact, agree to move forward  
23 with the development of a fishery ecosystem plan,  
24 then I think we will need to consider what sort of

1 advisory structure is most appropriate.

2 We are already in a global review of  
3 our advisory panel compositions, how they're  
4 structured, how they function and how they're  
5 governed; and I think that can kind of go hand in  
6 hand as we review that question in terms of  
7 determining what's the ideal advisory body  
8 composition to support that FMP if that becomes, in  
9 fact, a plan that the Council moves forward with.  
10 But I think the other is as far as priorities we can  
11 address those, too, in the context of the overall  
12 work plan.

13 And on Thursday we'll have the report  
14 out from the Executive Committee, and that will  
15 include draft priorities for 2012. So I think we  
16 can work all these out together.

17 PETER deFUR: Yeah, I think that's  
18 right. And that's consistent with the conversation  
19 we had at the committee level.

20 COUNCIL CHAIRMAN RICHARD ROBINS:  
21 Okay.

22 PETER deFUR: I should also see --  
23 Tom's over there. I don't know if there's anything  
24 that Tom -- Okay. He's shaking his head. There

1 isn't any other gap that we left.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Well, I know you all had a productive meeting. I  
4 was very encouraged by the reports I heard back from  
5 it. I could not attend, but heard you had an  
6 excellent dialogue. So I appreciate all the work  
7 you've done already to try to identify the focus and  
8 priorities for the committee.

9 PETER deFUR: Thank you very much.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Are  
11 there any other questions for Peter? Okay. Yes, go  
12 ahead. Kristen.

13 KRISTEN CEVOLI: It's really hard to  
14 see.

15 COUNCIL CHAIRMAN RICHARD ROBINS:  
16 Yeah. If we can turn the light off it might help.

17 KRISTEN CEVOLI: I think I can just  
18 project.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Go  
20 ahead, Kristen.

21 KRISTEN CEVOLI: This has been a  
22 question for the Executive Committee. I can save it  
23 for them. But I'm just curious how the terms of  
24 reference of the SSC Ecosystems subcommittee is

1 looking at how forage considerations plays into both  
2 the work of the Ecosystems Committee and what the  
3 Executive Committee is going to be discussing in  
4 terms of ecosystem-based management later on this  
5 week.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Kristen, you made reference to terms of reference  
8 and then you talked about forage. And the terms of  
9 reference that we've engaged the SSC subcommittee on  
10 has been related to developing goals and objectives  
11 for ecosystem-based management, and then it goes  
12 into more detail about short-term objectives and  
13 longer term potential transitional strategies,  
14 etcetera. So those are on the one hand the terms of  
15 reference that have been given to the committee.  
16 The committee has also considered a draft definition  
17 of what is a forage species and a potential protocol  
18 for how to manage those.

19 Separately within the Executive  
20 Committee we had a presentation that we'll be  
21 discussing on Thursday for trying to frame up all of  
22 that and put together a plan to move forward with  
23 making progress on ecosystem management. And that  
24 would include the development of a fishery ecosystem

1 plan. We'll have that presentation on Thursday.

2 I think how those relate to each  
3 other may be more clear after that presentation.  
4 That plan if implemented would build upon the  
5 groundwork that we've already laid with the  
6 subcommittee of the SSC.

7 And I think that plan would also  
8 provide a framework forward some of these other  
9 things could come in. For example, if we decide to  
10 move forward with some of the specific  
11 recommendations of the subcommittee as they relate  
12 to how to manage forage for example and it could  
13 feed in through that process.

14 KRISTEN CEVOLI: Great. Thank you.

15 PETER deFUR: Okay.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 We're running ahead of schedule, and I'm going to  
18 turn to Dr. Jim Weinberg and ask him if he would  
19 give the Science Center report. Before he starts,  
20 in case anybody steps out, we will have hospitality  
21 tonight in Building 15, Room 4181, again Building 15  
22 Room 4181.

23 Building 15 is off this corner back  
24 here of the resort center, and it's down by the

1 water. It's one of the residence buildings. But  
2 it's right off that corner of the building. And  
3 we'll be there once we're adjourned. So Jim.

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4  
5 NMFS NEFSC DIRECTOR REPORT

6 JAMES WEINBERG: Thank you, Mr.  
7 Chairman. I'll be presenting my normal report that  
8 is very brief, and then I'll also be giving you  
9 about a 15-minute presentation that describes the  
10 new assessment approach that the region is moving  
11 towards.

12 So, starting out with some survey  
13 activities, the Delaware II conducted the annual  
14 ecosystem monitoring cruise this fall which involves  
15 primarily oceanographic sampling with some  
16 integrated larval fish work. The autumn bottom  
17 trawl survey wrapped up on Tuesday, November the  
18 15th, with the Bigelow, and they're using a new  
19 version of electronic data acquisition software that  
20 will allow for stock area and -- improved stock area  
21 and length-based sampling of the fish.

22 For those of you that are familiar  
23 with the MREP program, that's the Marine Resource  
24 Education Program, not MRIP but MREP. There was a

1 session that was held MREP 200 the week of November  
2 the 16th and 17th, and the session included visits  
3 to the Science Center, Net Locked, the new research  
4 vessel, the Bigelow, and the Observer Program and  
5 the Age and Growth Unit.

6 Then reviewing some of the recent  
7 stock assessments that have gone on in our region,  
8 the SARC 53 just took place in Woods Hole, and black  
9 sea bass and Gulf of Maine cod were both on that  
10 agenda for reviews and benchmark stock assessments.

11 And we haven't gotten back any of the reports yet  
12 from the peer review panel.

13 The Gulf of Maine cod, of course, is  
14 causing a lot more publicity than the black sea  
15 bass, and many of those results are already out on  
16 the street.

17 For those of you that are curious  
18 about the black sea bass, my sense is that the panel  
19 reviewed the new assessment model that was presented  
20 to them and is likely not to accept the new model,  
21 so the fall-back position is likely to be the scale  
22 model that has been used in the past. But when the  
23 results actually are delivered to us by the peer  
24 reviewers in their reports, I'll be happy to give



1       you a full Powerpoint presentation, as I usually do,  
2       at your next council meeting on those two stocks.

3               The Science Center also produced  
4       updates of summer flounder and scup, and that will  
5       be part of the discussion tomorrow. They are also  
6       New England groundfish updates ongoing this fall and  
7       winter at the Science Center, and we're implementing  
8       this new assessment process that I'll be talking  
9       about in a moment.

10              And we had the first meeting which is  
11       kind of a planning meeting for how those assessments  
12       will be done. And that was held on November the  
13       22nd.

14              And now the assessment scientists are  
15       busy doing the calculations, and then there will be  
16       a peer review of all of those groundfish updates the  
17       week of February the 13th.

18              For upcoming the spring the next SARC  
19       will be SARC 54, and Southern New England yellowtail  
20       flounder and herring are on the agenda. And then we  
21       have -- there will be a workshop probably coming up  
22       in March related to the use of the MRIP data, the  
23       new data that MRFS and now MRIP. So there's a  
24       national steering committee that Dr. Boreman has

1       chaired to develop terms of reference for a workshop  
2       on how to start integrating the new data that will  
3       be available very soon, how that should be used in  
4       stock assessments.

5               And I'm sure that John would be able  
6       to answer questions on that better than I. The TRAC  
7       will also be done. That's for the groundfish stocks  
8       that are on George's Bank that are shared with  
9       Canada, and that will take place again this spring  
10      and summer.

11             And then for the Mid-Atlantic stocks  
12      that we typically update on an annual basis, those  
13      are all scheduled again for updates this spring and  
14      summer. And we're going to be using the new  
15      assessment process on them as well.

16             So these are trial runs that we'll be  
17      doing for New England groundfish and for the primary  
18      Mid-Atlantic stocks, all test runs this year. So,  
19      instead of just having those assessments done by one  
20      person and handed over to a monitoring committee,  
21      there will be meetings set up ahead of time to plan  
22      out the research, and then there will be an  
23      integrated peer review of those updates before  
24      they're delivered to the SSC. And that's what I'll

1 be describing in a moment with a flow chart. And  
2 then finishing up on this, the SARC 55 for December  
3 of 2012, three stocks are on the agenda for  
4 benchmark assessment reviews: the Atlantic  
5 surfclam, George's Bank cod, and white hake. I  
6 could take questions on that, and then give my  
7 Powerpoint.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Jim, which assessment did you say was going to  
10 revert to a scale model?

11 JAMES WEINBERG: The black sea bass.

12 The last time it was peer reviewed and accepted it  
13 was with a scale model, and the work that was just  
14 peer reviewed a couple weeks ago was with a new age-  
15 structured assessment model. And that's the one  
16 that doesn't look like it will fly.

17 COUNCIL CHAIRMAN RICHARD ROBINS: So  
18 will the scale model give us any chance of  
19 addressing some of the outstanding concerns about  
20 the differential mortality rates on the different  
21 sexes?

22 JAMES WEINBERG: I think that it  
23 depends what the reviewers write in their reports,  
24 what kind of recommendations they make. But I think

1 the way they left it at the meeting they made some  
2 recommendations for how Gary should revise his  
3 calculations the next time he implements the scale  
4 model. So I think that when he does the next update  
5 in June, those revisions will be incorporated into  
6 that as well as how the MRIP data will be used.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Okay. But will the new benchmark establish new  
9 reference points for the OFL?

10 JAMES WEINBERG: I don't think so.

11 No. They didn't change any of that. They're  
12 falling back on the existing reference points and  
13 the last update that Gary provided to you in the  
14 spring.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Okay. Other questions for Jim? Jim, you want to go  
17 on then with the presentation?

18 JAMES WEINBERG: Yes. The screen is  
19 a little more visible now that that lighting isn't  
20 as strong. This is a talk that I'm giving that I'm  
21 actually representing about 20 people, and I've  
22 listed some of the major contributors here, but on  
23 my final slide I'll also acknowledge both council  
24 staff and the SSCs and the ASMFC and the NRCC 'cause

1 this has been an ongoing project by what we call the  
2 ACL working group that has been in existence for  
3 about two years.

4 And the basis of it is I think it's  
5 something that Fred Sirchuck pointed out to us about  
6 two years ago. He was one of the first people that  
7 realized that with the change in the law with the  
8 reauthorization of the Magnuson Act, that this very  
9 detailed process that we have called the SAW/SARC,  
10 it's very good, but it doesn't produce enough  
11 assessments moving through the system quickly enough  
12 to provide the councils and the regional office with  
13 information frequently enough to make their  
14 decisions. So that was the basis for forming the  
15 committee.

16 And so in this talk, I'll describe  
17 the transition that we're making from the SAW/SARC  
18 process to a new process. I'll describe why change  
19 is needed, and then finally, the concerns that we  
20 all have about tradeoffs that a company  
21 transitioning from the old process to the new  
22 process.

23 I know it's late in the day. I have  
24 about 15 slides, so this won't take a long time.

1 And it's a fairly important transition that we're  
2 planning.

3 So the current SAW/SARC process most  
4 of you are familiar with it. It started in 1985.  
5 Some of its characteristics are that the terms of  
6 reference are very extensive, and, in fact, they've  
7 grown by about a third in the last three years, so  
8 to fit them on one page now we have to use a very  
9 small font.

10 It takes forever -- it not only takes  
11 the assessment scientists months to do all the work,  
12 but it takes the peer review panel a full week just  
13 to review all the work that they've done on three  
14 stocks, and often just they can barely get through  
15 two stocks sometimes if it's a major benchmark  
16 assessment. But it does give a full independent  
17 peer review. It's a public process, and there's  
18 complete documentation of all the science that's  
19 done as well as the reports that are provided to us  
20 by the independent peer reviewers.

21 And all of that is published online,  
22 and it's available to everyone. And then as I  
23 mentioned, it's limited. We're able to crank out  
24 five to eight of these benchmark assessments per

1 year, and then there are various updates that are  
2 done as well.

3 Now, I've already mentioned that the  
4 process needs to be changed because it can't keep up  
5 with the new legal demands, and the demands I'm  
6 referring to are the reauthorized Magnuson Act,  
7 which was passed in 2006.

8 The second bullet is that it calls  
9 for federal managers to come up with hard catch  
10 limits on every stock by year, and that was never a  
11 requirement before. Well, we have about 50 stocks  
12 in our region, the Northeast Region, with two  
13 councils. So you can easily do the math. And we  
14 can't get to all of these stocks frequently enough.

15 So the current process requires a lot  
16 of time, too much time. And like Lou in the  
17 previous talk, we were also told to develop a new  
18 process, but don't plan on having any more  
19 resources. So that's an assumption behind all of  
20 this. And the last bullet is that we all want up-  
21 to-date assessment for decision-making. And when  
22 you have long-time gaps between assessments, you  
23 have greater assessment uncertainty, and that  
24 translates into larger management buffers, which

1 nobody wants.

2 So this slide is something you're all  
3 familiar with. It just shows the relationship  
4 between catch increasing. And these are the three  
5 statistics or variables that need to be set for  
6 every stock by year: OFL, ABC, and ACL.

7 And although the law was passed --  
8 now I'm guessing it's in 2007 -- the phasing in of  
9 when it had to actually be implemented came later.  
10 So it was I think around 2010 and '11 that we had to  
11 start setting these.

12 And the first one there, the OFL, the  
13 overfishing level, that's something that's set in  
14 these stock assessments so that the Science Center  
15 has to set that, and once that is determined, then  
16 ABC can be determined by our SSC, and ACL can be  
17 determined by the Council.

18 But it all hinges on the Science  
19 Center doing stock assessments and getting  
20 reasonable values of the OFL. So the new process  
21 that we're planning will have two different TRACs.  
22 One of them is called the operational TRAC, and the  
23 other is called a research TRAC. And the  
24 operational TRAC will be sort of a process that



1 takes 10 to 25 assessments per year, and they will  
2 be very much like an assessment update where no new  
3 calculations will be done other than bringing in  
4 whatever new data are available.

5 And we'll be using the information  
6 and the model that was used at the previously  
7 accepted peer review. So, for instance, with black  
8 sea bass, if the scale model was used and it was  
9 peer reviewed and approved, when they do the next  
10 operational TRAC, they'll redo the scale model with  
11 bringing in any new data that have come on the scene  
12 since the previous one.

13 And there will be a little bit of  
14 latitude to make changes. For instance, the MRIP  
15 data never existed before, so they'll have to make  
16 decisions about how that will be used.

17 The idea behind it is to have it be  
18 quicker, have a shorter list of terms of reference,  
19 less peer review with more SSC participation, and  
20 then to have a research TRAC which is completely  
21 different where if there are stock assessments that  
22 are in need of repair and need to have a group of  
23 people work on them to figure out why they're not  
24 fitting or if say there's some serious question that

1 you want to work on related to stock identification  
2 or natural mortality rate, those could be topics  
3 that would be dealt with in the research TRAC. And  
4 those would have a very detailed working group and  
5 then a sort of peer review similar to what we do  
6 with the CIE and in the SAW/SARC.

7 And then after those methodologies  
8 have been approved, they could be brought back into  
9 use in the operational assessments. But only after  
10 they've been through the research TRAC would they be  
11 brought back into the process.

12 And it will only be in the  
13 operational TRAC that stock status determinations  
14 will be made. And the transition is planned for  
15 from now through 2013.

16 And this flow chart it's in your  
17 briefing book behind Tab 12. But it describes the  
18 process. And it's seven steps, so it fits on two  
19 slides, this slide and the one following it  
20 describes the process.

21 Step 1 is the NRCC determines which  
22 stocks will be assessed in that year. Step 2, the  
23 stock assessor, that's one person -- you can think  
24 Mark Terceiro or Gary Shephard -- they will then be

1 responsible for making a plan for how they're going  
2 to do the work. And they'll take the benchmark  
3 assessment that was approved previously and use that  
4 as their basis, and they'll bring in data sets that  
5 are needed to update the work. Then in Step 3, they  
6 will go in front of an assessment oversight panel,  
7 and that's a fairly small panel that consists of the  
8 leads of the SSCs. It can also include a few other  
9 people like an outside scientist.

10 And it's an open meeting where  
11 members of the council staff and others can sit in  
12 and participate. But it's generally meant to be a  
13 flushing out of the planned work.

14 And then in Step 4, the lead  
15 scientist goes ahead and prepares the assessment.  
16 Now, it's not talking about a large working group  
17 doing this. It's says the lead assessment scientist  
18 does it.

19 Moving on then to Step 5, there's an  
20 integrated peer review which will review the work.  
21 Again, this is not meant to take an entire week. It  
22 should be a fairly quick, perhaps a one-day meeting  
23 or even a webinar where this fairly small panel will  
24 review the work that's been done. And since there

1 aren't a lot of changes that are made from what was  
2 accepted before, they can approve it for use by  
3 managers.

4 And then the Step 6, it will be  
5 turned over to the PDT and everyone else that wants  
6 to use it. And then Step 7, the SSC will receive  
7 the assessment and set ABCs. And there are some  
8 other details here which I'm not going to go into  
9 now, but they have to do with what if Steps 1  
10 through 7 have some problems along the way. And  
11 it's what we're calling Plan B. And Plan B is meant  
12 to not leave the managers in the lurch.

13 There is suppose to be a Plan B so  
14 that if along the way the Plan A fails, they fall  
15 back on a simpler approach which still allows the  
16 councils to go forward that year with making some  
17 management decisions.

18 And the transition schedule for this  
19 is -- we're actually doing this already -- in 2011  
20 we're continuing to do the SAW/SARC process, and  
21 that's listed as SARC 52 and '3.

22 But you can see we've also added  
23 operational TRAC test one, New England groundfish.  
24 So we've started that. In 2012 we'll again be doing

1 two SARCs, and we'll be doing the operational TRAC  
2 test run with the finishing up the New England  
3 groundfish and then also starting on the Mid-  
4 Atlantic updates.

5 In 2013 two more SARCs and then  
6 finishing up the operational TRAC test run or  
7 continuing whatever needs to be done annually. And  
8 then in 2014, we're planning to switch over  
9 completely to the new process, and the SAW/SARC  
10 process will end. Now, in switching over to this,  
11 there are a lot of growing pains, and I have a lot  
12 of concerns about making the transition. But, as I  
13 said, I'm part of a group of about 20 people, and  
14 I've often had my opinion about what we should do,  
15 but these decisions are part of a group. And so  
16 we've decided to go forward with this.

17 But here are some things that we're  
18 going to be dealing with as we switch over.  
19 Although we're going to be increasing the through  
20 put of assessments, the amount of assessment  
21 information content and quality that you expect when  
22 you look at a SAW/SARC review, there will be a big  
23 difference.

24 You won't be seeing like a lot of

1 delving into detail, say, what the natural mortality  
2 rate should have been between males and females or  
3 things of that nature or -- you know, a lot of  
4 delving deeply into predator-prey interactions, if  
5 something is a forage species, for instance.

6 Things like that will be taken care  
7 enough to determine the stock status, but there  
8 won't be a lot of new research about it. And by  
9 keeping the amount of new research to a minimum,  
10 that's what allows us to do a minimal peer review.

11 As soon as the scientists start  
12 making a lot of changes, then we're going to have to  
13 resort back to having a lot more thorough peer  
14 review. So there will be less investigation of  
15 research topics in the operational TRAC. Another  
16 thing, this third bullet about the adjustment of  
17 managers, that's pretty interesting because as  
18 operational assessments are coming out more quickly,  
19 it will be challenging to the councils and to the  
20 regional office to actually be prepared to use the  
21 new information.

22 And perhaps it could even be coming  
23 in too quickly in a way that messes up the planned  
24 schedule. So, when we set out in this working

1 group, everyone agreed to start thinking outside of  
2 the box.

3 You can see the Science Center has  
4 really accepted this notion. We are thinking  
5 outside of the box, and we're really changing the  
6 process. But this is also going to affect how  
7 frequently stock assessment information comes to  
8 you.

9 And you might have to think outside  
10 of the box on how to use it, how quickly you can use  
11 it, and you might have to change schedules, for  
12 instance. And then the third thing has to do with  
13 the services that the Center provides to support the  
14 council activities.

15 And Paul Rago has been fairly  
16 involved with figuring out how long it will take to  
17 do all of this work. If we're doing 15 to 25  
18 operational assessments per year, that could easily  
19 occupy his entire staff, and that would be without  
20 them participating on PDTs and committees of the  
21 councils and so forth. And then we still want to  
22 have a certain group of people and a certain amount  
23 of their time available to be involved in the  
24 research TRAC, which is very important. We can't

1 stagnate and simply do updates all the time. Like  
2 any good company, you need a research division.

3 So we haven't really figured out yet  
4 how to allocate our staff resources to these really  
5 important groups that we need to support. But this  
6 is just -- I want to get this out here early that  
7 these are some concerns that we all have about the  
8 transition.

9 So that's just a summary of what I've  
10 said. And here are all the groups who we've had  
11 representation from all of these groups on our  
12 working group. And, as I said, I'm kind of the  
13 messenger.

14 A number of people have kind of taken  
15 less interest in this recently, and I have been left  
16 holding the ball, so I'm speaking to you as kind of  
17 the person who's telling you how we're  
18 transitioning. So I guess I'll be involved with it  
19 as we go forward. Thanks.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Jim, thank you. The transitional schedule that  
22 you've laid out you also mentioned the fact that  
23 this coming spring there's going to be a meeting to  
24 consider the MRIP information and how that's going



1 to feed into the assessment side of things. And  
2 it's been my understanding that if the MRIP  
3 information is dramatically different, for example,  
4 than our past understanding of catches, that it  
5 would be necessary to incorporate that through a  
6 benchmark or through what now we might be calling  
7 the research TRAC.

8 So I would think that there are some  
9 potential issues out there that could significantly  
10 impact the implementation side of this, and that's  
11 just one of them.

12 But I don't know if you can comment  
13 on that or if John could about what the implications  
14 of that information might be for the assessment  
15 process and specifically for implementation.

16 JAMES WEINBERG: Right. When we were  
17 just having meetings a year ago and this was all  
18 hypothetical, we boldly said that when the MRIP data  
19 come online, that will be a big enough change that  
20 that can't be done in the operational assessment.  
21 That's something that has to go to the research  
22 TRAC.

23 But now we're not so sure. We're  
24 thinking, well, we have to look at these numbers and

1 see how big of a change it is. So I don't really  
2 have solid answers. A lot of this is just all  
3 happening so quickly that we don't have answers to  
4 it yet. But it's a really good point.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Well, I raise the issue because we don't currently  
7 have benchmarks scheduled for summer flounder, for  
8 example, or black sea bass. Black sea bass is being  
9 done right now, but that's before the new  
10 information is on line.

11 JAMES WEINBERG: I think John --

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 John.

14 JOHN BOREMAN: Thank you, Mr. Chair.

15 We are currently planning to have a workshop  
16 probably at the end of March. It's called a  
17 calibration workshop where we're going to be looking  
18 at the data which should be hitting the streets,  
19 probably already out on the street, within the  
20 Agency on the re-estimation of the recreational  
21 effort and landings from 2004 to 2011.

22 That was supposed to be distributed  
23 internally to the Agency on December 1st and to the  
24 public on January 1st. Actually, right now it's the

1 week of January 13th it's going to be released to  
2 the public.

3 And as Jim said, we don't know, I  
4 don't know, very few people do know what those new  
5 numbers look like, but we cannot conclude that it's  
6 going to be dramatically different than the MRFS  
7 numbers that were originally used to estimate  
8 landings and effort. It will be a species-by-  
9 species thing. Our terms of reference that we have  
10 for this calibration workshop, the first is to  
11 review all of the ongoing research that MRIP program  
12 is doing on calibration and come up to speed on what  
13 we do know in terms of moving from MRFS  
14 methodologies into MRIP methodologies.

15 The second term of reference is to  
16 look at the side-by-side of MRFS and MRIP estimates  
17 of landings and effort from 2003 to 2011 to see if  
18 there's any general conclusions that can be made,  
19 how we can use that to hind cast back from 2003 back  
20 to 1981 or '80 when MRFS started, if we can develop  
21 models to do that, statistical models.

22 And the third term of reference is  
23 exactly what you're talking about is we have to  
24 somehow incorporate the new MRIP methodology as well

1 as the re-estimates because the re-estimates I  
2 presume will be considered best science information  
3 because they're based on a new methodology that  
4 doesn't have anywhere near the biases that the MRFS  
5 methodology had, how we would incorporate those into  
6 assessments, so what kind of schedule we're looking  
7 at recognizing that if we make an across-the-board  
8 decision that they should be incorporated by  
9 benchmarks, then we may be here for the next 50  
10 years 'cause we're talking -- well, in the Northeast  
11 we have a limited number of stocks. But even just a  
12 snapper grouper complex in the South Atlantic's  
13 close to 80 stocks. So to have a benchmark for each  
14 of those stocks to incorporate the new MRIP numbers,  
15 would be from here to eternity and back again. So  
16 what we're going to do is charge ourselves with  
17 coming up with how can we incorporate the new  
18 updated MRIP numbers into assessments without having  
19 to resort to a full benchmark. So that will be on  
20 the agenda for the workshop.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Thank you, John. Questions for Jim about the  
23 proposed methods? Rich.

24 RICHARD SEAGRAVES: Thank you, Mr.

1 Chairman. Jim, as you pointed out, this was a group  
2 effort to develop or to reach the point where we are  
3 for you to present this moving into this new  
4 operational assessment, but for us that's really not  
5 new.

6 I mean basically from my viewpoint,  
7 what we did was basically formalize what we've  
8 already been doing in the Mid-Atlantic, our annual  
9 updates. And granted, the process is a little bit  
10 different, more efficient, as you say, where one  
11 assessment lead working by themselves, as opposed to  
12 working groups. But the process is basically the  
13 same.

14 So my question is: Are we going to  
15 continue to move as a group, the ACL working group,  
16 to flush out how this experimental TRAC is going to  
17 work? Because that's really the other piece to the  
18 puzzle that we need because a lot of our assessments  
19 are in need of -- they're in the land of misfit  
20 models or assessments that need fixing, and we're  
21 not going to move forward until that happens. So  
22 what's the plan for the experimental TRAC?

23 JAMES WEINBERG: Yeah, you're  
24 correct. We do need to continue having meetings of

1 the ACL working group. And we're treating these  
2 test runs of the New England stocks and the Mid-  
3 Atlantic stocks as test runs and a learning  
4 experience.

5 We're hoping to write down all the  
6 things that went wrong and have a meeting, too, as  
7 we go into the following year when we continue the  
8 process to make revisions.

9 So we're not done with the ACL  
10 working group. We just haven't had a meeting for  
11 about I don't know how many months. Richard Merrick  
12 was our chairman, and he's moved up and is not  
13 involved anymore. Fred led it for a while, and he's  
14 kind of stepped back and asked me to lead it. And  
15 there's a lot going on. So it's kind of the way  
16 we're moving forward with it is to do these test  
17 runs rather than to have committee meetings and talk  
18 about it.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 John.

21 JOHN BOREMAN: Yeah. Just to add to  
22 that, having suffered through the first test run --  
23 the assessment oversight panel is the chair of the  
24 New England SSC, the Mid-Atlantic SSC and then Paul

1 Rago from the Center.

2 And we went through, what, 16 or 18  
3 assessment proposals in about six hours of a  
4 conference, and it was pretty rough. One of the  
5 lessons, though -- actually, there were several  
6 lessons, but one of them addresses the topic that  
7 you raise is: When do we kick this into a research  
8 TRAC to get out of the updated assessment TRAC?

9 It's a very gray area, and I think  
10 until we come up with some real true criteria, it's  
11 going to stay gray and kind of spongy. The reason  
12 why I'm saying that is this new approach is supposed  
13 to give more flexibility in preparing updated  
14 assessments. If there's a new growth model, for  
15 example, to track growth of a fish, well, does the  
16 new growth model going away from a (inaudible) model  
17 to an alternate model, is that enough to say this  
18 requires a benchmark, or can that new model just be  
19 incorporated into the updated assessment and so on?

20 So those decisions need to be made.  
21 How much flexibility does the lead scientist have in  
22 doing the updates in terms of how they're  
23 interpreting the new information that's coming in  
24 and using it and tweaking the existing models? And

1       that's the major role of the assessment oversight  
2       panel is to determine where you cross the line until  
3       you're just doing too much twinkling and tweaking of  
4       the update that it now deserves to go into the  
5       research mode. So that's a gray area, too.

6                 Another area, while I have the mic.,  
7       that I noticed immediately, this Plan B. I think  
8       nobody was really prepared on the groundfish side of  
9       the lead scientists to talk in depth about Plan B.

10                They had a fall-back, but the first  
11       assessment we talked about people decided that  
12       fall-back wasn't really the one that should be done,  
13       and then all the other assessments after that kind  
14       of they were all used in the same fall-back, so that  
15       kind of fell off the charts.

16                And then the question I think Jim  
17       raised during the conference was, well, when the  
18       scientist comes in and presents their updated  
19       assessment, their Plan A, and it's rejected for  
20       whatever reason, that scientist goes back to the  
21       drawing board and then redoes the assessment using  
22       Plan B, or should they come to that workshop  
23       prepared with both Plan A and Plan B, which I think  
24       is the preferable way to have it, have them both in



1       their pockets to pull out so we know right there  
2       what the outcome's going to be. Well, when the lead  
3       scientist saw that, that means twice as much work  
4       for them in doing the update. They got to do two  
5       updates using a new methodology or whatever and then  
6       a backup, whatever is decided to do the backup. So  
7       that's another area that needs to be straightened  
8       out.

9                   JAMES WEINBERG: Yeah. And those are  
10       very good points. And whatever way we go on that we  
11       need a very strong chairman to run this process  
12       because when I told them that they were supposed to  
13       have a Plan B and have it ready to go, they said, no  
14       way, Weinberg; it's too much work.

15                   So people laughed about it, but in  
16       the end if we don't have strong leadership and rules  
17       to follow, it won't work very well, and then we'll  
18       have other problems to deal with.

19                   Right now the SAW/SARC is very nice  
20       because it's fairly rigid and you get this arms  
21       length peer review, and you come out the other end  
22       with a product that at least has been thoroughly  
23       vetted.

24                   With this new process, there are a

1 lot more gray areas. But the idea is to give  
2 flexibility and give the responsibility, I guess,  
3 back to the assessment scientists and more to the  
4 SSC.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thanks, Jim. Further questions for Jim? Part of  
7 this discussion is also related to trying to use  
8 more multi-year specifications. We've also  
9 addressed that as it relates to the capacity to get  
10 things done and get the necessary assessments. But  
11 it's clear that some populations are going to have  
12 stock dynamics that lend themselves to multi-year  
13 specifications; they may not be that dynamic;  
14 whereas, others are going to be more volatile.

15 Tomorrow's a perfect case in point.  
16 They are going to be some fisheries that I think  
17 we're going to have to protect the frequency of  
18 those updates. But, again, some will have certain  
19 stock characteristics that would allow us to manage  
20 on more of a multi-year basis. So that's also part  
21 of the underlying discussion and background of this  
22 issues as well. Jim.

23 JAMES WEINBERG: I think we're  
24 winding up on this, but before we close, I wanted to

1 introduce Dr. Bill Carp, who is in the back, and, of  
2 course, you know Frank Almeida. Frank is retiring,  
3 and Bill Carp is going to be the acting director at  
4 the Science Center starting next month.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you for pointing that out, Jim. And, Frank,  
7 thanks again for all of your support. And it's been  
8 a pleasure working with you, and we certainly look  
9 forward to working with Bill going forward. Thanks  
10 to both of you. I saw a couple of questions out in  
11 the public. Jeff, did you have your hand up?

12 JEFF KAELIN: Thank you, Mr.

13 Chairman. Jeff Kaelin, Lund's Fisheries of Cape  
14 May, New Jersey. You actually touched on one of my  
15 questions, Mr. Chairman. That was: Will this new  
16 process help inform the Council about the potential  
17 for multi-year specifications with some of the  
18 species?

19 My favorite adjective that concerns  
20 us is how we're whipsawed about back and forth year  
21 to year about as processors in particular or even as  
22 harvesters what we can plan on from year to year.

23 And I know that multi-year specs are  
24 kind of a double-edged sword. Sometimes it's a low

1 number for a number of years, or maybe it's a higher  
2 number. So that was one of my questions, Mr.  
3 Chairman, too: Will this help us understand which  
4 species might be more amenable to a multi-year  
5 specification so that uncertainty might be reduced?

6 And I don't know there's an answer  
7 for that. That's one question. I had one other  
8 one, if I could.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Well, Jeff, just to that first point, the SSC  
11 already has a subcommittee that's studying that  
12 question to some extent, that is, under which  
13 circumstances would they be most inclined to provide  
14 multi-year specifications, and if they were  
15 providing multi-year specifications or  
16 recommendations for ABC, what other considerations  
17 would factor into that? And I think that raises a  
18 good point, though, where more broadly we can I  
19 think in the future have more dialogue at the  
20 Council and between the Council and the SSC about  
21 setting multi-year quotas or just trying to better  
22 achieve stability in quota setting.

23 And I think that's a whole other  
24 question that would benefit from some more

1 discussion. But on the technical side, the SSC is  
2 looking at it, and we're looking at it at the NRCC  
3 level as it relates to this frequency of assessments  
4 because, again, we have some stocks that have  
5 dynamics that would lend themselves to that more  
6 easily; whereas, others may be more variable and so  
7 would want to consider doing it more frequently.

8 JEFF KAELIN: And my other question  
9 was: Will the SAW/SARC process still be used for  
10 certain species maybe a longer period of time  
11 between full blown assessments, or are you going to  
12 abandon the SAW/SARC process?

13 And then I kind of have a related  
14 question about prioritizing those, like summer  
15 flounder, for example. I think a lot of people are  
16 thinking, jeez, when are we going to get a benchmark  
17 on summer flounder? I don't think it's on the  
18 agenda until 2014 or somewhere down the road. So  
19 that's sort of a prioritization question. But I  
20 guess my real question is: Are you going to abandon  
21 the SAW/SARC process, or will we still have  
22 benchmarks buy at an even less frequent rate than we  
23 are now?

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Jim.

2 JAMES WEINBERG: I think the short  
3 answer is, yes, we are planning to abandon the  
4 SAW/SARC process --

5 JEFF KAE LIN: You will.

6 JAMES WEINBERG: -- but it's still a  
7 few years down the road. So, if there's a reason to  
8 keep it, we could -- I think there's flexibility to  
9 change what we're planning at this moment. But we  
10 are definitely making the transition to this new  
11 process.

12 JEFF KAE LIN: Okay.

13 JAMES WEINBERG: And there are some  
14 advantages even like for summer flounder to the new  
15 process because you would be getting more frequent  
16 updates of summer flounder, like taking a close look  
17 at the data on an annual basis. That's done  
18 already. Summer flounder is a bad example because  
19 it gets so much attention.

20 JEFF KAE LIN: Yeah.

21 JAMES WEINBERG: But for a lot of the  
22 stocks, some of which aren't looked at until three  
23 or four years or even five or six years, they'll be  
24 getting more frequent attention.

1 JEFF KAELIN: That's a good point.

2 JAMES WEINBERG: And there's also  
3 tilefish. There's talk of trying to monitor the  
4 survey more closely on every stock and look for  
5 signs of trouble. And if you have tolerances for  
6 certain things that you can monitor more easily,  
7 then you can know for every stock if there's a  
8 trouble sign and then put more attention on it. So  
9 I didn't talk about that aspect of it, but that's  
10 part of the plan as well.

11 JEFF KAELIN: Thank you.

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 Thank you, Jeff. Were there other questions on  
14 this? Jim.

15 JAMES FLETCHER: If I understand what  
16 you presented, there will no longer be a review by  
17 people from other parts of the world, like we had  
18 for the last two or three years, if I understand it  
19 correct?

20 And then, two, all of the peer review  
21 will be done by the usual suspects that are in  
22 ASMFC, Council, and the Center; there won't be any  
23 outside peer review? In other words, the same group  
24 that creates the data will be peer reviewing, not

1 the same people but the same organization. Is that  
2 correct?

3 JAMES WEINBERG: The review panel  
4 that will do the integrated peer review will be the  
5 lead person from the SSC who has responsibility for  
6 that stock, an outside scientist who could be from a  
7 university or could be from the United States or  
8 another country, and the assessment scientist.

9 So it's a much smaller peer review,  
10 but as I said before, they're not supposed to be  
11 making large changes to what had been previously  
12 accepted by an independent peer review.

13 And as long as they stick to that,  
14 then that's the appropriate amount of peer review  
15 for that kind of work, and it gets it out the door  
16 more quickly.

17 COUNCIL CHAIRMAN RICHARD ROBINS:  
18 Now, Jim, what you just described is the integrated  
19 peer review would be part of the operational  
20 assessment updates. And if something went through  
21 the research TRAC -- like right now we have  
22 different descriptions of this, so right now we  
23 would say we have an update or we have a benchmark;  
24 but if something went over to the research TRAC



1 under the new system, what level of review would  
2 that be subjected to? That would be different,  
3 would it not?

4 JAMES WEINBERG: That level of peer  
5 review would be the same level of peer review that  
6 the SAW/SARC has now with CIE reviewers.

7 COUNCIL CHAIRMAN RICHARD ROBINS:  
8 Thanks for that clarification. Other questions for  
9 Dr. Weinberg? Okay. Seeing none, we'll be convened  
10 tomorrow morning at eight o'clock with the ASMFC  
11 jointly to consider the recreational measures and  
12 also reconsider the summer flounder specifications.

13 And we will be adjourned now. And hospitality  
14 again is in Building 15, Room 4181. And we'll be  
15 over there in a little while. Thanks.

16  
17 WHEREUPON:

18  
19 THE MEETING WAS SUSPENDED AT 5:25 P.M.  
20  
21  
22  
23  
24

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

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In witness whereof, I have set my hand and Notary Seal this 25th, day of January, 2011.

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PAUL T. WALLACE. Notary Public  
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October 8, 2015

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

COUNCIL MEETING

13-15 DECEMBER 2011

at

Kingsmill  
1010 Kingsmill Road  
Williamsburg, VA 23185

(Morning Session)

WEDNESDAY DECEMBER 14, 2011

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1 [8:10 a.m.]

2  
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Good morning and welcome to Williamsburg and welcome  
6 to the Council's December meeting. We're going to  
7 be convened jointly today. We'll be convened as a  
8 committee of the whole of our Demersal Committee of  
9 which Jack Travelstead is chair.

10 We'll also be convened jointly with  
11 the ASMFC Summer Flounder, Scup and Black Sea Bass  
12 Board. And we'd just like to welcome everybody to  
13 the meeting.

14 We have a challenging agenda in front  
15 of us today. We'll be reviewing the specifications  
16 for summer flounder and scup. We'll also be setting  
17 recreational measures for summer flounder, scup, and  
18 black sea bass jointly between the two bodies.

19 And I'd like to acknowledge we also  
20 have with us today Bruce Buckson, who is the new  
21 head of NOAA's law enforcement. So welcome to  
22 Bruce. And with that, I'll hand it over to Jack  
23 Travelstead.

24 LEE ANDERSON: Mr. Chairman, may I

1 have the floor for a few moments, please?

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Yes, Lee.

4 LEE ANDERSON: I'm sorry to  
5 interrupt. I know we have a busy schedule. But on  
6 behalf of the whole council, I would like to thank  
7 you, Rick, for the tremendous party we had last  
8 night. That was great. I had to write it down.  
9 The shrimps, scallops, lobster, the lox, everything  
10 was good. How did you do it in such a small  
11 kitchen? And I have to say as well that I've worked  
12 with you for about four years now, and I have many  
13 memories of you, but you walking around that small  
14 kitchen in an apron is something I will not forget.

15 And my only regret is we had no  
16 camera in the room as far as I know, so that will  
17 have to remain in our memory. But thank you again  
18 on behalf of the Council.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Thank you, Lee. And just in case you missed the  
21 tomato juice, monopsony never tasted so good. All  
22 right. Jack.

23 JACK TRAVELSTEAD: That was quite a  
24 feast last night. Thank you, Rick. As Rick said,

1 we've got a full agenda before us today, and the  
2 first couple orders of business are going to deal  
3 with the summer flounder and scup assessments that  
4 were released in October.

5 And, of course, as a result of that  
6 we're being asked to reconsider the recommendations  
7 that we made last summer with respect to summer  
8 flounder and scup. I think we're going to follow  
9 the normal order of business with a presentation  
10 from Jessica. We'll then open it up for questions  
11 and discussions. Dr. Boreman is here from the SSC  
12 if we need to hear from him, and then we'll open it  
13 up for motions following that. Jessica.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Jack, excuse me. If I may, I'd also like to  
16 acknowledge and welcome Admiral Dean Lee from the  
17 U.S. Coast Guard who has just joined us. So  
18 welcome, Admiral Lee.

19 JACK TRAVELSTEAD: All right. Go  
20 ahead, Jessica.

21 \_\_\_\_\_  
22 FINALIZE SUMMER FLOUNDER 2012 MANAGEMENT MEASURES

23 JESSICA COAKLEY: All right. Good  
24 morning everyone. Before I go through my

1 presentation, I'd like to quickly go through the  
2 stack of handouts that you have in front of you so  
3 you're aware what's there.

4 We had a December 7th Monitoring  
5 Committee meeting where the Monitoring Committee  
6 discussed annual catch targets as well as  
7 recreational measures for summer flounder, scup, and  
8 black sea bass. A summary of that is provided.

9 We also had an Advisory Panel meeting  
10 on December 8th. It was a webinar. A summary of  
11 their recreational recommendations is provided. We  
12 have a comment letter from Captain Monty Hawkins  
13 dated December 11th that's available as a handout, a  
14 letter dated December 8th from Recreational Fishing  
15 Alliance; a memo from John Boreman, SSC Chair, to  
16 Rick Robins dated December 5th, this is the report  
17 from the December 5th SSC meeting; the  
18 recommendations of the SSC; a copy of John Boreman's  
19 presentation on ABCs. So I'll pause during my  
20 presentation, and John will present a few slides  
21 describing the ABC recommendations.

22 And we also have a summary from a  
23 recreational focus group that was held on  
24 December 2nd and 3rd by the Council with the



1 fisheries forum, the fisheries leadership and  
2 sustainability forum. And that's something that  
3 we'll discuss this afternoon as we talk about  
4 recreational measures.

5 So I know it's a lot of handouts.  
6 Please take the opportunity on a break or at  
7 lunchtime to look through some of that information.

8 So for summer flounder, just giving a little bit of  
9 background, the last peer reviewed stock assessment  
10 occurred in June 2008. It was SAW/SARC 47.

11 The assessment models that were  
12 approved for summer flounder at that time include  
13 the age-structured assessment program. It's a  
14 forward projecting model called ASAP. Yield per  
15 recruit analysis is used to develop the biological  
16 reference points. And Age Pro Projections, that  
17 program is used to project forward information so we  
18 can set harvest limits and catch limits for upcoming  
19 fishing years. The biological reference points that  
20 were peer reviewed and accepted include an F 35  
21 percent FMSY proxy, which is the fishing mortality  
22 threshold above which overfishing would occur, and  
23 that's 0.310, an SSB MSY proxy, which was our  
24 rebuilding target, of 132.4 million pounds or about

1       60,00 metric tons.

2               A letter was just received on Tuesday  
3       from the National Marine Fishery Service declaring  
4       that the summer flounder stock was rebuilt. It has  
5       crossed the rebuilding threshold, just barely. It's  
6       just about at BMSY, but is declared rebuilt.

7               So a recap of August. The Council  
8       met in August 2011 to set 2012 measures based on the  
9       southern demersal working group update that was  
10      provided in June 2011.

11              The SSC and the Monitoring Committee  
12      and Advisory Panels met and passed on  
13      recommendations for the Council at that time. The  
14      recommendations were based on a projection update,  
15      and that update used the June 2010 modeling as a  
16      base year.

17              So the June 2010 assessment update  
18      included data through 2009. That 2009 information  
19      was projected forward when we set the 2011 measures.

20      So to set these 2012 measures, that information was  
21      projected forward an additional year using the  
22      realized 2010 landings and assuming the 2011 quotas  
23      would be caught. So the SSC, the Monitoring  
24      Committee, and advisors provided recommendations at

1 that time to the Council to consider from this  
2 projection update.

3 [Pause] Sorry. My laptop has locked  
4 up a little bit there. Okay. So the August council  
5 recommended overfishing limit, ABC and ACTs that had  
6 been put forward from the model included a 44  
7 million pound overfishing limit and a 35.6 million  
8 pound ABC. Those were both recommended by the SSC.

9 The commercial and recreational ACLs  
10 that were recommended by the Council were 19.59  
11 million pounds for the commercial fishery and 15.96  
12 million pounds for the recreational fishery.

13 The Council considered the  
14 recommendations of the Monitoring Committee which  
15 were to set the respective ACTs equal to their ACLs,  
16 so the Council recommended the same ACTs as the  
17 ACLs.

18 The landings levels that were  
19 recommended were 18.95 million pounds for the  
20 commercial fishery and 12.63 million pounds for the  
21 recreational. And once the 3 percent RSA was taken  
22 out, those were the commercial quota and the  
23 recreational harvest limit.

24 Also in 2011, an update was received.

1        This was a more comprehensive update. It applied  
2        the same peer review models and methods that we've  
3        applied to the prior model updates; however, it  
4        included the data through 2010.

5                So the information we were looking at  
6        this summer back in July included modeling data  
7        through 2009 and then projected across '010, '011  
8        and into '012. This new update included that 2010  
9        data, and then we had to project across 2011 and  
10       into 2012. So the projections for 2012 assumed:  
11       that the 2011 quotas and harvest limits would be  
12       taken exactly, that incoming recruitment is  
13       approximately average, and the projections we sample  
14       from the distribution of recent recruitments that  
15       age structure and the numbers of fish of age in 2010  
16       is projected forward in this age projection model,  
17       and natural mortality and fishing mortality are  
18       applied depending on what those catch levels are.

19               And that recruitment comes in, so  
20       essentially we're just carrying forward that 2010  
21       age structure through time. There were no  
22       adjustments made for retrospective patterns in  
23       recruitment, fishing mortality, or spawning stock  
24       biomass when those projections were done.

1                   So, based on that October update,  
2                   here is a plot of total catch and fishing mortality.

3                   The solid line is total catch. So, as you can see,  
4                   back in the early '80s, catch was quite high. It  
5                   decreased to a low level in 1989.

6                   And in recent years you can see  
7                   that -- well, through the 2000s as we were  
8                   rebuilding, catch declined, but there was a slight  
9                   uptic in 2010 as catch levels were set slightly  
10                  higher. The corresponding fishing mortality follows  
11                  a general trend, the same general trend where it was  
12                  higher earlier in the time series and then declined.

13                  And in the most recent four model years, which is  
14                  '06, '07, '08, '09, and '010, the fishing mortality  
15                  rates were below the overfishing limits. So we were  
16                  not overfishing in those years.

17                  The spawning stock biomass and  
18                  recruitment shows a really strong rebuilding trend  
19                  from that low level. The solid line is SSB, from  
20                  that really low level in 1989 up to the rebuilding  
21                  target, which is a little over 60,000 metric tons.

22                  The recruitment pattern is also  
23                  given. They had some really high recruitments early  
24                  in the time series. Recruitment hit a very low

1 level as the stock decreased, which is the point  
2 where a rebuilding plan was implemented. And  
3 recruitments in '09 were quite high. '010 the  
4 recruitment is a little bit lower.

5 This is just a few of the survey  
6 indices that go into the assessment model. These  
7 are the Northeast Science Center trawl surveys.  
8 There are about 49 age-specific indices that go into  
9 the model itself. So this is just a snapshot of a  
10 few.

11 But you can see a general upward  
12 trend from the late 1980s to the current level, so  
13 sort of a regression to a pretty steady upward trend  
14 in that pattern. So the updated stock dynamics  
15 based on this new information, for 2010 the fishing  
16 mortality rate was estimated to be .216, which is  
17 less than the F 35 percent threshold rate. The 2010  
18 spawning stock biomass is 100.3 percent of SSB MSY,  
19 which is that 132 million pounds. So we're above  
20 the threshold by about 350,000 pounds.

21 The stock is not overfished, and  
22 overfishing was not occurring in 2010, based on this  
23 October 2011 update, which used 2010 information.  
24 If the catches in 2012 equal the August Council

1 recommended ACT, overfishing is projected to occur  
2 in 2012.

3 And this is why the Council is here  
4 discussing this issue and the SSC was asked to  
5 revisit the ABC recommendation. So why did the  
6 update change? There's a retrospective pattern  
7 that's evident in the assessment.

8 And a retrospective pattern  
9 essentially means that the model estimates  
10 systematically change when additional years of data  
11 are added.

12 The retrospective pattern of  
13 overestimation in recruitment is quite a large  
14 pattern. So we think we have these high  
15 recruitments that are occurring, and when we add  
16 additional years data we don't see those  
17 recruitments carrying on through the time series.  
18 We have a retrospective pattern of underestimation  
19 in spawning stock biomass and fishing mortality, but  
20 it's a much smaller pattern in these updated  
21 assessments. So that pattern in the recruitment is  
22 really what's helped driving that substantial change  
23 in the estimates for spawning stock biomass because  
24 if those recruitments -- we think we get a big

1 recruitment, and it's carried through in the  
2 projections, as we've done in the June 2011 update,  
3 and it's carried forward a few years, we think those  
4 recruits are going to continue on in the  
5 projections; however, when we add the additional  
6 years data, that information suggests that that year  
7 class is, in fact, smaller than we thought it was.  
8 So then when we project that forward, it brings that  
9 spawning stock biomass down.

10 So the magnitude of the age zero  
11 indices are not being seen when the additional year  
12 data is added, and the year class continues through  
13 in the catch and/or the indices.

14 So those year class estimates are  
15 being decreased, and it really results in a  
16 substantial change in the estimates. This is just a  
17 spaghetti pot of the retrospective pattern. It's a  
18 spawning stock biomass.

19 And while we had substantial resets  
20 in spawning stock biomass early in the time series -  
21 - you can see my cursor here where we started with a  
22 very high spawning stock biomass, and then we added  
23 additional years data, and then it's reset  
24 downwards. We saw that in the early 2000s when we



1       were rebuilding. Well, the pattern has changed a  
2       little bit.

3               So, now as we've come out in more  
4       recent years and we added additional years data, the  
5       pattern is reset upwards. The spawning stock  
6       biomass creeps up a little bit in the model  
7       estimate.

8               The big changes are in the  
9       recruitment age zero indices, which are actually  
10      called model age one where you see these really big  
11      movements from very high indices year classes to  
12      very small year classes.

13              So the update revised the overfishing  
14      limit estimates as well. So the 2012 overfishing  
15      limit based on this update is 31.6 million pounds.  
16      That's 28 percent lower than the previously  
17      estimated overfishing limit of about 44 million  
18      pounds.

19              So the SSC met on December 5th to  
20      revisit the acceptable biological catch  
21      recommendations for summer flounder. Then the  
22      Monitoring Committee was convened and met on  
23      December 7th to revisit their annual catch target  
24      and commercial measures recommendations to see if

1 they wanted to change those recommendations. So, at  
2 this point, I'm going to switch over to John Boreman  
3 who's going to walk through the ABC recommendations.

4 JOHN BOREMAN: Thanks, Jessica.

5 Jessica did an excellent job of describing what  
6 happened between our July meeting when we had a  
7 projected updated assessment or an updated  
8 assessment based solely on projections and then our  
9 December meeting where we had a true updated  
10 assessment based on an additional year's data.

11 So next slide. Next slide. Oh. We  
12 can stop there for a while. So, basically, the SSC  
13 was asked to revisit our terms of reference that we  
14 addressed at our July meeting on summer flounder and  
15 scup.

16 And in light of the new information  
17 that we received in October from the Northeast  
18 Center on the updated assessment, if we wanted to  
19 change our recommendations, and so what we did we  
20 convened a webinar on December 5th lasting for about  
21 three to four hours or so, and the report, as  
22 Jessica said, has been handed out today.

23 We went through systematically --  
24 after a presentation by Mark Terceiro on the updated

1 assessment showing us what the latest information is  
2 and then explaining, as Jessica did, what happened  
3 to cause the 30 percent or so drop in spawning stock  
4 biomass which resulted in about a 30 percent drop in  
5 the overfishing limit, he walked us through that and  
6 responded to the questions that were asked by both  
7 the SSC and the public that was participating in the  
8 webinar. So, in response to the terms of reference,  
9 the SSC still believes that this is a Level 3  
10 assessment. We do have an estimate of the  
11 overfishing level.

12 The uncertainty associated with that  
13 OFL in the assessment we feel doesn't fully  
14 encompass the uncertainty associated with  
15 overfishing. It's basically based on model  
16 uncertainty and not uncertainty in the underlying  
17 data, so that causes it to be a Level 3 rather than  
18 a Level 2 assessment. So we maintained a Level 3  
19 assessment.

20 Next slide. So based on that, and  
21 then we presented the OFL itself at about 32 million  
22 pounds, and that's based, again, on the threshold F  
23 or this FMSY of about .31 and the November 2011  
24 projected biomass.

1                   That is, in the updated assessment,  
2 biomass was projected for November of 2011 or  
3 basically the spawning stock biomass for the  
4 beginning of the coming fishing year. The next  
5 slide.

6                   So, based on that OFL, and obviously  
7 this is a pattern that we felt that we could not  
8 recommend more than a single year specification. As  
9 we discussed yesterday, this is a case where we do  
10 see too much instability to feel confident that we  
11 can do more than a single year spec on summer  
12 flounder. And to follow up on the chair's comment  
13 yesterday, I have tasked our scientific uncertainty  
14 subcommittee of the SSC to develop some proposed  
15 criteria that we can discuss at our upcoming meeting  
16 that would help us establish multi-year  
17 specifications; in other words, under what  
18 situations can the SSC feel comfortable giving a  
19 specification for more than a single year?

20                   But we're not there yet. In this  
21 case and as in the case for scup, we are  
22 recommending a single year specification. And based  
23 on the OFL, we determined that ABC should be set at  
24 about 25.6 million pounds or what is it; I can't see

1       that far -- 11,600 metric tons.

2               And that's based on the OFL in the  
3       updated assessment. The projected ration of biomass  
4       in 2012 divided by biomass at MSY of 101 percent,  
5       and resorting to the risk policy of the Council a P  
6       star equals .4, and based on our log normal  
7       distribution PDF with the coefficient of variation  
8       of a hundred percent.

9               And that log normal distribution with  
10       a CV of a hundred percent is again based on an  
11       analysis done by one of our committee members of  
12       basically as many stocks as he can find around the  
13       world where uncertainty estimates were developed for  
14       overfishing levels. And based on the analysis that  
15       was done, the SSC feels that under those cases an  
16       uncertainty of a hundred percent and a coefficient  
17       of variation is appropriate for summer flounder.  
18       Again, this ABC is about 30 percent or so lower than  
19       the recommendation we came by in August at the  
20       August meeting of the Council.

21               The principal reason is that the  
22       projected fishing mortality rate given our old ABC,  
23       would be about .32. It would be above the FMSY  
24       level, which would mean technically the fishery

1 there would be overfishing. So we cannot recommend  
2 a level that would lead to overfishing. So, based  
3 on the new estimate of the overfishing level, we  
4 developed an ABC of 11,600 metric tons. Next slide.

5 Again, sources of uncertainty we  
6 reviewed these again. As Jessica mentioned, there's  
7 a strong annual retrospective pattern in recruitment  
8 evident in the last four years of the assessment.

9 Earlier than four years ago it was  
10 spawning stock biomass and fishing mortality that  
11 showed strong retrospective patterns, but in the  
12 last four years, it's fishing mortality and spawning  
13 stock biomass retrospective patterns were relatively  
14 mild, and the retrospective patterns for recruitment  
15 have increased. And we consistently were  
16 overestimating recruitment or at least it was being  
17 overestimated in the assessment. When additional  
18 years data that verified those recruitment levels  
19 showed that they were being overestimated. There's  
20 also uncertainty in the projection caused by  
21 uncertainty in the strength of the most recent year  
22 classes, and this is basically the 2008 and 2009.

23 The plot that Jessica showed you of  
24 the recruitment levels is based on the most recent

1 assessment. If you had the plot based on last  
2 year's assessment, the 2008 and 2009 recruitment  
3 levels would have been much higher than we realized  
4 during the most recent assessment.

5 There's also uncertainty in the stock  
6 status because of a lack of uncertainty in  
7 estimation of the biological reference points used  
8 for FMSY. That's the proxy. Next slide.

9 Uncertainty exists with respect to  
10 the estimate of natural mortality, which we use the  
11 term capital M for that. There's no uncertainty  
12 characterization for the overfishing limit in the  
13 assessment itself; therefore, we characterized it as  
14 a CV of a hundred percent under a log normal  
15 distribution.

16 And, again, as with many species  
17 these days from the Northeast Center, uncertainties  
18 exist resulting from the application of the trawl  
19 calibration coefficients, moving from the time  
20 series developed using the Albatross to the most  
21 recent time series using the Bigelow and their  
22 possible influence on the results of the assessment.

23 So that's the SSC report.

24 JESSICA COAKLEY: All right. After

1 the SSC met on December 5th, the Monitoring  
2 Committee was convened on December 7th, and the  
3 Monitoring Committee was asked based on the new  
4 recommended ABC and the recreational annual catch  
5 limit and commercial annual catch limit derived from  
6 that if they wished to change their prior  
7 recommendations, that the recreational and  
8 commercial ACT equal the respective ALCs.

9 The Monitoring Committee indicated  
10 they had no changes to their prior recommendations  
11 for ACTs. In addition, they didn't have any  
12 recommendations to changes to things like commercial  
13 minimum fish size, current mesh size, Small Mesh  
14 Exemption Program, or North Carolina Flynet program,  
15 the RSA up to 3 percent or that states should  
16 implement measures to reduce discard losses in the  
17 commercial fisheries.

18 So all the Monitoring Committee  
19 recommendations were consistent with the previous  
20 recommendations made in July. So taking the SSC and  
21 the Monitoring Committee recommendations for OFL,  
22 ABC, and ACTs, that would result in an OFL of about  
23 31.6 million pounds, an ABC of 25.58 million pounds;  
24 the commercial ACL would be 14 million pounds, and



1 that would be equal to the commercial ACT; the  
2 recreational ACL would be 11.58 million pounds, and  
3 that would be equal to the recreational ACT; and the  
4 commercial quota and recreational harvest limit  
5 after a 3 percent RSA has been deducted, would be  
6 13.14 million pounds for the commercial quota and  
7 8.76 million pounds for the recreational harvest  
8 limit. So this final table is your summary of all  
9 those recommended levels. And that concludes my  
10 presentation, Jack.

11 JACK TRAVELSTEAD: You want to leave  
12 that up there? I think it might be helpful. Are  
13 there questions for Jessica or John at this point?  
14 Dr. Pierce.

15 DAVID PIERCE: Thank you for that  
16 rather clear presentation regarding the need for a  
17 change. There's a lot of information before us, and  
18 I need to capture the essence of the problem  
19 relative to why, indeed, we are now faced with this  
20 significant change in what would be implemented in  
21 2012.

22 Figure 24 in the assessment document,  
23 the one that you put up awhile ago, Jessica, I  
24 believe, showing the recruitment at age one from '82

1 through 2010, I think that this particular figure is  
2 the one that is influencing the decisions -- that  
3 should influence our decisions as to which way to  
4 go. Is that correct? In other words, we suddenly  
5 have this rather significant retrospective error in  
6 recruitment in that we don't have in 2009  
7 recruitment of 80,000 age zero fish. We have maybe  
8 60,000. And then in 2010, recruitment appears to  
9 have dropped down to about 30,000. So, if we assume  
10 a consistent retrospective error, recruitment might  
11 be even less than that.

12 So am I characterizing this  
13 correctly, that this really is the principal new  
14 information that has generated this concern?

15 JESSICA COAKLEY: Yes, you are. It's  
16 a substantial retrospective pattern in recruitment,  
17 and those age classes are being reset on the order  
18 of 30 to 40 percent lower when we're adding this  
19 additional year's information. And it has a very  
20 substantial effect on what future SSB is projected  
21 to.

22 DAVID PIERCE: Okay. Now, I think  
23 that either you or John said that this is the first  
24 time we're seeing a problem with recruitment, that

1 is, with this retrospective pattern.

2 Did the Monitoring Committee or did  
3 the SSC discuss this new retrospective pattern and  
4 provide any explanation or any speculation as to why  
5 suddenly we have this problem, which I assume will  
6 continue into the future and will cause us all sorts  
7 of grief relative to what, indeed, we need to set  
8 from one year to the next. So any explanation for  
9 this problem with our estimation of recruitment?

10 JACK TRAVELSTEAD: John.

11 JOHN BOREMAN: This retrospective  
12 pattern is not new to this year. We've seen this in  
13 the last four updates is what we're saying. Prior  
14 four years ago, we were seeing the pattern in  
15 fishing mortality and spawning stock biomass, that  
16 we were underestimating fishing mortality and  
17 overestimating spawning stock biomass, but that has  
18 settled down a bit.

19 But the balloon now is being pushed  
20 out in a different area and this is the recruitment  
21 pattern. Last July we discussed this at our SSC  
22 because we were concerned at that time with the  
23 retrospective recruitment, and we asked for some  
24 projections with a reduced recruitment level.

1 I think we asked for a projection  
2 when the recruitment in 2009 was half of what we  
3 thought it was. But at that time, we were just  
4 focused on the rebuilding part, on the recovery, and  
5 even if the recruitment was half in 2009, it still  
6 showed the stock recovering in 2011, so we left it  
7 at that.

8 On hindsight probably we should have  
9 asked for what the F would have looked like 'cause  
10 the fishing mortality rate would have been higher  
11 than FMSY, but we were focused that time on making  
12 sure we were on a path to recover the stock. So the  
13 surprise, if anything, to us was the fact that we  
14 were recommending a level that would lead to  
15 overfishing in 2012. So that kind of caught us off  
16 guard.

17 And that, again, goes back to the  
18 realization of -- not an absolute hundred percent,  
19 but a more of a realization that the estimates of  
20 recruitment in 2008 and 2009 were overestimates at  
21 the time that they were done.

22 DAVID PIERCE: John, in your  
23 presentation you noted the different sources of  
24 uncertainty, and one source relates to the

1 application of aggregate calibration coefficients,  
2 the Albatross versus the Bigelow.

3 Do we have any insights as to the  
4 extent of the uncertainty caused by our now using  
5 the Bigelow, and is it possible that the  
6 significance of this change in recruitment, the size  
7 of the retrospective pattern, could be due to the  
8 use of the Bigelow?

9 JACK TRAVELSTEAD: John.

10 JOHN BOREMAN: I'll start with that  
11 answer. I'll let Jessica pick it up and maybe defer  
12 to the Center. The estimates of recruitment are  
13 based on more than just the Bigelow. They're based  
14 on a whole series of surveys done up and down the  
15 coast. So the Bigelow obviously has probably the  
16 strongest influence, but not the only influence. So  
17 the recruitment estimates using the Bigelow data are  
18 tempered by estimates derived from other young of  
19 the year surveys conducted along the coast. So it  
20 may be a contributing factor, but not a hundred  
21 percent of it. Jessica.

22 JESSICA COAKLEY: Yes. That's  
23 correct, John. There's a number of young of the  
24 year indices that are input into the assessment from

1 the individual states, and those all contribute to  
2 the model fit.

3 The calibration coefficients one of  
4 the things that the Center is going to do, and I  
5 believe it's going to be peer reviewed, are looking  
6 at using length or age-based calibration  
7 coefficients, as opposed to aggregate coefficients  
8 which may provide a better fit to adjusting some of  
9 those indices.

10 But, in terms of what's really  
11 driving those patterns, we have those young of the  
12 year indices, and as you know, the models try to fit  
13 either to the survey indices or the composition at  
14 age and the catch, and so we see those high indices  
15 that had come in in prior years in the young of the  
16 year indices, but we're not seeing when we add  
17 additional years data or an additional two years  
18 data, we're not seeing those age classes carry  
19 forward in future survey indices or in the catch  
20 itself at age when that's input in the model. So  
21 the model when it can't reconcile the fit between  
22 those two, that's how these retrospective tend to  
23 pop out.

24 DAVID PIERCE: I understand that

1       there are different surveys. The only reason why I  
2       highlighted the Bigelow is that it is highlighted in  
3       the presentation. So it made me wonder to what  
4       extent the Bigelow caused -- to what extent that we  
5       now find ourselves going forward into the future  
6       with continued great uncertainty causing us to  
7       question the size of incoming recruitment. It was  
8       highlighted, so I mentioned it.

9               JACK TRAVELSTEAD: Jim, did you want  
10       to add to the discussion?

11              JAMES WEINBERG: Yeah. Thank you.  
12       Besides the issue of the retrospective pattern in  
13       the recruitment, it's important to note that one  
14       reason the picture of the stock has changed is that  
15       you're adding additional information.

16              As Jessica pointed out, what was done  
17       in the summer of 2011, you had an estimate of  
18       spawning stock biomass for 2009, and then everything  
19       was projected forward from that; whereas, the latest  
20       assessment that's in your briefing book has an  
21       estimate of spawning stock biomass from the model  
22       for 2010. So you're taking the model a year forward  
23       and then projecting from there, and that's a big  
24       difference. And that estimate of spawning stock

1 biomass for 2010 came out to be lower in the most  
2 recent update that's in your briefing book, and that  
3 is also driving the result.

4 JACK TRAVELSTEAD: Thank you. Rick.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Yeah. I wanted to ask a question of Dr. Boreman,  
7 and it relates back to the assessment itself.  
8 Looking at this retrospective pattern that's  
9 contributing significantly to the uncertainty, and  
10 that has, as we see today, very significant  
11 management ramifications, we had a presentation at  
12 the end of the day yesterday from the Science Center  
13 about the new process whereby we would have  
14 operational assessments, and those would occur on a  
15 scheduled frequency, and then if there were issues  
16 with the assessments, they would be referred over to  
17 the research TRAC.

18 And I just wanted to ask Dr. Boreman  
19 if he thought that this retrospective pattern that's  
20 emerging at least as one component of the assessment  
21 is something that would warrant referring the  
22 assessment over to the research TRAC for further  
23 investigation and review?

24 JOHN BOREMAN: The short answer is



1       yes. Obviously, this is a pattern that's causing  
2       obviously heartburn both on the side of the  
3       assessment scientists as well as the management  
4       side. So, if there is a way to reduce this  
5       retrospective pattern -- the retrospective pattern  
6       that we were seeing on fishing mortality and  
7       spawning stock biomass was reduced because of an  
8       updated assessment, a benchmark that was done around  
9       2006/2007 or so, but then this retrospective pattern  
10      popped out.

11               So, if there is a way to analyze the  
12      information to figure out how we can adjust to  
13      reduce the retrospective pattern in recruitment,  
14      that would be worthwhile doing as well as a couple  
15      of other factors, obviously the one that Dr. Pierce  
16      raised, and that is, the calibration of the Bigelow  
17      to the Albatross is important, too, to nail that  
18      down as well as the sources from my view of the data  
19      at least, the discard mortality in the recreational  
20      fishery is an unknown. That probably also should be  
21      a source of research in the research TRAC.

22               JACK TRAVELSTEAD: Jim Gilmore.

23               JAMES GILMORE: Thank you, Mr.  
24      Chairman. Actually, I have two questions that are

1 somewhat related. Jessica, you and Dr. Boreman can  
2 figure out who wants to answer them.

3 Jessica, you said I guess when you  
4 went into the recalculation, that the first  
5 assumption was the entire quota would be landed, but  
6 from your report you had put out, that actually did  
7 not happen. We essentially had particularly in the  
8 recreational fishery significant underharvest. So,  
9 if you essentially take that actual underharvest and  
10 you put that back in -- because we essentially  
11 violated that assumption, or if you use that  
12 assumption, it's very conservative at that point.  
13 So will change any of the measure of the ABC?

14 And the second question was that then  
15 there was a calculation done on the ABC at the  
16 original August estimate that was 35.5 is that we  
17 would be over the .31 fishing level. Then the new  
18 number is 25.58.

19 Is there a calculation of what the  
20 fishing level would be at that point? And where I'm  
21 going with this is that I mean, again, if you  
22 violate that first assumption or if you factor in  
23 some real numbers is that maybe the number is  
24 somewhere between 25 and 35, so. Thank you.

1 JESSICA COAKLEY: Sure. When the  
2 projections are done, the fact that the 2011 quotas  
3 and harvest limits are taken exactly is just one of  
4 multiple assumptions that go into the model.

5 So the assessment work groups have  
6 discussed this in the past as to whether they should  
7 try to use a more recent projection of what the  
8 landings might be in the current year. This year it  
9 turns out that it happens to be under those quota  
10 levels. In some years it may turn out that it's  
11 actually over those quota levels. And in reality,  
12 the 2011 data for what the catch is for that fishing  
13 year really isn't final until about April/May of  
14 2012.

15 Commercial landings the records are  
16 typically finalized then. All the reports are in.  
17 All the auditing is done. Those values tend to  
18 creep up later in the year on the commercial side.

19 On the recreational side, again,  
20 those estimates for the current fishing year aren't  
21 final until April when the MRFS people have had the  
22 opportunity, for-hire survey, for example, to go  
23 through VTRs, reconcile the effort estimates and the  
24 for-hire component. That changes what those final

1 estimates are for the year.

2 So those estimates tend to change and  
3 really aren't final until we're part way through  
4 2012, which is actually really close to June, when  
5 the SSC and assessment work groups typically meet  
6 again for the next fishing year.

7 We also assume that incoming  
8 recruitment is going to be average or about average  
9 by resampling the patterns of recent recruitments.  
10 And we know that that's something that hasn't held  
11 up in terms of our assumptions either, that we have  
12 this retrospective pattern and that this most recent  
13 year class in 2010 is substantially lower than the  
14 longer term time series. So that is another  
15 assumption that may be violated.

16 We assume that the age structure --  
17 you know, and information in 2010 is going to be  
18 projected forward and carried forward, but we know  
19 some of those catch at ages change over time as  
20 well.

21 So, I guess where I'm going is that's  
22 one of multiple variables and assumptions that go  
23 into this, any of which could drive what that F  
24 might be in upcoming fishing years in different

1 ways.

2 JACK TRAVELSTEAD: Jim.

3 JAMES GILMORE: So is there a  
4 calculation based upon the lower number in the  
5 fishing level? Was that done or not?

6 JESSICA COAKLEY: Toni Kerns had put  
7 a request in with the Science Center for those  
8 projections, so if Toni has those available, she can  
9 highlight that for you.

10 JACK TRAVELSTEAD: Toni.

11 TONI KERNS: Just give me one second.

12 So what I asked Mark to do was to assume that the  
13 commercial harvest would be completely taken since I  
14 didn't have a projection for commercial harvest but  
15 asked him to use the recreational projected harvest  
16 from the Monitoring Committee memos. And the OFL  
17 for 2012 would be 16,560 metric tons or 36.51  
18 million pounds. And the SSB for that level in 2012  
19 would be 60,074 metric tons. He did not give me an  
20 ABC I don't believe. I think that's about 81  
21 percent of that if that's correct. John. Give me  
22 one second.

23 JACK TRAVELSTEAD: Toni's going to do  
24 that calculation, so we can have an ABC specific to

1       that set of circumstances. Jessica, do you have a  
2       follow-up?

3               JESSICA COAKLEY: Yeah. Just one  
4       more quick point. This issue did come up on the  
5       call with the Science and Statistical Committee, and  
6       we did discuss what assumptions go into those  
7       projections and the fact that the assessment work  
8       groups have previously discussed that, and these are  
9       the methods that were put forward when the 2008 peer  
10      review occurred, and the projections were reviewed  
11      at that time; and at that point, Mark Terceiro had  
12      offered if the SSC was interested in revisiting  
13      those they could, but the SSC didn't think it was  
14      necessary at that time. So if John has anything  
15      else to add. I just wanted to highlight that that  
16      was not something that they requested.

17             JACK TRAVELSTEAD: John.

18             JOHN BOREMAN: Yeah. As Jessica  
19      said, this did come up during the call. Mark was  
20      asked specifically about the basis for the  
21      projections, that's assuming the quota was taken in  
22      2011. Again, we won't really know until the middle  
23      of next year what the real take was for 2011. We  
24      asked Mark if there were other ways of doing the

1 projections.

2 He said, yes, we have investigated  
3 other ways, but his committee felt that the best  
4 projections are based on the assumption that the  
5 full quota will be taken in 2011. So the SSC  
6 accepted that advice and said that's what we  
7 consider best available science.

8 JACK TRAVELSTEAD: Thank you.

9 TONI KERNS: Eighty-one percent of  
10 the 36.51 would be 29.57 million pounds.

11 JACK TRAVELSTEAD: That's the answer  
12 to your question, Jim. Did you have anything else?  
13 Okay. Pat Augustine.

14 PAT AUGUSTINE: Thank you, Mr.  
15 Chairman. Dr. Weinberg, you had suggested or  
16 mentioned that we've had an increase in mortality on  
17 SSB, and I assume that's directly related to  
18 recruitment.

19 Would we not expect the trend to  
20 continue downward in recruitment in view of the fact  
21 we're fishing only on spawning stock biomass? It  
22 just seems to me that there's a direct relationship  
23 to size versus production. And, if we continue to  
24 fish on the producers, do you see, or could you

1 suggest how we could address the concern as noted  
2 here about recruitment increasing?

3 JAMES WEINBERG: Yeah. This is kind  
4 of a complicated question that I don't think I can  
5 address it in this meeting. All along the drive has  
6 been to try to rebuild the stock and kind of keep  
7 our nose to the grindstone keeping the total  
8 mortality low and rebuilding the stock.

9 Now that that has been achieved, I  
10 think -- there are a lot of papers in the literature  
11 about harvesting fish at different sizes to maximize  
12 reproduction or growth of certain age classes and  
13 all, and I think all those strategies can be  
14 considered.

15 But I think it's a big achievement  
16 that we've rebuilt the stock and brought a lot of  
17 age classes back into the population, and that frees  
18 the Council up, I think, to start thinking more  
19 broadly.

20 But you have a good point about if  
21 you're always targeting mature fish, then you have  
22 to question what that does to recruitment. But over  
23 the years, I can remember a number of cases where we  
24 looked at the latest estimate of recruitment or two



1 or three and saw that they seemed to be below  
2 average. And some people might jump to the  
3 conclusion or overinterpret the most recent  
4 estimates, and sometimes it's better to keep your  
5 eyes sort of squinted and look at the broad picture  
6 over a longer time scale and not to overinterpret  
7 the latest one or two points.

8 PAT AUGUSTINE: Follow-up, Mr.  
9 Chairman. Thank you. I knew you didn't have an  
10 answer, and it was a nasty question to ask, but I  
11 wanted to assure you I'm still alive and well.

12 But a follow-on. We're experiencing  
13 this now with summer flounder. We've experienced it  
14 with striped bass. And the ASMFC has 23 species  
15 with an additional 13 from the Mid-Atlantic, and  
16 we're still doing single species management  
17 generally speaking.

18 So I just wonder when a group is  
19 going to be put together to look collectively at the  
20 real direct impact as we protect this specie to  
21 bring up that specie.

22 Cod fish is another example. Is it a  
23 one stock species? Is it a three stock species?  
24 Winter flounder's another one. And I think we've

1 got the scientific brainpower, but I don't think we  
2 have the bodies to do all the work or the computers  
3 that have the ability to do what we need to do.

4 But I just wondered, we fix it here;  
5 we fix this problem, and it bulges over there; and  
6 then we fix that problem, and it bulges over there.

7 It just seems somewhere in time and space someone  
8 has to sit down with a group of people and say,  
9 okay, let's do this. If that's ecosystem management  
10 -- it is a form of ecosystem management. But I just  
11 see us repeating the same thing. With porgies, have  
12 an effect on subspecies, black sea bass. We're in  
13 trouble with lobsters. We're in trouble with  
14 tautog.

15 And it's always push here, and it  
16 bulges there, and it seems like we're always a day  
17 late and a dollar short. I'm not rambling. I've  
18 been concerned about a lot of these over a long  
19 period of time.

20 And it's just the process does not  
21 seem to move quite fast enough, and we always are  
22 reacting as opposed to acting. And I think that's  
23 part of the difficulty of our approach to  
24 management. But thank you for your answer, Dr.

1 Weinberg.

2 JACK TRAVELSTEAD: John.

3 JOHN BOREMAN: Yeah. If I can expand  
4 a bit on your first question. I don't want the  
5 Council to have the impression that spawning stock  
6 biomass is headed in the wrong direction.

7 What we saw in the June update with  
8 the projections and what was realized in the update  
9 that we received in October, in the June if you look  
10 at this plot here, if you look at spawning stock  
11 biomass, which is a straight line, you see it's  
12 still headed in the right direction. It's headed  
13 up, and it's soaring up. We projected in June that  
14 the change in spawning stock biomass from 2009 to  
15 2010 would be -- the 2010 would be about 40 percent  
16 higher than 2009. That didn't pan out. It's maybe  
17 30 percent higher and not 40 percent -- 25 percent  
18 difference. So that's what we're talking about.

19 So I wouldn't say that recruitment  
20 right now is in jeopardy. We have a good solid  
21 spawning stock. We have to look at the age  
22 structure of the spawning stock to make sure that we  
23 have a good assortment of ages, a lot of older ages  
24 in there.

1 But everything is headed in the right  
2 direction. It's just overshoot. In the June  
3 projections they overshoot the spawning stock biomass  
4 and the recruitment.

5 JACK TRAVELSTEAD: Further questions?

6 Adam.

7 ADAM NOWALSKI: Thank you very much,  
8 Mr. Chairman. I wanted to have in the record here  
9 some information. Maybe Dr. Boreman would like to  
10 comment on it.

11 Dr. Mark Maunder has been very  
12 heavily involved with summer flounder work in recent  
13 years. His work and expertise has been focusing on  
14 some of the natural mortality estimates,  
15 specifically in how they vary between the males and  
16 the females. One of his most recent documents that  
17 was not brought to light on the SSC call but I  
18 believe has been sent over at some point -- if not,  
19 I'll make sure there's a copy of it.

20 Essentially, he summarizes it with  
21 the following statement: Despite issues with  
22 regards to the different methods, evidence suggests  
23 that the values used in estimating natural mortality  
24 are at the lower limit of what they might possibly

1 be.

2 Fishing mortality reference points  
3 are particularly sensitive to the value of natural  
4 mortality indicating that fishing mortality  
5 reference points are probably more conservative than  
6 necessary.

7 So I just thought I could give the  
8 opportunity for Dr. Boreman to comment on that with  
9 regards to how the current science on natural  
10 mortality factors in and how the fact that the lower  
11 limit of those estimations contribute to the  
12 sentiment that that would contribute to the fishing  
13 mortality rates possibly not being as much of a  
14 concern as they might be made out to be otherwise.

15 JACK TRAVELSTEAD: John.

16 JOHN BOREMAN: Yeah. We received  
17 that information the Friday before the webinar from  
18 Dr. Maunder. I'm familiar with his work. I'm a  
19 co-investigator with him on another project on  
20 summer flounder, so I'm familiar with that. It's  
21 difficult for the SSC to deal with that information,  
22 setting an ABC, since that information needs to be  
23 going to the stock assessment itself and be used  
24 there. It has to be evaluated along with everything

1       else.

2               So the next benchmark if that ever is  
3 going to happen again or the research TRAC will have  
4 to take that information and factor it into the  
5 assessment to determine if the assessment baseline  
6 natural mortality rate needs to be changed.

7               It's hard for us to say, well, if M  
8 is higher by X percent, then that means our ABC  
9 should change by Y percent. We just can't do that.

10       But we did point out, as I said, one of the  
11 significant sources of uncertainty in the assessment  
12 is the estimate of natural mortality.

13               We do recognize that, and we  
14 recognize more work needs to be done on that and  
15 that needs to be done in the context of the entire  
16 updated assessment.

17               JACK TRAVELSTEAD: Jim, on that  
18 subject.

19               JAMES WEINBERG: Yeah. The natural  
20 mortality rate that had been assumed before 2008, I  
21 believe, was .2, and Mark Maunder was on the working  
22 group that did the -- contributed to the last  
23 benchmark assessment, and he was arguing for using a  
24 higher -- for changing the natural mortality rate

1 and considering male and female specific differences  
2 in natural mortality, and so he had his influence on  
3 the working group a few years ago; and I know that  
4 he has continued to be involved with summer flounder  
5 research. But it was good when he was involved on  
6 the working group and as being one member of the  
7 working group I don't think he got the number that  
8 he was arguing for but it was pushed in the  
9 direction along the lines that he was arguing for.  
10 And as part of the committee they settles for a  
11 compromise between what it had been -- what various  
12 opinions were on the working group and what he was  
13 arguing for; so he has been effective and  
14 participated before. So the work that you have  
15 before you in fact the natural mortality rate in  
16 there reflects his influence from the past.

17 JACK TRAVELSTEAD: Chris.

18 CHRISTOPHER ZEMAN: I thank you. My  
19 question deals with this respective pattern, and the  
20 question is is this a scientific uncertainty with  
21 the model or could there be also a factor that --  
22 effecting that based what's happening in the ocean  
23 in terms of the fishing activity -- it seems that we  
24 are seeing -- the survey we saw assuming recruits

1       for zero age fish and then the next year we saw much  
2       less. And my question is is that -- is there some  
3       sort of correlation with some of the happenings in  
4       the ocean in terms of how we could have lost those  
5       fish outside of scientific uncertainty?

6               JESSICA COAKLEY: There are a lot of  
7       things that can actually cause a retrospective  
8       pattern in the model. One of the big drivers there  
9       is when the model is not fitting well or reconciling  
10      the information that we're getting from the survey  
11      indices and then the information that we're getting  
12      from the catch.

13             So one thing that can cause it could  
14      be unaccounted for mortality in the catch. That  
15      could be part of it. There could be something  
16      systematic happening in the selectivity of the  
17      survey pattern -- you know, how the survey itself is  
18      interacting with those different age classes that  
19      are out there. That's something that could drive  
20      it.

21             It could be something systematic in  
22      the natural mortality rate that a pattern that over  
23      the long term is happening and that the model isn't  
24      reconciling that very well in the fit.



1                   So there's numerous causes. It's  
2                   actually very difficult to pinpoint exactly what the  
3                   source of it is. But from a modeling perspective,  
4                   we know that one of the drivers is that there is  
5                   something in the information that isn't lining up  
6                   quite right, and an artifact of that is when we get  
7                   this additional information the model then refits to  
8                   that new information.

9                   PETER HIMCHAK: I just want to make  
10                  sure I'm assuming this correctly. But as I  
11                  understand it the recruitment data or the age class  
12                  data is coming from updated trawl surveys. So the  
13                  Science Center does its annual trawl survey. It  
14                  comes back with what it finds, and those numbers are  
15                  then put into the model, and the model then updates  
16                  estimates of SSB based on that. Is that correct?

17                 JESSICA COAKLEY: Well, those  
18                 estimates are put into the model, but it's not just  
19                 age zeros that go into the model. We have both  
20                 Center and state survey indices that include age  
21                 ones, twos, threes, fours, all the way out to ages  
22                 seven plus.

23                 So that gets put into the model, and  
24                 then there's a catch at age that goes into the model

1 where we have age-specific catches from the  
2 recreational fishery landings and discards, the  
3 commercial fishery landings and discards.

4 And so really what's happening in the  
5 model that's causing that retrospect is some sort of  
6 misalignment in the fit as we move forward and add  
7 additional years information.

8 So you add that additional year  
9 information. You understand the prior year  
10 information a little bit better what was going on  
11 with those year classes and what was going on with  
12 those indices.

13 PETER HIMCHAK: Do we see that same  
14 retrospective pattern for older age classes or just  
15 the age zero to age one?

16 JESSICA COAKLEY: Actually, there's  
17 the big overestimation in the age zero, but when you  
18 go out to some of the other ages, there is a little  
19 bit of movement in terms of pattern in some of those  
20 other ages as well.

21 The big mover is that age zero that  
22 tends to get reset. But some of the other ages --  
23 and we've looked at it with the modeling group -- we  
24 have seen a little bit of movement in those older

1       ages.

2                       And I don't want you to also think  
3       that a retrospective pattern that this is just the  
4       summer flounder model that has this. In New England  
5       the herring model has a pretty significant  
6       retrospective pattern.

7                       There are a lot of assessments that  
8       have this issue because we're trying to pull  
9       together all of these different sources of  
10      information and come out with the best model  
11      estimate. So it's not just this stock.

12                      JACK TRAVELSTEAD: Peter.

13                      PETER HIMCHAK: I'm sorry. My final  
14      question. And that is this: Do we see sort of a  
15      potential here that natural mortality is higher for  
16      age zero to age one and then it decreases with age?

17                      JESSICA COAKLEY: Well, based on the  
18      last peer review assessment, there is an  
19      age-specific, natural mortality rate that's inputted  
20      into the model. It is higher at younger ages, and  
21      then it decreases at age as you go out to the age  
22      zero plus -- not zero plus -- excuse me -- seven  
23      plus age category.

24                      That was derived by the work group

1 based on coming up with a sex-specific, at-age,  
2 natural mortality rate, and then it was averaged and  
3 input into the model. So we do have an age-specific  
4 M that goes into there. The average of which across  
5 all ages is about .25.

6 JACK TRAVELSTEAD: Peter.

7 PETER HIMCHAK: Yes. Thank you,  
8 Mr. Chairman. So I mean there will be a lot of  
9 discussion on this when we go home to our respective  
10 states. And my recap of the current discussion is -  
11 - and correct me if I'm wrong here -- is that in  
12 July we used an updated projected assessment  
13 assuming average recruitment and using 2009 as the  
14 latest data.

15 In the recalculations we used a true  
16 updated assessment using 2010 data that included the  
17 2010 recruitment level and even lower than  
18 projected, and then that's the basis for the  
19 recalculations even though the Wave 1 through 4  
20 landings are under what we have allowed for 2011,  
21 they will still remain the best available  
22 information. I mean am I wrong on any of these  
23 points? I'm trying to distill this down into  
24 something that I can explain like when I go to the

1 council meeting in January.

2 JACK TRAVELSTEAD: Jessica.

3 JESSICA COAKLEY: Well, as John  
4 pointed out, the information that the SSC used to  
5 derive the ABC, which was the projections that had  
6 all of those base assumptions were considered best  
7 available information to derive that OFL and that  
8 ABC.

9 JOHN BOREMAN: The only area that I  
10 would change your information is the projections are  
11 still based on average recruitment. That's for out  
12 years. But 2010 that was projected to be an  
13 average year recruitment.

14 It's under that. But the 2008 and  
15 2009 we found out that were overestimated based on  
16 the most recent assessment, that we overestimated  
17 those by 15 to 30 percent.

18 PETER HIMCHAK: Thank you.

19 JACK TRAVELSTEAD: Peter deFur.

20 PETER deFUR: Thank you very much,  
21 Mr. Chairman. It looks like we've got an unpleasant  
22 task before us of downward revising our catches and  
23 the ACTs, which we've known for a few weeks now.  
24 But, as I've listened to the discussion, I've tried

1 to sort out what we can possibly do to avoid this  
2 problem in the future.

3 If we had unlimited resources -- I  
4 know that that's a very magical thinking -- would we  
5 have avoided part of this problem because we'd have  
6 more of the past data in 2011 to use for our  
7 projections?

8 Because that seems to be part of the  
9 problem. We've got a lag time between when they  
10 collect the data and when we're able to analyze it  
11 and use it in the models. So that seems to be part  
12 of the issue that we have to face making management  
13 decisions.

14 And then the other one is that there  
15 are changes in uncertainty of past data based on  
16 newer information. I have a question for John, but  
17 I'll ask him later.

18 JACK TRAVELSTEAD: John.

19 JOHN BOREMAN: I think I should be a  
20 little more clear here. If we had the updated  
21 assessment in June and not a projection, we'd still  
22 be dealing with these same numbers now. The bottom  
23 line is the updated assessment based on 2010 data  
24 didn't come in until October. Normally, it would

1       come in into June, and we would respond to it then.

2       So the conversation we're having now at the Council  
3       and the Commission about setting ACTs and ACLs and  
4       so on, this conversation would have happened in  
5       August. So, if the updated assessment based on 2010  
6       numbers was given to us in August -- I mean given to  
7       us in July, this is what we would be looking at  
8       then.

9               So just the fact that it came in in  
10       October is a delay in the numbers, but we would have  
11       had those numbers in June, and we'd be dealing again  
12       with the 30 percent or a difference, but the ABC  
13       recommendation would have been the same as it is  
14       now.

15               PETER deFUR: Right.

16               JOHN BOREMAN: Am I being clear on  
17       that?

18               PETER deFUR: Yeah. I understand  
19       that exactly. The point that occurs to me is that  
20       are we dealing with this problem later and perhaps  
21       because we don't have the resources to get the  
22       information in front of the SSC, Monitoring  
23       Committee, us in time. If we had more resources,  
24       would we have been able to avoid the lag time, the

1       problem that we're facing now? So that's one of it.

2               And then the other question that  
3       occurs to me: Is there some way to look at a  
4       three-year rolling average or some different way of  
5       looking at the data that would have helped buffer  
6       the swings here? But the first one is -- yeah, Jim.

7               JAMES WEINBERG: Yeah. If you recall  
8       some of the history, of course, over the year, Mark  
9       Terceiro who does this work was fully committed to  
10      the winter flounder assessments that were occurring  
11      in the SARC between March and June, and he chaired  
12      one of the winter flounder assessments. He chaired  
13      the whole committee and also did one of the  
14      assessments, so he was busy.

15              In the NRCC we talked about how to  
16      handle this at that time, and the -- I guess the  
17      solution that was worked out was that as soon as  
18      Mark was done doing his winter flounder work, he  
19      would switch over to summer flounder.

20              And it would have been nice if we had  
21      had two Marks, so he could have done this in June,  
22      but he couldn't. As a result he didn't do the  
23      update until -- I think he was working on it in July  
24      and August, and then it was published in October.



1       So that's how we got into this situation.

2               John Boreman is correct in  
3       characterizing it that the numbers that you have  
4       before you now would have been the same numbers that  
5       he would have been able to provide to you in June or  
6       July. So that's a really important point. And I  
7       think that another issue, kind of an overarching  
8       issue here has to do with the competition for  
9       resources between the two councils for the Science  
10      Center staff. And the New England Council does get  
11      a lot of attention in particular with their  
12      groundfish stocks. We went back through the NRCC  
13      decisions, and in fact a few years ago summer  
14      flounder was scheduled on the agenda for a benchmark  
15      assessment, and there was a gradual replacement of  
16      summer flounder by the New England winter flounder  
17      stocks getting onto the SARCs.

18              So that actually did happen, and  
19      there were NRCC decisions along the way. But I  
20      think the Mid-Atlantic shouldn't feel that it's  
21      neglected really because a lot of the New England  
22      stocks are only getting reviewed every two or three  
23      years; whereas, for the Mid-Atlantic stocks they've  
24      been getting annual updates by some of our most

1       competent and experienced scientists.

2               So it's kind of a different situation  
3       between what the two councils are getting. So  
4       there's this perception that New England is trumping  
5       the Mid-Atlantic, but on the other hand, the  
6       Mid-Atlantic has been getting more annual updates  
7       than New England. So that's kind of getting off on  
8       a tangent but related to your question.

9               JACK TRAVELSTEAD: Dave Pierce.

10              DAVID PIERCE: Yeah. One more  
11       clarification. This will help me determine which  
12       way I'll go with the OFL recommendations. Now, I'm  
13       going to focus just on the commercial fishery now  
14       because if I focus on commercial and recreational,  
15       I'll be using too many numbers. It's confusing.

16              Now, a few month ago using the old or  
17       the current OFL, we decided to go with a commercial  
18       landing level of the commercial quota of 19.59  
19       million pounds. If I've got these numbers wrong,  
20       Jessica, please call me on it. Okay?

21              So we were going to go with 19.59, an  
22       increase above the 2011 commercial quota of 17.29.  
23       Okay. John, Dr. Boreman, said in his presentation  
24       that if we continue to use the old OFL, we would

1 have a fishing mortality rate of about .32, which is  
2 above .31, so we're overfishing by a relatively  
3 small amount; but, nevertheless, it's above the .31  
4 value.

5 My question is -- this will take care  
6 of my confusion I think: If we were to be at status  
7 quo, 17.29 million pounds for the commercial fishery  
8 as opposed to what we decided to do a few months  
9 ago, 19.59, would we be overfishing, or would we  
10 still be below the .31 value?

11 Because that would be my decision:  
12 shall we go with status quo, change our course, not  
13 increase the commercial quota for 2012, as opposed  
14 to dropping it down to 13.14, which would be the new  
15 ABC -- well, that's just the ABC, the new ABC  
16 recommendation. So what happens if we go at status  
17 quo; what is the impact on fishing mortality; are we  
18 still going to be at .32, or will we be below the  
19 overfishing level of .31?

20 JACK TRAVELSTEAD: Jessica or John,  
21 either one.

22 JESSICA COAKLEY: I think I get your  
23 logic. Based on the recommendations back in August,  
24 if the ABC, which is equal to the sum of the two

1 ACLs or the sum of the two ACTs 'cause those all  
2 lined up; there was no adjustment for management  
3 uncertainty there, if that catch level was set for  
4 2012, overfishing would be occurring.

5 So, in order to get those levels down  
6 so that overfishing won't be occurring and  
7 scientific uncertainty is addressed using the same  
8 approaches that were used back in July, that's where  
9 we get that ABC of 25.6 million pounds, and it's not  
10 projected for 2012 that that will result in  
11 overfishing.

12 I'm not sure 'cause I don't have the  
13 information in front of me what the status quo might  
14 be unless it's in the assessment report. Mark might  
15 have the 2011 projected F in there, but again, it's  
16 a projected F.

17 It doesn't mean that when we actually  
18 go through next year and get 2011 information, re-  
19 compile that, do another update, that that's what  
20 the final model F will be. John, do you have that  
21 report handy? Do you know where I'm talking about?

22 I can do a quick look if you guys hang tight, but.

23 DAVID PIERCE: Again, just to further  
24 clarify my position, I'm assuming that if we go with

1 the 19.59 on commercial fishery using the OFL, then  
2 we'll be at a F of .32 for overfishing. So we can't  
3 do it.

4 But, if we keep it status quo, we'll  
5 be slightly below the .31; therefore, we are not  
6 overfishing, so it will be a relatively simple  
7 matter of reconsidering our position at our last  
8 meeting in going with status quo as opposed to the  
9 increase. And that would prevent us from having to  
10 slash it down to 13.14 thereabouts.

11 JACK TRAVELSTEAD: John.

12 JOHN BOREMAN: Yeah. When I said the  
13 .32, I was looking at the projected F for 2011 for  
14 this fishing year, which is higher than FMSY of .31.

15 The projected F for 2012 based on the latest  
16 update, if we use our current ABC recommendation,  
17 the projected F would be .36. So that is  
18 substantially higher than the .31.

19 But, again, we didn't look at what  
20 would happen if we assumed status quo from last  
21 year. But if we assume the status quo, the  
22 projected F would be .32.

23 JACK TRAVELSTEAD: Rick.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Well, just to be clear then, Dr. Boreman, if the  
2 status quo were accepted, as Dr. Pierce had  
3 suggested, that would be above the recommended ABC  
4 level.

5 JOHN BOREMAN: Again, I don't want to  
6 give a hundred percent certainty. I'd rather have  
7 Mark do that. But on the fly, I would say, yes, it  
8 would be.

9 JACK TRAVELSTEAD: Lee.

10 LEE ANDERSON: Yeah. I was going to  
11 follow up the same sort of question that Rick had.  
12 Remember these numbers we're working with now we  
13 would have had in July. The law says the SSC sets  
14 an ABC, and the Council cannot set anything higher  
15 than that.

16 The number right there ABC is 35.55,  
17 which gives the number of -- according to our plan,  
18 it breaks into 19.596. Correct me if I'm wrong, but  
19 if we're following the law, and unless we send it  
20 back to the SSC for a remand, right now those are  
21 the options that we have.

22 The questions that Dr. Pierce is  
23 asking seem to me are mute and are -- we can't do  
24 that according to the law. Correct me if I'm wrong.

1 JACK TRAVELSTEAD: Well, Lee, those  
2 were the August recommended numbers. Now, you've  
3 got the --

4 LEE ANDERSON: Okay. Whatever. The  
5 14. I'm sorry. My point is correct. I was looking  
6 at the wrong number.

7 JACK TRAVELSTEAD: Your point is  
8 correct.

9 LEE ANDERSON: The ABC that is set  
10 and is valid right now, 25.58, Council cannot set  
11 anything higher than that. That's what the law  
12 says.

13 JACK TRAVELSTEAD: I think with that  
14 discussion, we need to move into consideration of a  
15 motion. That will keep us on the agenda, hopefully.  
16 So the chair is looking for a motion on this issue.  
17 Pete. Peter.

18 PETER deFUR: Yes. Thank you, Mr.  
19 Chairman. I'm willing to move that we adapt the  
20 OFL, ABC, ACL, ACTs and landings levels as  
21 recommended by the SSC. Most recently that would be  
22 an OFL of 31.59 million pounds, ABC 25.58,  
23 commercial 14.0, recreational 11.58, ABC and ACL --  
24 ACT.

1 JACK TRAVELSTEAD: Is there a second  
2 to that motion? Pat. Lee Anderson seconds for the  
3 Council. Pat Augustine same motion for the Board.  
4 Is there a second from a Board member? Red Munden  
5 seconds the motion. Let's wait 'til we get it up on  
6 the board, and then we'll make sure what we're  
7 looking at.

8 TONI KERNS: While the motion is  
9 going up, for the Board, it's a reminder that we had  
10 to alter our original motion from the August meeting  
11 so that requires a two-thirds majority vote, which  
12 is eight.

13 JACK TRAVELSTEAD: Thank you. Jim  
14 Gilmore. Comments on the motion?

15 JAMES GILMORE: Yeah. I actually  
16 would like to consider amending, but I don't know  
17 what the number would be 'cause this is the  
18 suggestion I would have.

19 I mean we're all dancing around an F  
20 of .31, and essentially we've got numbers that are  
21 well below that and well above that, and the  
22 recommendation would be is that, say we take an F of  
23 .3, what the ABC would be based upon that mortality  
24 rate.



1                   It's below status quo, but it is  
2                   above the new recommendation, and I think based upon  
3                   all the uncertainty in the models right now and also  
4                   some of the factors about -- I think the commercial  
5                   fishery this year we're probably going to be right  
6                   on target.

7                   I think recreational we're going to  
8                   be way under. But if the other states are the same  
9                   as New York. So we have a lot of conservatism built  
10                  into that. So that would be my recommendation. I  
11                  would like to amend it to put an ABC or essentially  
12                  a new set of numbers based upon the mortality rate  
13                  of .3, but I need you guys to calculate those  
14                  numbers before I could make a motion to amend.  
15                  Thank you.

16                 JACK TRAVELSTEAD: Do we have the  
17                 capability of calculating that here at this meeting?

18                 I'm hearing staff doesn't have that capability to  
19                 do it on the fly. Dave.

20                 DAVID SIMPSON: Could I get a  
21                 reminder either from Dr. Boreman or Jessica if we  
22                 follow this path of this recommended motion what the  
23                 projected SSB will be as an outcome to that and  
24                 relative to the BMSY.

1                   My issue, my sensitivity, is we're  
2                   very close to that -- you know, being over a hundred  
3                   percent of BMSY is like a half a percent over I  
4                   think, and that's something I don't want to put in  
5                   jeopardy here.

6                   JACK TRAVELSTEAD: Jessica.

7                   JESSICA COAKLEY: You know, I can't  
8                   access it right now, but I know that the Service had  
9                   the same set of projections. Mike, do you have the  
10                  projections that Mark provided for the ABC and what  
11                  the projected SSB for 2012 will be? I know we both  
12                  have them. You got it? What is it?

13                  TONI KERNS: I have it, Jessica.

14                  MIKE RUCCIO: At the revised OFL of  
15                  14,328 metric tons, the projected SSB on November  
16                  1st in 2012, would be 60,406 metric tons. So it  
17                  would be a B/BMSY ratio of 1.01, so slightly over.

18                  JACK TRAVELSTEAD: Okay. Further  
19                  comments on the motion? David Pierce.

20                  DAVID PIERCE: If we adopt this, what  
21                  is the expected fishing mortality rate that results  
22                  from these particular numbers?

23                  JACK TRAVELSTEAD: Jessica.

24                  JESSICA COAKLEY: Mike has them in

1 hand right now. Did Mark recalculate the F rate  
2 that was projected? Okay. Thank you.

3 JACK TRAVELSTEAD: We're going to  
4 look.

5 TONI KERNS: According to what Mark  
6 gave me, he says that this projection indicates that  
7 it's just the F for 2011. I don't think he gave us  
8 the F for 2012.

9 JESSICA COAKLEY: No. But we had  
10 requested an additional set of projections inputting  
11 the SSC proposed ABC. So I don't think we're  
12 looking at the same things.

13 JACK TRAVELSTEAD: Let us know as  
14 soon as you have those. Adam.

15 ADAM NOWALSKI: Thank you very much,  
16 Mr. Chairman. My inclination would be to make a  
17 substitute motion on behalf of the Board for a  
18 revised ABC of 29.57 million pounds. My hesitance  
19 in doing so -- and that would be based on the idea  
20 that we would use the 2011 recreational projected  
21 landings in calculating the OFL. That would be the  
22 basis for doing so.

23 As we sit here around the table, I  
24 heard the comments. Having sat through the SSC

1 call, I heard the suggestion that the use of the  
2 assumed landings were the best available science.

3 I don't know how we can all sit here  
4 today and with a straight face say that assumed  
5 landings decided on in August of 2010 would be  
6 construed as better available science than Waves 1  
7 through 4 data reported on October 15th, 2011.

8 I'm certainly never going to be here  
9 to beat the drum of MRFS is percent and it's an  
10 absolute number, but I simply can't sit here and go  
11 back home and straight faced look at my constituents  
12 and say, yes, we did this with the best available  
13 information to us at the time.

14 My hesitation in making the motion on  
15 behalf of the Board would be that I can't make a  
16 motion on behalf of the Council, and I understand  
17 the Council's constraints to the ABC recommendation  
18 from the SSC. So I would encourage the SSC to go  
19 ahead and remand this or the Council to remand this  
20 to the SSC on the grounds of that it did not fully  
21 address Term of Reference No. 7 and that utilization  
22 of the best available science and this is a ground  
23 that was accepted by the Council for remanding a  
24 decision to the SSC.

1                   If we get to that point on behalf of  
2                   the Council, then I would go ahead and make that  
3                   substitute motion on behalf of the Board for a 29.57  
4                   million pound ABC. Until that time, I certainly  
5                   would not support this motion on behalf of the  
6                   Commission.

7                   JACK TRAVELSTEAD: Mike, you have the  
8                   numbers?

9                   MIKE RUCCIO: Thank you, Mr. Chair.  
10                  Okay. Let's try to do this so that everything is  
11                  clear. There have been a number of iterative things  
12                  that we've received on this, so let me speak all  
13                  this into the record for clarity.

14                 So a projection based on the 2011  
15                 update stock size for 2010 fishing year and an ABC  
16                 at the level that we've set for the last year with  
17                 the assumption that that would be fully utilized and  
18                 the proposed ABC that the SSC has provided of 11,603  
19                 metric tons indicates that the median SSB would be  
20                 61,084 metric tons, which is actually different than  
21                 the number that I gave you, but 10,000 metric tons  
22                 above the SSB MSY and that the median F projection  
23                 in 2012 would be .245.

24                 JACK TRAVELSTEAD: Adam, were you

1 making a motion, or were you considering making a  
2 motion? It wasn't clear to me.

3 ADAM NOWALSKI: Well, Mr. Chairman, I  
4 would like to make -- I can't make the motion at  
5 this time because I'm not sure the support would be  
6 there for it.

7 JACK TRAVELSTEAD: Okay.

8 ADAM NOWALSKI: So, rather than make  
9 a motion and not have it seconded, I'd like to see  
10 where the rest of this discussion goes. And if it  
11 doesn't go in a direction that we can all feel  
12 better about, I would reserve the opportunity to  
13 make that at a future time.

14 JACK TRAVELSTEAD: Okay. I thought  
15 that's where you were. I just didn't want to cut  
16 you off.

17 ADAM NOWALSKI: Thank you.

18 JACK TRAVELSTEAD: Pat Augustine.

19 PAT AUGUSTINE: Point of information,  
20 Mr. Chairman. Captain Nowalski brings up a very  
21 valid point, and I've watched the reaction by  
22 Dr. Boreman. I'm wondering would it be possible  
23 that the information that you would provide in  
24 response to what Adam suggested would change. Does

1       it make sense? Is it feasible, logical? And is it  
2       worth the effort to go forward? Or is -- I don't  
3       want to use the word gut feel. But is it your sense  
4       based on what you've done in your assessments and  
5       your staff, that we would accomplish anything other  
6       than spinning our wheels?

7               JACK TRAVELSTEAD: John.

8               JOHN BOREMAN: I'm speaking on behalf  
9       of the SSC, but, of course, they're not here to  
10      consult with at this time. As Jessica described, we  
11      will not have a really strong feeling for how the  
12      quota is working this year until April or May of  
13      next year, 2012.

14              When we do this updated spec setting  
15      in July of 2012, we will know what happened in 2011.

16      Right now we're all dealing with speculation. As I  
17      said, the SSC did discuss this and determined that  
18      the method of projection that was used constituted  
19      best available science, the best way to move forward  
20      in light even though we recognize that right now  
21      based on October or whatever the landings were  
22      running under the quota, that could change.

23              We still don't have the Wave 5 and  
24      Wave 6 for summer flounder. I don't know if we even

1 have Wave 4. We probably do. We do have five. So  
2 that could change. We don't know. So, if you  
3 remand it back to the SSC and you wanted an answer  
4 before next July, I don't know how we would do it,  
5 but just based on the sense of the discussion during  
6 the webinar, we probably would still say that the  
7 current projection method is the one that should be  
8 used.

9 LEE ANDERSON: Jack, to that point,  
10 please.

11 JACK TRAVELSTEAD: Lee.

12 LEE ANDERSON: I'd like to go a  
13 little further than that. Remember what Jessica  
14 said is this assumption about the projected current  
15 harvest is one of 10, 20 assumptions that are in  
16 there.

17 And what Mr. Nowalski is saying is  
18 picking one and saying let's change that one and see  
19 what happens. I don't want to be cute, but I don't  
20 suspect he'd be making that motion if the projected  
21 ones were higher.

22 I think going back and picking the  
23 assumptions we're going to use, cherry-picking the  
24 ones after the fact that give you the number, that



1 doesn't make sense as good science to me. I'm being  
2 a stickler here, but I'm sorry; that's what I  
3 believe. Thank you.

4 JACK TRAVELSTEAD: Pat Kurkul.

5 PATRICIA KURKUL: One final point on  
6 this I hope or at least one final point for me.  
7 This is the projection method that we've accepted,  
8 and we've accepted it with the understanding that  
9 we're not going to have complete information when we  
10 make these decisions, really no matter when we make  
11 the decision as long as it's before the actual  
12 fishing year. And so we've accepted that we're not  
13 going to have complete information. We've accepted  
14 that in a sense we're in the next year taking into  
15 consideration what happened in the previous year. So  
16 that's the approach we use.

17 If you're going to change that  
18 approach, you can't change it on an ad hoc basis.  
19 You need to change it each year you set these  
20 quotas, and so the situation would be you're not  
21 only going to change it in those years when you  
22 might have an underage in the fishing year, but  
23 you're also going to change it in the years when you  
24 have an overage. And we've had both over the years.

And I would not suggest that you go to some sort of ad hoc approach where it's only in those years where it's under where you might consider making some adjustment.

PETER HIMCHAK: Just a simple question of Dr. Boreman. So is it likely then that had we picked up on the retrospective pattern on recruitment earlier in the process, that the specs that we set for 2011 might have been lower and that what we're seeing now as an underage may in fact have been right on target? Am I seeing this in too simplistic a mode?

JOHN BOREMAN: What we're seeing now for 2011 was based on what happened last year. We're talking about 2012 fishing year for the current ABCs. Another point, too -- I don't want to belabor this to death -- but the Council adopted a risk policy of P star equals 40 percent.

1                   That means taking the risk that 40  
2 percent of the time you're going to be overfishing.

3                   That means 60 percent of the time the F's going to  
4 be lower, going to be underfishing.

5                   I think this is a situation we're in  
6 that 60 percent of the time, that we may be seeing  
7 some underfishing. We don't know until the final  
8 numbers come in. But if it is an underage, that  
9 would be expected under the current risk policy of  
10 the Council.

11                   JACK TRAVELSTEAD: Rick.

12                   COUNCIL CHAIRMAN RICHARD ROBINS:

13 Yeah. Just a couple of quick points, Jack. Looking  
14 further down the road, I think we've heard enough  
15 today to suggest that there are elements of this  
16 assessment that should be sent over to the research  
17 TRAC. There are a number of points that have come  
18 up about the retrospectives, about natural  
19 mortality, etcetera, and I think at the next NRCC  
20 meeting, we can certainly work with the SSC to  
21 prioritize those issues and then introduce that into  
22 the NRCC scheduling. And I would certainly support  
23 moving in that direction at the NRCC.

24                   Having said that, as we look at the

1 immediate circumstances, the Council doesn't have  
2 the luxury of amending the SSC's ABC advice on the  
3 fly here. I appreciate the concerns about current  
4 landings, etcetera, but we really don't have that  
5 luxury.

6 But more importantly perhaps this is  
7 going to be the first year -- 2012 will be the first  
8 year that we're setting an ACL for this fishery  
9 where we'll have accountability measures that kick  
10 in. And so it's really critically important that we  
11 continue to manage consistently on this resource.

12 And we've been through so much as a  
13 council, as a commission, together with the industry  
14 to rebuild this stock that I think it's very  
15 important that we come out of this with a  
16 cooperative outcome as we go forward. Thank you.

17 JACK TRAVELSTEAD: Well said. Red.

18 RED MUNDEN: Thank you, Mr. Chairman.  
19 Chairman Robins has touched on several points, and I  
20 wanted to address, but I know everyone sitting  
21 around the table, a lot of people sitting around the  
22 table, would like very much to increase the ABC  
23 above the level recommended by the SSC, and we are  
24 not allowed to do that.

1                   But I would remind everyone to go  
2 back to our August meeting when the SSC recommended  
3 a significant increase in ABC. Everyone endorsed  
4 that 'cause we were increasing the quota. This was  
5 a good thing to do.

6                   And now we have a new assessment, and  
7 the SSC has recommended about a 30 percent decrease  
8 in the ABC that we thought we were going to get in  
9 August, and now a lot of people are trying to tweak  
10 it and get it back up to 29 or whatever. But I  
11 think we're locked in to the SSC recommendation, and  
12 I'll support the motion.

13                  JACK TRAVELSTEAD: Thank you. With  
14 that we're going to vote on the motion. I think  
15 it's substantial discussion. Proceed.

16                  COUNCIL CHAIRMAN RICHARD ROBINS:  
17 Okay. Is the Council ready for the question?

18                               (Motion as voted.)

19       {Move to adopt recommendation put forward by the  
20 SSC for an ABC=25.58, which results in a  
21 recreational ACL = ACT = 11.58 mil lbs. and  
22 commercial ACL = ACT = 14.00 mil lbs. This results  
23 in a recreational harvest limit of 8.76 mil lbs.  
24 and a commercial quota of 13.14 mil lbs.}

1 COUNCIL CHAIR RICK ROBINS: All those  
2 in favor please raise your hand.

3 (Response.)

4 COUNCIL CHAIR RICK ROBINS: Eighteen.  
5 Opposed like sign.

6 (No Response.)

7 COUNCIL CHAIR RICK ROBINS:  
8 Abstentions like sign.

9 (Response.)

10 COUNCIL CHAIR RICK ROBINS: One  
11 abstention. The motion carries. Thank you. Dave.

12 DAVID SIMPSON: On behalf of the  
13 Board, all those in favor raise your hand. Do you  
14 need the opportunity to caucus? Go ahead and take a  
15 minute to caucus. Okay. While the Board finishes  
16 up caucusing, I'll just check. We didn't see any  
17 hands in the audience to comment on this motion  
18 before we finished out. Sure. Come up to the mic.

19 SEAN MCKEON: Thank you. My name is  
20 Sean McKeon, North Carolina Fisheries Association.  
21 I just had one question. It's probably too late.  
22 But I'm sure you've considered it, but in 1997 in  
23 North Carolina versus Daily, Judge Dumar as part of  
24 that settlement said that: "Fix each year's fishing

1 quota including adjustments within a reasonable  
2 period of time."

3 And I'm just wondering if you've all  
4 considered whether that decision, if that is  
5 applicable, if it's not why not? And if it is, I'm  
6 just asking for a little bit of an explanation about  
7 how December is a reasonable period of time with the  
8 season opening up in a few weeks, if it's even  
9 applicable.

10 DAVID SIMPSON: Thanks. I'll ask Pat  
11 to answer that.

12 PATRICIA KURKUL: So I was going to  
13 speak to this after the vote, but now is as good a  
14 time as any. We are in the process, the Agency is  
15 in the process, of preparing an interim final rule  
16 consistent with the SSC recommendation that will  
17 implement this hopefully before January 1st or if  
18 not shortly thereafter. It was our intention  
19 because we feel we're required to do it by January  
20 1st to get something in place, understanding that  
21 there's no rollover in this fishery; and then if the  
22 Council and Commission had taken a different action,  
23 we would have had to look at if and how we needed to  
24 modify that. But we do expect to have something in

1 place the beginning of the year.

2 SEAN MCKEON: Just a quick follow-up.

3 PATRICIA KURKUL: And there will be  
4 an interim final rule. We will be taking public  
5 comment on it.

6 SEAN MCKEON: Just a quick follow-up.

7 Because I think in his comments he also said the  
8 end of the year, and I think he mentioned the last  
9 couple months of the year is not a reasonable period  
10 of time. I'm just wondering if --

11 PATRICIA KURKUL: Yeah. I'm not  
12 sure.

13 DAVID SIMPSON: Joel.

14 JOEL MACDONALD: Sean, if you look at  
15 the decision, what Judge Dumar said is that he  
16 cannot order the Agency to publish it by January  
17 1st. He thought that was better left to Congress.

18 And in the decision I think was in  
19 oh, probably September of 2000 -- I'm sorry, in  
20 1998/'97, and what had happened is we had adjusted  
21 the summer flounder quota for North Carolina and I  
22 think a few other states first on January 23rd and  
23 then again I think in the following March; and Judge  
24 Dumar said we had to publish it within a reasonable



1 period of time and we didn't do it.

2 The implication was that the January  
3 23rd adjustment wasn't reasonable. So that's why  
4 Pat has said we feel that we have to get these  
5 things in place by January 1st. There's no  
6 implication in that decision that we had to get it  
7 in by the end of December. That's what he held.

8 SEAN MCKEON: Okay. Thank you.

9 DAVID SIMPSON: Any other questions  
10 or comment from the public before we take the Board  
11 vote? Seeing none. Okay. Roll call has been  
12 requested, so Toni will handle that.

13 TONI KERNS: Thank you, Mr. Chairman.  
14 Massachusetts.

15 DAVID PIERCE: No.

16 TONI KERNS: Rhode Island.

17 RHODE ISLAND: No.

18 TONI KERNS: Connecticut.

19 CONNECTICUT: Yes.

20 TONI KERNS: New York.

21 NEW YORK: No.

22 TONI KERNS: New Jersey.

23 PETER HIMCHAK: No.

24 TONI KERNS: Delaware.

1                   INAUDIBLE

2                   TONI KERNS: Maryland.

3                   MARYLAND: Yes.

4                   TONI KERNS: Potomac River Fisheries  
5 Commission.

6                   PRFC: Yes.

7                   TONI KERNS: Virginia.

8                   VIRGINIA: Yes.

9                   TONI KERNS: North Carolina.

10                  RED MUNDEN: Yes.

11                  TONI KERNS: U.S. Fish and Wildlife  
12 Service is absent. National Marine Fishery Service.

13                  NMFS: Yes.

14                  DAVID SIMPSON: I have seven in  
15 favor, four opposed, which is one short of the two-  
16 thirds majority required, so the motion fails.  
17 Okay. That leaves us in a spot we didn't want to be  
18 in. Dave Pierce.

19                  DAVID PIERCE: Well, right now we  
20 have the Mid-Atlantic Council with a position and  
21 the ASMFC with a different position.

22                  DAVID SIMPSON: Well, we have the  
23 ASMFC with no position at this point.

24                  DAVID PIERCE: Well, status quo.

1                   DAVID SIMPSON: I guess unless you go  
2 back to the original decision.

3                   DAVID PIERCE: Well we are still  
4 going forward with the original numbers that we  
5 adopted a few months ago, so we are higher then the  
6 council. Now I certainly would be willing to  
7 revisit this issue at an upcoming Board meeting -  
8 conference call, whatever, if I had in hand the  
9 results of analyses that would show us what the  
10 specifications could have been if we targeted F of  
11 .30 for 2012 because I'm still uncertain about the  
12 analyses that have been provided to us, and I'm just  
13 uncomfortable not knowing what the numbers could  
14 have been at .30.

15                   So I would make a motion on behalf of  
16 the Board that we request analysis to determine 2012  
17 specifications that would result with F is equal to  
18 .30 for 2012. Without that analyses, I'm going to  
19 maintain my current position of not supporting a  
20 lower number.

21                   DAVID SIMPSON: And is it implicit in  
22 that that the quota that would come out of that  
23 would be part of your motion?

24                   DAVID PIERCE: That is correct.

1                   DAVID SIMPSON: Is there a second for  
2                   that motion for the Board? I see a second from Bob  
3                   Ballou. Discussion on the motion? Dr. Boreman.

4                   JOHN BOREMAN: Yeah. The .30, yes,  
5                   it's less than the .31, which is FMSY; but the catch  
6                   at FMSY is equal to the overfishing level, not the  
7                   ABC. So are you saying that setting an ABC equal to  
8                   an F of .30 which is slightly below the F at MSY?  
9                   Because what that implies is you're basically  
10                  building in no buffer for uncertainty, that you're  
11                  basically setting your ABC equal to your OFL or  
12                  pretty close to it.

13                  DAVID SIMPSON: Okay. Just so I'm  
14                  clear and everyone else is, F at MSY is .31, .32,  
15                  something like that. The process to build in the  
16                  scientific uncertainty is somewhat formulaic now and  
17                  basically gives you 81 percent of what MSY --  
18                  fishing at MSY would be. The .4 times and the  
19                  hundred percent CV estimate and so forth is all part  
20                  of that. Any other comments or questions? Pat.

21                  PATRICIA KURKUL: Process question.  
22                  So, if the implication is that this also then -- I'm  
23                  not exactly sure how to say it -- but back to your  
24                  question of the implication then is that this

1 implies support for a certain quota level? And if  
2 that's true, then does this also require a two-  
3 thirds vote?

4 DAVID SIMPSON: Okay. Maybe I'll ask  
5 one of the Commission staff to address it so we get  
6 the clarity on it. Either Bob or Vince, if you  
7 wouldn't mind.

8 VINCE O'SHEA: Thank you,  
9 Mr. Chairman. If the result is going to be a quota  
10 different than the one already approved by the  
11 Board, it would take a two-thirds vote.

12 DAVID SIMPSON: Okay. It's simpler  
13 than I was making it in my mind. Dr. Pierce.  
14 Right. So it would already be different from what  
15 we established in August; therefore, it would  
16 require a two-thirds vote. David.

17 DAVID PIERCE: Not necessarily  
18 because the analysis would be brought forward. We  
19 would see what the specifications then could be with  
20 that F .30, but the Board may not necessarily adopt  
21 that.

22 It could go in a different direction.  
23 It may change its mind. It may go for the  
24 reflection on what this Council has adopted. So

1       it's not dictating that the specifications be set  
2       according to FC of .30. So I would suggest that  
3       two-thirds vote is not necessary.

4               DAVID SIMPSON: All right. That's a  
5       little bit different than -- I had asked if this  
6       implies that then we would go ahead with a quota  
7       that reflected an F of .3, and we are saying as  
8       well, no, not necessarily. This motion would be  
9       simply to ask for the analysis to be done. So, in  
10      that case, it would be a simple majority required.  
11      Pat.

12             PAT AUGUSTINE: Thank you,  
13      Mr. Chairman. Just for clarity's sake. So would  
14      that imply or suggest that because of the under  
15      utilization of the quota for 2011 basically by all  
16      states, some under 85 percent, some under 15 or 18  
17      or 20 percent, that even if we were to go with a F  
18      equals .30, that the harvest would probably still  
19      remain below the anticipated new recreational quota?  
20      That's the direction it seems to me this  
21      conversation is going to lead the usage -- I'm  
22      sorry. It would allow for fishermen to fish up to a  
23      level that would utilize the quota that we had in  
24      2011.

1                   New York was 40 some-odd percent  
2                   under. You were 56 percent under. And if the  
3                   ultimate goal is to do that, then it seems logical  
4                   to move in that direction, Mr. Chairman. Could I  
5                   have some clarity on that, please.

6                   DAVID SIMPSON: I'm going to let  
7                   David respond.

8                   DAVID PIERCE: Yeah. That would be  
9                   my intent, Pat. It's a very good clarification.  
10                  With additional time to do this analyses, I would  
11                  assume you would be able to put some additional  
12                  effort into determining the likely consequences of  
13                  falling short of the recreational take in 2011.

14                 The commercial quota I assume will be  
15                 reached, but recreational is a different matter.  
16                 So, yes, indeed, that would be factored into this  
17                 particular analysis.

18                 PAT AUGUSTINE: Mr. Chairman. So  
19                 then if Tony and staff, if they were to look at our  
20                 bag size and season to accommodate that, although we  
21                 would be on paper taking a major reduction in the  
22                 overall quota, 30 percent or whatever that number  
23                 is, in fact the remaining fishermen or the  
24                 recreational group in this particular case will

1 basically be kept whole in view of the fact of the  
2 sacrifices they have been making in order to keep  
3 this rebuilding schedule going.

4 Again, I think the underlying point  
5 here is that recreational anglers and commercial,  
6 too, but folks have been very diligent in trying to  
7 maintain bag size and season and the restrictions we  
8 placed on them, and here all of a sudden we find  
9 ourselves in this dilemma.

10 I understand the scientific part of  
11 it; I understand the retrospective analysis, and I  
12 understand the recruitment issues we're dealing  
13 with. But this is one of those catch 22s where on  
14 the one hand the folks who are being affected are  
15 being again hit between the eyes with a 2-by-4, so  
16 to speak.

17 But if there's some mechanism that we  
18 at ASMFC can come up with that would allow for  
19 either a consistent bag size and season that we had  
20 this past year using number crunching, if you will,  
21 as Dr. Pierce had suggested -- and I'm not sure what  
22 mechanism that is; I'm not smart enough to figure  
23 that out -- it would definitely give the fishermen  
24 that all their sacrifices all these years have been



1 well worth it. We're going to be faced with the  
2 same dilemma with scup, a little differently, number  
3 of fish out there. And how we restrict black sea  
4 bass is another issue by itself. So, if there's  
5 some way that, Toni, you and staff can address that  
6 so it makes sense to do what Dr. Pierce is  
7 suggesting, I surely would support a motion that he  
8 might make along those lines. Thank you.

9 DAVID SIMPSON: Pat, I believe that  
10 the projected landings for this year are less than  
11 what the quota would be under what the Council  
12 approved, so it wouldn't require necessarily any  
13 adjustments to the 2011 regulations that states have  
14 on summer flounder, so you would be -- you know,  
15 held harmless.

16 PAT AUGUSTINE: Okay. I follow that,  
17 but again, the record will show that we have to take  
18 overall this tremendous hit in reduction in quota,  
19 and when it's communicated to the public, I hope as  
20 you just described it, Mr. Chairman, that it comes  
21 out that way, that we have been very effective in  
22 our rules and regulations to restrain harvest, and  
23 that, in fact, being concerned, as the SSC has, with  
24 recruitment and retrospective analysis, it's clearly

1       stated to the public that here's what we're doing,  
2       but we're doing it for this purpose; and, oh, by the  
3       way, you're still going to have to take a reduction  
4       in terms of bag size and season.

5               DAVID SIMPSON: Yeah. In fact, just  
6       looking over Toni's shoulder quickly, it looked like  
7       there's actually room for a 60 percent  
8       liberalization. So I'm not sure that states would  
9       want to take that risk. But there is -- you know, a  
10      comfort margin in the recreational fishery that  
11      isn't there on the commercial side, certainly. I  
12      had Pat and then is it Jessica? Okay. Pat, you're  
13      still on.

14             PATRICIA KURKUL: Yes. Thank you.  
15      So I totally agree that we're in a really  
16      unfortunate situation here, but by moving forward  
17      with this kind of approach and in a sense sort of  
18      re-jiggering the numbers to get where you want to  
19      be, you are essentially ignoring the retrospective  
20      pattern and ignoring uncertainty.

21             It seems to me from the numbers that  
22      we've seen so far, there's a possibility that could  
23      end up with biomass less than BMSY based on this  
24      number. We're taking a huge step backwards here,

1 and it's to deal with an unfortunate situation but  
2 an anomaly in a sense.

3 As Dave pointed out, when we look at  
4 the recreational numbers later, if there's an  
5 underage this year, then we're not looking at major  
6 reductions even with the reduction in the harvest  
7 limit for most states. So I don't support the  
8 motion, and I would encourage others not to.

9 DAVID SIMPSON: I had Rick Robins and  
10 then Mike Luisi.

11 COUNCIL CHAIRMAN RICHARD ROBINS:  
12 Yeah. Dave I had a couple of points just to follow  
13 on what Pat said. The ABC that was previously  
14 before both bodies reflected or the ACL reflected an  
15 F rate of .245. That's very close to the old F  
16 target that was used by these bodies for years to  
17 set the quota for this fishery, which is .255. So  
18 they're very close.

19 And frankly, I think the potential  
20 consequences of a disconnect here are very serious  
21 because if the Commission were to set a different  
22 quota level than the Council and that quota was  
23 subsequently achieved -- right now we have an  
24 underage -- but if that quota were in fact achieved,

1 then that overage would have to come off the federal  
2 quota the next year, which would significantly  
3 disrupt the fisheries, which would significantly  
4 disadvantage federal permit holders and could have  
5 other disruptive impacts.

6 Even with the reduction in quota that  
7 was considered, the state still would be in a  
8 position to liberalize the recreational measure  
9 some, which is a relatively good outcome  
10 potentially.

11 But I think this is worse than a step  
12 back, and it could have significant disruptive  
13 impacts in the future if the 2012 quotas are fully  
14 achieved. So I think that's a consequence worth  
15 considering.

16 DAVID SIMPSON: Mike.

17 MICHAEL LUISI: Thank you,  
18 Mr. Chairman. Chairman Robins just made the exact  
19 point that I was planning to make. I think the  
20 disconnect is the biggest concern. The consequence  
21 of this analysis which would result in the  
22 jurisdictions having different quotas is something  
23 that I'm not prepared to support.

24 I can't seem to get out of my mind

1 the concept that was brought up earlier, which was  
2 had the data that we're currently reviewing been  
3 available in July, we wouldn't be discussing the  
4 alternative strategies that both Adam and Dr. Pierce  
5 have brought up.

6 We didn't have those conversations  
7 back in August, and I don't feel we would have had  
8 them given these new data. So I would say that I'm  
9 not going to support the motion as is. Thank you.

10 DAVID SIMPSON: Thanks, Mike. Jim  
11 and then Red.

12 JAMES GILMORE: Pat, I think I agree  
13 with you on that. We don't want to take a big step  
14 backwards, but I mean it's the magnitude of the  
15 reduction that's problematic here. I mean there's a  
16 whole lot of uncertainty with this, and that's  
17 really what I'm struggling with. I mean the  
18 discussion we're going to get in a little later is  
19 about how we're going to set individual quotas and  
20 limits for each one of the states, which you know  
21 New York's problem with that. So my problem again  
22 is that I don't like doing the shoestring approach  
23 to try to do this, but the magnitude of the  
24 reduction just doesn't make any sense.

1                   And when we all go back to our  
2       states, I mean we're going to get the hell beat out  
3       of us if we go to, well, this was a math exercise,  
4       and it really doesn't go into a lot -- there's so  
5       much uncertainty in this or whatever. And that's  
6       where we have a lot of difficulty.

7                   So, in any event, to move this along  
8       a little bit -- and I recognize John Boreman's  
9       concern is that, yes, we're not building in any  
10      buffer -- so my suggestion to help a little bit on  
11      this and to give us more discussion for options and  
12      assuming that I'm thinking these calculations aren't  
13      that difficult, is actually adding in an F, a .28 in  
14      addition to the 3 so we can look at different  
15      options.

16                  Because if I got it right, we were at  
17      .245 was the F based upon the recommendation from  
18      the SSC, and that's a major drop. And, again, I  
19      understand this is going to fluctuate, but that's a  
20      pretty big hit for considering your letter yesterday  
21      that we rebuilt this fishery and things are looking  
22      up, but we're having such a big reduction in it.  
23      So, anyway, as a friendly amendment, I would like to  
24      add another option that as result an F of .3 but

1       also then add .28 onto this so we have more numbers  
2       to look at when the technical folks analyze it.  
3       Thank you.

4                   DAVID SIMPSON: David and Bob, do you  
5       see that as friendly? I'm seeing them nod yes, so  
6       we'll do that. And I'll just observe that the  
7       practical differences here of the Commission and the  
8       Council being different, the federal and the state  
9       regulations being different, is really quite small  
10      in summer flounder when you consider how they're  
11      managed and how much of our commercial fishery is  
12      either federally -- occurs in federal waters or by  
13      federally permitted vessels and that every state was  
14      under enough on the recreational side to liberalize  
15      next year.

16                   So it's not as desperate a condition  
17      as it might otherwise be. New York was under 54  
18      percent, so theoretically you could double your  
19      fishing opportunity next year.

20                   I don't know that you'd take all  
21      that, but at least you can increase; this wouldn't  
22      force a decrease. So I suppose I'm taking a little  
23      opportunity to editorialize, but I am concerned  
24      about the different quotas. Red, you were next.

1                   RED MUNDEN: Yes. Thank you,  
2 Mr. Chairman. I'd like to speak on the disconnect.

3           And for comparison I would ask you to think back  
4 when the Atlantic States Marine Fisheries Commission  
5 and the Council had different quotas for spiny  
6 dogfish.

7                   When the federal quota was harvested,  
8 the National Marine Fishery Service shut down  
9 federal waters, and if a vessel wanted to fish in  
10 state waters, they could do so, but they had to give  
11 up their permit. Spiny dogfish permits are open  
12 access, so they could get them back.

13                   If the same procedure was followed by  
14 National Marine Fishery Service, the commercial  
15 fishermen who have limited access summer flounder  
16 permits would have to give them up to fish in state  
17 waters, and they would not be able to get those  
18 permits back.

19                   Pat, I don't think I've said anything  
20 here that's incorrect. But that's my recollection  
21 from the dogfish fishery. So we may have more fish  
22 available in state waters, but I'm not sure that we  
23 really benefit the commercial fishermen 'cause I  
24 don't think any of them are going to give those



1 permits up.

2 DAVID SIMPSON: Okay. Thanks, Red.  
3 Dr. Boreman.

4 JOHN BOREMAN: Yeah. There's another  
5 misperception that may be circulating around here,  
6 and that is that the SSC is not recommending  
7 reducing the F from .31 down to .245. I'm looking  
8 at last year's recommendations. Last year we  
9 recommended an ABC that had a fishing mortality rate  
10 associated with it approximately equal to F target.

11 So last year in July or the August  
12 meeting of 2010, our ABC recommendation was  
13 equivalent to an F value of about .255. So now  
14 we're coming back, and we're saying this year .245  
15 is our recommendation. So it's not reducing from  
16 .31.

17 Again, .31 is the F associated with  
18 overfishing, not the ABC. The ABC is the F  
19 associated with uncertainty about overfishing, about  
20 that .31 estimate. Thank you.

21 DAVID SIMPSON: Glad you were able to  
22 add that. I didn't see any other hands. Adam.

23 ADAM NOWALSKI: Thank you,  
24 Mr. Chairman. While I certainly appreciate the

1 difficulties of having this disconnect here, I think  
2 it emphasizes the need to look at how we're doing  
3 this and to examine the processes therein, that  
4 simply because the process tells us we should be  
5 doing something, we shouldn't sit here and say,  
6 well, we got to change the outcome to fit the  
7 process. Sometimes we got to take a hard look at it  
8 and figure out what the underlying problems are and  
9 take strides to address them. And I know I'm  
10 committed to getting to that point, and I know a lot  
11 of other members around the table are committed to  
12 doing the same. A couple of the other comments that  
13 I've heard here with regards to well, just because  
14 the MRFS landings tell us we're going to be okay  
15 this year, it's okay.

16 As I said earlier, I'm never going to  
17 sit here and say I advocate by using MRFS to the  
18 number. I have every expectation that had the Wave  
19 1 through 4 projections come in at a higher level, I  
20 have every expectation that the discussion around  
21 the table here today would involve discussion about  
22 using those higher projections to go ahead and  
23 further limit the 2012 quota.

24 So my goal here is to make sure -- I

1 have to go home, look at my constituents, say, okay,  
2 we're using the best available information at hand,  
3 and we're going to be able to do it the same way  
4 year after year; and I can't just walk out of here  
5 and say, well, because the MRFS data said we were  
6 okay, that it's not a recreational pain, too bad for  
7 the commercial fishermen; you're going to lose X  
8 number of million pounds of fish because it was okay  
9 for the recreational side. I can't walk out of here  
10 and do that today.

11 DAVID SIMPSON: Okay. Thanks, Adam.

12 I didn't see any other hands. Why don't we take a  
13 moment to caucus. This motion is simply for an  
14 analysis to be done. The next time the Board  
15 regularly would meet in person would be in February.  
16 The presumption is that the federal process,  
17 National Marine Fishery Service, will go ahead and  
18 publish the interim rule.

19 In the meantime that work can be  
20 done. We'll have the benefit of that, and we could  
21 make a decision as a Commission in February, if not  
22 in a conference call earlier. And in my view,  
23 there's not a terrible amount of harm to that  
24 because the state waters fishery wouldn't begin that

1 early.

2 So there would be some time. I may  
3 be wrong in the southern end of the range. I'm not  
4 sure. But just thinking ahead of how this will play  
5 out. It is substantially different if we're just  
6 talking about doing an analysis and look at it, as  
7 opposed to implicitly adopting a different quota.

8 If that inspires any other comments  
9 or thoughts, okay; otherwise, why don't we take a  
10 moment to caucus, and then we'll vote.

11 [Off the record.]

12 DAVID SIMPSON: Are they still  
13 caucusing, or do they still need time? Okay. Do we  
14 need the motion read into the record, or are we all  
15 set? Looks like we're okay.

16 (Motion as voted.)

17 {Move by Board to request an analysis to determine  
18 the 2012 specifications that would result in an  
19  $F=0.28$  and  $F=0.30$ .}

20 DAVID SIMPSON: So all those in favor  
21 raise your hand.

22 (Response.)

23 DAVID SIMPSON: So I see five in  
24 favor. Those opposed same sign.

1 (Response.)

2 DAVID SIMPSON: Six. Six opposed.

3 And we have eleven here, so that's the total count.

4 So the motion fails 5-6.

5 JACK TRAVELSTEAD: I guess while the  
6 Board is considering what they want to do next,  
7 there is a technicality for the Council. In order  
8 for the Council's motion to go forward to the  
9 Fishery Service, we need a motion to suspend the  
10 rules since we don't have like motions from both  
11 bodies. This is for the Council.

12 So does someone wish to make that  
13 motion that would be necessary for -- Pres Pate  
14 makes a motion to suspend the rules. Is there a  
15 second by a council member? Steve Heins seconds.  
16 Any discussion on the motion? Any objection to the  
17 motion?

18 Okay. The rules are suspended, and  
19 the motion that we passed earlier will go forward to  
20 the Fishery Service. It's not clear to me at this  
21 point whether the Board intends to take additional  
22 action at this point. A.C.

23 A.C. CARPENTER: I'd like to ask the  
24 Board members who rejected the initial or voted

1       against the initial motion that was joint with the  
2       Board -- with the Council if there are any of those  
3       representatives who are willing to reconsider their  
4       position on that at this point in time given that we  
5       have a timeline here that's going to be extremely  
6       difficult to deal with, and I'd really like to think  
7       that one of those states might want to reconsider  
8       their vote, and we can resolve this issue today.  
9       Because right now as I understand the rules, we  
10      would be looking toward adopting the number that was  
11      adopted in August, which is substantially higher  
12      than status quo and substantially higher than what  
13      the Council has passed today, and this is going to  
14      be a mix mash, a train wreck, that I don't want to  
15      see.

16                So I'm just asking if -- I can't make  
17      the motion to reconsider because I'm voting for the  
18      motion, but we really need somebody to step up and  
19      say the train wreck is not worth the effort.

20                JACK TRAVELSTEAD: Thank you, A.C.  
21      Pat Augustine.

22                PAT AUGUSTINE: Yes. To that point,  
23      Mr. Carpenter, I think you're right on target.  
24      There's no question we aren't doing any other

1 action. The statements that were made to us  
2 relative to what states can do because we have  
3 collectively gone underneath the quota so  
4 significantly. I think this is -- you're absolutely  
5 right.

6 For clarity purposes, I would  
7 suggest, Mr. Chairman, we take a caucus, a two  
8 minute caucus, by those states who would like to  
9 reconsider this, and it's possible that we may be  
10 able to change our votes, so then I'd ask to  
11 reconsider the motion.

12 JACK TRAVELSTEAD: Let's take a  
13 10-minute break and allow some discussions to occur  
14 on the side boards, and then we'll come back. Ten  
15 minutes.

16 [Break: 10:25 a.m. to 10:38 a.m.]

17 DAVID SIMPSON: Okay. Do we have  
18 everyone we need back at the table? Do we have a  
19 motion to reconsider? Pat.

20 PAT AUGUSTINE: Yes, Mr. Chairman.  
21 I'd like to make a motion to reconsider a previous  
22 motion. Do you want me to read it? We don't need  
23 it. Know what it is? I guess we'll have to put it  
24 up there, and it has to go on the record.

1 JACK TRAVELSTEAD: Second the motion.

2 DAVID SIMPSON: Okay. Second by Jack  
3 Travelstead.

4 PAT AUGUSTINE: And I would like the  
5 vote now to be called. Call the vote.

6 DAVID SIMPSON: Okay. So we need a  
7 simple majority to pass a motion to reconsider.  
8 We've had quite a bit of time to talk. So I'd look  
9 for a vote.

10 (Motion as voted.)

11 {Motion to reconsider previous Board motion.}

12 DAVID SIMPSON: All those in favor of  
13 the motion to reconsider raise your hand.

14 (Response.)

15 DAVID SIMPSON: I see eight in favor.  
16 Opposed.

17 (Response.)

18 DAVID SIMPSON: I see two opposed.  
19 So we're missing one. Adam.

20 ADAM NOWALSKI: I believe New Jersey  
21 would be a no vote on the motion to reconsider.

22 PETER HIMCHAK: That's correct. It  
23 would be a no vote. I'm sorry.

24 DAVID SIMPSON: So that was -- we'll



1 do it over so we get the motion clear. All those in  
2 favor of the motion to reconsider, please raise your  
3 hand.

4 (Response.)

5 DAVID SIMPSON: I see eight in favor.  
6 Opposed same sign.

7 (Response.)

8 DAVID SIMPSON: I see one opposed.  
9 Abstentions.

10 (No Response.)

11 DAVID SIMPSON: I don't see any.  
12 Null votes.

13 (Response.)

14 DAVID SIMPSON: One.

15 Does that give us 10? We're still  
16 missing somebody. Well, we may be missing a vote,  
17 but it's a clear majority. So we have the motion to  
18 reconsider on the table. Pat.

19 PAT AUGUSTINE: Call the question,  
20 Mr. Chairman.

21 DAVID SIMPSON: Okay. So the motion  
22 then back before us is for the Commission to adopt  
23 the same measures that the Council did a little  
24 while ago, which was in effect a recreational

1 harvest limit of 8.76 million pounds, commercial  
2 quota of 13.14 million pounds. That's the effect of  
3 it.

4 All those in favor -- we need the  
5 two-thirds majority here. So all those in favor  
6 please raise your hand.

7 (Response.)

8 DAVID SIMPSON: So that's nine in  
9 favor. So the motion passes. For the completeness  
10 of the record though, opposed.

11 (Response.)

12 DAVID SIMPSON: I see one opposed.  
13 Any abstentions?

14 (No Response.)

15 DAVID SIMPSON: Any null votes?

16 (Response.)

17 DAVID SIMPSON: One. That gets us  
18 back up to 11. That's better. So the motion  
19 passes. We're consistent with the Council  
20 recommendation. Thanks, Pat.

21 JACK TRAVELSTEAD: Okay. I think  
22 that finishes our work on the summer flounder issue,  
23 and now we want to deal with the similar issue for  
24 scup following the same procedure hopefully a little

1 bit more quickly. Rick.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you. Before you go on, Mr. Chairman, I just  
4 wanted to thank the Commission for their  
5 reconsideration of that question. I think it is  
6 important as we go forward to be coordinated on  
7 this. So I appreciate that reconsideration. Thank  
8 you.

9 JACK TRAVELSTEAD: Jessica.

10  
11 FINALIZE SCUP FLOUNDER 2012 MANAGEMENT MEASURES

12 JESSICA COAKLEY: Okay. Continuing  
13 on with scup. So similar to the summer flounder  
14 stock assessment, the last peer reviewed assessment  
15 for scup was in 2008. It was actually in December  
16 and part of the data core stock work group and peer  
17 review.

18 Scup uses a similar assessment  
19 approach to summer flounder. It's an age-structured  
20 assessment program. Yield for recruit analysis you  
21 use to drive the biological reference points, and  
22 age projections are used to project that information  
23 forward. The biological reference points for scup  
24 that are peer reviewed and accepted include an F 40

1 percent, which is the FMSY proxy of .0177. If F is  
2 above that level, overfishing is occurring. The SSB  
3 MSY proxy, which is the rebuilding target, is 203  
4 million pounds or about 92,000 metric tons. One  
5 half of that would be the minimum biomass threshold.

6 Scup is not subject to a rebuilding plan, and it  
7 was declared rebuilt a few years ago.

8 So, recapping, August 2011, at that  
9 point you looked at all the recommendations and  
10 looked at the SSC Monitoring Committee and  
11 Advisory's recommendations and put forward catch  
12 limit recommendations for 2012.

13 Similar to summer flounder a  
14 projection update was also done using that June 2010  
15 model as a base, which had the data for 2009, and it  
16 was projected forward using the realized 2010  
17 landings and assuming 2011 quotas would be caught.

18 The August Council recommendations  
19 for commercial and recreational ACLs and ACTs were  
20 41.61 million pounds for the commercial ACL, which  
21 is equal to the ACT, and 11.74 million pounds for  
22 the recreational ACL, which is equal to the ACT.

23 And that was based off of an ABC  
24 recommended by the SSC of 53.35 million pounds,

1 which was all set due to scientific uncertainty from  
2 the OFL of 65.88 million pounds. So the landings  
3 levels associated with that would be about 34  
4 million pounds for the commercial fishery and about  
5 11 million pounds for the recreational. So that  
6 October 2011 update on scup was received and applied  
7 the same peer reviewed models and methods, includes  
8 data through 2010, so similar to summer flounder.

9 That was the big change in that this  
10 a full model update through 2010. And the  
11 projections for 2012 similarly assumed 2011 quotas  
12 and harvest limits were taken. The incoming  
13 recruitment is average or about average. It's re-  
14 sampled from a distribution of recent recruitments.

15 The age structure in 2010 is  
16 projected forward in the model, and there are no  
17 adjustments made for retrospective patterns in R, F,  
18 or SSB in those projections. So, from that October  
19 update, here's the spawning stock biomass, which is  
20 the black line. And the recruitment estimates for  
21 each year are the bars.

22 As you can see, spawning stock  
23 biomass was low until around 2000 and then began to  
24 increase rapidly as part of the rebuilding plan and

1 as part of other measures that were put in place,  
2 which may include things like scup GRAs which  
3 prevented high mortality losses on juvenile scup.  
4 So it's probably a combination of all those  
5 measures. The rebuilding target is given in orange.

6 So that's about 90,000 metric tons. So the  
7 spawning stock biomass for 2010 is about twice the  
8 rebuilding target. Since 2000 we had seen some  
9 above average recruitments in the time series. The  
10 2009 and 2010 recruitments are low. The 2010  
11 recruitment is well below average.

12 Total catch and fishing mortality  
13 indicate that since around 2001 fishing mortality  
14 has been below the threshold rate, which is the  
15 dotted line given on the graph.

16 The solid dark line is the catch over  
17 the time period, which shows as catches were  
18 decreased, fishing mortality also decreased. We  
19 don't necessarily see that pattern lining up quite  
20 the same in the recent years, but that's as a result  
21 of the higher spawning stock biomass that we're  
22 seeing. Even with slightly increasing catches,  
23 we're still seeing the fishing mortality rate stay  
24 relatively low.

1                   The Northeast Fisheries Science  
2           Center trawl surveys are just one part of the  
3           information that's put into the assessment model.  
4           Since the mid-'90s, you see a general increasing  
5           trend in those index values.

6                   While the '09 values were high for  
7           much of these surveys, there was a decrease in the  
8           2010 survey indices, some of the Center trawl survey  
9           indices, and we also see that in some of the state  
10          survey indices as well. So the updated stock  
11          dynamics indicate that in 2010  $F$  is estimated to be  
12          0.04, so it's less than the  $F$  40 percent threshold  
13          of .177. The 2010 spawning stock biomass is  
14          estimated to be 202 percent of the SSB MSY estimate.

15                  So the stock is not overfished and  
16          not overfishing in 2010 based on this updated  
17          information through October. If catches in 2012  
18          equal the August Council recommended ACTs,  
19          overfishing is, however, projected to occur, and  
20          that's why we're here revisiting this issue.

21                  So why did the update change? In the  
22          case of scup, there really is no strong  
23          retrospective pattern evident in this assessment.  
24          So we don't see a systematic pattern in either  $F$ ,

1 SSB, or recruitment.

2 There are, however, changes in the  
3 magnitude of year class estimates in recent years.  
4 The 2007 and 2008 estimates are slightly higher.  
5 The 2006 and 2009 estimates are lower.

6 The model and projections are  
7 sensitive to the magnitude of the recruit indices  
8 that are provided by the Northeast Fisheries Science  
9 Center and the states and that are input into the  
10 model. So part of the reason, that when that  
11 additional year's worth of data 2010 was added to  
12 the model and projected forward, part of the reason  
13 that the estimates of OFL declined is a result of  
14 those input indices. So we have lower recruitment  
15 estimates recently that we're seeing. 2010 is well  
16 below the average recruitment. This update also  
17 revised that OFL estimate.

18 The 2012 overfishing limit is revised  
19 to 50.48 million pounds. This is 24 percent lower  
20 than the previously estimated OFL of 65.88 million  
21 pounds that was discussed back in August.

22 So the SSC met December 5th to  
23 revisit their accepted biological catch  
24 recommendations, and the Monitoring Committee met



1 December 7th to revisit ACT and commercial measure  
2 recommendations. So, at this point, I will switch  
3 over to John to present the SSC recommendations for  
4 ABC. Can we all see that? Okay.

5 JOHN BOREMAN: Thanks, Jessica. Next  
6 slide. Based on the information contained in the  
7 updated assessment, the SSC determined that this is  
8 a Level 3 assessment.

9 We have an estimate of OFL, but the  
10 uncertainty associated with that is something that  
11 we have to work on as an SSC. Nothing was really  
12 changed in the assessment, the structure of the  
13 assessment, so we maintained it at a Level 3. Next  
14 slide. So, as Jessica said, the updated assessment  
15 according to the projections in there, the level of  
16 catch OFL is 50.48 million pounds or 22,897 metric  
17 tons. Based on the OFL equaled biomass times the F  
18 proxy of F 40 percent of .177. Next slide. So the  
19 ABC, again we recommended a single year  
20 specification here. Similar reasoning to what we  
21 use for summer flounder and most other species.

22 We recommended that an ABC of 40.88  
23 million pounds or 18,543 metric tons based on the  
24 control rule for a Tier 3 assessment. Again, we

1 assumed the CV of the OFL as a log normal  
2 distribution with a hundred percent CV, that is, the  
3 uncertainty, but we also note that the ratio of  
4 projected biomass to be MSY is close to 2. This is  
5 a biomass in 2012.

6 So we applied the control rule. And  
7 the risk policy of the Council, any ratio of biomass  
8 to BMSY is above 1.0 and P star equals .4, and  
9 applying that control rule, we came up with an ABC  
10 which is basically, again, 81 percent of the OFL.

11 Again, this ABC reflects a change  
12 from our earlier estimate, and that change is due to  
13 the information contained in the updated assessment.

14 The next slide.

15 In terms of sources of uncertainty,  
16 this first one's important because I think, as  
17 Jessica pointed out, this is probably the culprit in  
18 why the updated assessment changed, the numbers; and  
19 that is that the assessment, while the older age  
20 scup are represented in the catch -- this is ages  
21 three and older -- the assessment basically used  
22 indices that do not include ages three and older.  
23 It's for the earlier ages. And as a result, the  
24 dynamics of the entire stock are basically driven by

1        what happens in ages one and two.

2                        And in this case, since those  
3        estimates of recruitment changed, it changed the  
4        whole dynamic of the assessment. And in addition to  
5        that, commercial discard estimates are imprecise and  
6        in some years are a large proportion of the total  
7        catch. And uncertainty exists with respect to the  
8        estimate of natural mortality used in the  
9        assessment. Next slide.

10                      Uncertainties in the stock status  
11        resulting from uncertainties in the estimates of  
12        both the stock's biomass and the biological  
13        reference points. The assessment does not contain a  
14        characterization of uncertainty for the OFL, which  
15        is why the SSC chose the value that they did, which  
16        is the PDF with log normal distribution, and PDF  
17        meaning probability density function with log normal  
18        distribution and a CV of a hundred percent.

19                      And the assessment does not contain a  
20        characterization -- excuse me -- the uncertainty in  
21        the projection caused by uncertainty in the strength  
22        of the most recent year classes. So those are the  
23        sources of uncertainty. The next slide. Two more.

24        The survey indices are particularly sensitive to

1       scup. Availability, as we've been discussing at  
2       this council as long as I've been associated with  
3       it, which results in high interannual variability in  
4       the assessment index.

5                       And, again, we're dealing with  
6       uncertainties resulting from calibration of the  
7       Bigelow and Albatross trawl series data sets. So  
8       that's the SSC report. Thank you.

9                       JACK TRAVELSTEAD: Jessica.

10                      JESSICA COAKLEY: All right.

11       Continuing on, the Monitoring Committee met December  
12       7th, and they were asked if they wished to revisit  
13       their recommendations for ACTs based on the  
14       recreational ACL and the commercial ACL that would  
15       be derived from the SSC recommended ABC on December  
16       5th.

17                      They did not recommend any changes to  
18       their prior recommendations, and in addition, they  
19       recommended no changes to the other commercial  
20       management measures, which include the minimum fish  
21       size; however, in July they indicated they wanted to  
22       review information on minimum size next year.

23                      No changes to current mesh size, the  
24       gear restrictive areas, or an RSA up to 3 percent.

1 And their previous comment on possession limits also  
2 stood, in that they had commented that increasing  
3 the Winter 1 possession limit from 30,000 pounds to  
4 50,000 pounds probably wasn't an issue, but they  
5 cautioned about multiple adjustments to things like  
6 possession limits and triggers.

7 So, if you'll recall, back in August  
8 the Council recommended changing the Winter 1 trip  
9 limit from 30,000 pounds to 50,000 pounds in federal  
10 waters.

11 So just a summary of the SSC and  
12 Monitoring Committee recommendations. The  
13 overfishing limit would be 65.88 million pounds.  
14 The associated ABC that was recommended is 40.88.  
15 The recreational ACL, which would be equal to the  
16 recreational ACT, is 8.99 million pounds.

17 The commercial ACL, which would be  
18 equal to the commercial ACT, would be 31.89 million  
19 pounds. And once an RSA of 3 percent has been  
20 deducted from the associated landing levels  
21 associated with the ACT, the commercial quota would  
22 be 27.5 million pounds, and the recreational harvest  
23 limit would be 8.31 million pounds.

24 One thing I did want to just quickly

1 point out to the group 'cause I did look at prior  
2 harvest levels: In the 2011 scup TAC that was set  
3 by this group was 31.92 million pounds, which is  
4 approximately what the commercial ACT proposed under  
5 this is. So the TAC last year included both  
6 commercial and recreational. So the sum of these  
7 two ACTs is higher than what was implemented in  
8 2009. And that's it.

9 JACK TRAVELSTEAD: Okay. Questions  
10 of Jessica or Dr. Boreman? A.C.

11 A.C. CARPENTER: Yeah. I think I  
12 understood this, that -- and this is to Dr. Boreman.  
13 That the age 3 fish are showing up in the catch but  
14 they are not calculated or used in the model. In  
15 the face of the rebuilding of this stock that has  
16 occurred, wouldn't it make sense to include some of  
17 those age three and older fish in the model since  
18 there are obviously more of them there now? And how  
19 would that affect the outcome?

20 JACK TRAVELSTEAD: John.

21 JOHN BOREMAN: Well, they are used in  
22 the model. The catch of age three and older are  
23 used in the assessment model, but the indices of  
24 abundance, the fishery independent indices are not

1 because the surveys basically are not picking them  
2 up.

3 This is why we're working with the  
4 University of Rhode Island to do an alternate type  
5 of survey that would pick up these older fish. Now,  
6 there are some surveys out there -- I think the  
7 Connecticut survey is picking up older scup, but  
8 that time series is not long enough yet. Jessica,  
9 correct me if I'm wrong. But it's not being fully  
10 incorporated into the assessment yet.

11 JESSICA COAKLEY: Well, the NEMAP  
12 survey is picking up some of the older ages in their  
13 time series, but at the time when the assessment was  
14 done for the data pool work group, we didn't have a  
15 long enough time series. So that's something that  
16 would probably be incorporated at the time the next  
17 benchmark is done. And really, there's only one or  
18 two state surveys that pick up some of the older age  
19 scup through their trawl series.

20 Yeah. It's Connecticut. I think  
21 it's Connecticut and Rhode Island are the ones that  
22 pick up some of those older age classes. But most  
23 of the other surveys do not. And really it's the  
24 catch is where those older larger fish are

1 represented in the modeling exercises.

2 JACK TRAVELSTEAD: Further questions?

3 Pete. Yes, thank you, Mr. Chairman. This begs an  
4 even better layman's explanation of why. Either to  
5 Jessica or to John: If the SSB is at such an  
6 extraordinarily high level, then the statement was  
7 made that 2010 was well below the average in  
8 recruitment; now what would explain that?

9 JESSICA COAKLEY: Well, a couple of  
10 things. And Mark Terceiro had pointed this out on  
11 the call to the SSC. The scaling on the assessment  
12 model and the magnitude of the SSB is one of the  
13 more uncertain components of this assessment; and I  
14 put the survey indices back up because as we looked  
15 at the survey indices, what the model essentially  
16 wants to do through a lot of these trawl surveys is  
17 fit through it. So you see this high flyer and  
18 other high values here. It wants to send that  
19 trajectory upwards. And, likewise, in our  
20 recruitment patterns, we have from '04 to '08 this  
21 time series of high recruitments that are  
22 propagating through the model and resulting in an  
23 increase in the spawning stock biomass.

24 Now, you're right. In 2010 we do



1 have a very low recruitment, but there could be a  
2 lot of things that are causing that. It could be  
3 environmental factors. It could be that for some  
4 reason the surveys didn't pick them up in the trawl  
5 time series that year.

6 There are a lot of factors that could  
7 affect it, and as we've looked in the past at the  
8 summer flounder time series, sometimes it almost  
9 looks like it's a roll of the dice. Some years you  
10 get high years; some years you get low years. It's  
11 very difficult to interpret the pattern based on  
12 just one year.

13 2010 is not the lowest of the low in  
14 terms of what we're looking at. That really was  
15 that '96 recruitment we see in that time series.  
16 But, yes, it is well below average. In terms of  
17 some of the things that are driving that SSB. I  
18 wanted to point that out but also highlight that  
19 that's what is helping to drive that assessment  
20 model to produce that large SSB that we're seeing  
21 since 2000.

22 JACK TRAVELSTEAD: Go ahead, Pete.

23 PETER HIMCHAK: Yeah. Just looking  
24 at this graphic here, I mean one could also

1 interpret that, yeah, we're reaping the rewards of  
2 the good recruitment from 2004 through 2008; but  
3 then at the levels of fishing that we're currently  
4 at, are we headed for a precipitous crash with the  
5 lack of recruitment in the last two years? I'm just  
6 trying to make sense out of this balance.

7 JESSICA COAKLEY: Well, the only  
8 thing I can suggest is just be mindful of the fact  
9 that those recruitments in the recent two years are  
10 lower than what we've seen previously.

11 And, as we said, when we do our  
12 projections, we make assumptions about a median  
13 recruitment input about average based on recent  
14 recruitments, and I think it's the last five years  
15 that we actually use in the projections is what's  
16 actually input into that. And that may be one  
17 assumption that's violated when we do those  
18 projections. So just keep it in mind.

19 JACK TRAVELSTEAD: Dr. Pierce and  
20 then Vince.

21 DAVID PIERCE: During the  
22 presentation, it was said that if catches in 2012  
23 equal the catches that we decided to have for 2012  
24 based on August decisions, then there would be

1 overfishing. And my question would be: If we  
2 maintain status quo, that is 2011 roles and 2012,  
3 what would a fishing mortality be? Would we still  
4 exceed .177, which is the FMSY value, or would we be  
5 below it? Right now we're extremely low, .040,  
6 incredibly low. So what would that mortality rate  
7 be?

8 JACK TRAVELSTEAD: Jessica.

9 JESSICA COAKLEY: Well, the F  
10 associated with landings equal to the 2011 TAL, what  
11 we're projecting that F would be in 2011 is .097.  
12 So the F would still be below the .177.

13 I can't say exactly what that would  
14 be if we then propelled that landings level into  
15 2012 what the exact F associated with that might be.  
16 I don't have that exact projection, but I'm  
17 guessing it would be in that ballpark because our  
18 recent estimates of SSB have been around 200 percent  
19 of SSB MSY give or take.

20 So I guess that's my best guesstimate  
21 to what might happen to fishing mortality based on  
22 what I have in front of me. But to get an accurate  
23 answer, the projections would have to be rerun.

24 DAVID PIERCE: Thanks, Jessica. I

1 appreciate your best guess. We do have a very large  
2 SSB, well over the target, and we do have an  
3 incredibly low fishing mortality rate in 2010, and  
4 now you've indicated that it's likely I guess it's  
5 safe to say that if we maintain status quo in 2012,  
6 then we'll still be quite a bit below the FMSY  
7 value. So I think the Council as well as the Board  
8 should factor that in to our decisions as to what  
9 needs to be done with scup for 2012.

10 JACK TRAVELSTEAD: John, did you want  
11 to respond to any of that? No. Vince.

12 VINCENT O'SHEA: Thank you,  
13 Mr. Chairman. I'm not sure if this question is for  
14 Dr. Boreman or Jessica. But my understanding is  
15 that scup might live to 12 or 14 years, and I'm  
16 wondering if the fact that -- we were talking about  
17 age threes, but I'm thinking the fact that these  
18 things might live longer than that doesn't that then  
19 imply there's some flexibility in how we set the  
20 quotas to dampen out some of these years of poor  
21 recruitment with an animal that may live as long as  
22 12 years or so? Thank you.

23 JACK TRAVELSTEAD: John's going to  
24 take a shot at that one.

1 JOHN BOREMAN: Again, you're right.

2 Scup do live over a decade, 10 to 12 years. Again,  
3 our knowledge of the age structure is based on ages  
4 one and two and projecting that forward, and we have  
5 very little information to confirm what's being  
6 modeled with what's actually being observed out  
7 there, only in the landings, but the landings are  
8 selective. So it would be difficult in that regard.

9 I just recall that last year our recommendation  
10 again was about in the same ballpark as it is this  
11 year, but we cautioned the Council to move in steps  
12 up to the ABC. In other words, don't make one giant  
13 leap up to the ABC value.

14 Well, this year in August the Council  
15 decided to make that leap, and our main reason was  
16 that we were concerned that the whole assessment is  
17 hinged on what's happening in those first two years  
18 of life and then using modeling to figure out what  
19 would subsequently happen.

20 So, to say does that build in  
21 flexibility? I think it limits our flexibility in  
22 terms of what we can do, rather than build in more  
23 flexibility.

24 VINCE O'SHEA: Thanks, Mr. Chairman.

1 JACK TRAVELSTEAD: Thank you.

2 Further questions? Seeing none, how about a motion?

3 It doesn't matter.

4 PAT AUGUSTINE: I'll do it first.

5 Thank you, Mr. Chairman. I move that we accept --

6 oh, you did it to me. Jan, would you put it up

7 there, please. Oh, you're doing it. Okay. Yeah.

8 Just go back to your last slide. It's the SSC and

9 Monitoring Committee recommendation. Make it

10 bigger. My eyes are not good. Move that the Board

11 and/or Council accept the SSC and Monitoring

12 Committee recommendations for OFL, ABC and ACTs as

13 follows: OFL for 2012, OFL 50.48 million pounds,

14 ABC 40.88 million pounds; commercial side, ACL of

15 31.89 million pounds, on the recreational side, 8.99

16 million pounds; the ACTs, commercial 31.89 million

17 pounds, recreational 8.99 million pounds; the quota

18 and RHL, commercial 27.50 million pounds,

19 recreational 8.31 million pounds. Thank you, Mr.

20 Chairman.

21 JACK TRAVELSTEAD: That motion was on

22 behalf of the ASMFC Board. Is there a second?

23 Well, let me get a second to the Board motion first.

24 Is there a second from the Board? Rick Cole

1 seconds for the Board. Erling Berg makes the same  
2 motion for the Council. Is that correct? And a  
3 second by Peter deFur. Let's make sure we get the  
4 right motion. Okay. Dr. Pierce.

5 DAVID PIERCE: Yeah. It's too bad  
6 the Council can't send the SSC back to the drawing  
7 board on this one. And, of course, now we have a  
8 motion made on behalf of the ASMFC to go lockstep  
9 with these recommendations, which are really not  
10 recommendations; they're pretty much this is what  
11 you will do at least for the Council. I can't agree  
12 with it. I've already indicated my previous  
13 thoughts on this issue are that we need not do this.

14 We could go with status quo. So I would move to  
15 substitute, again, Board, I would substitute that we  
16 move to adopt the scup 2011 specifications for 2012.

17 It represents, of course, a decrease in what we  
18 otherwise would have done for 2012. It brings us  
19 back down to 2011. Move to substitute.

20 JACK TRAVELSTEAD: Okay. There's a  
21 motion on behalf of the Board. Is there a second?  
22 Substitute motion. Is there a second? Is there a  
23 second? Motion fails for lack of a second. Pat  
24 Augustine.

1 PAT AUGUSTINE: Thank you,  
2 Mr. Chairman. The reason I moved so quickly on  
3 putting the motion up: It just seems to me we could  
4 be running down the same path we did earlier this  
5 morning on summer flounder.

6 We don't have to be reminded that the  
7 SSC is god like in their pronouncements, and they do  
8 a very thorough job of what they do. Dr. Boreman,  
9 would you please, Pope Boreman, please bless us.

10 But that's the reality of it. And I  
11 think the Monitoring Committee and the staff do an  
12 excellent job of questioning and participating along  
13 with the public that participates in all of their  
14 deliberations. Not to make short or strife of what  
15 other people might want to put on the record,  
16 sometimes folks around the table, and I am not  
17 accused of pontificating about; I believe what I  
18 say, and I put it on the record. But some people  
19 feel they have to say something before they go back  
20 home to justify why we voted for or didn't vote for  
21 a particular position.

22 This is a clear-cut case again where  
23 at the end of the day whenever ASMFC varies from  
24 what the Council agrees with or disagrees with or



1 motions they put on the table, it comes back and  
2 bites us big time.

3 So, unless there's something really,  
4 really pressing that questions the SSC and the  
5 Monitoring Committee and the staff, I just think  
6 we've got the data, and take it back home. We can  
7 refer it to our folks and say here's where we are.

8 So I won't pontificate, Mr. Chairman.

9 I would like to call the questions and move them  
10 forward unless there's some pressing debate issue  
11 that needs to be put on the table.

12 JACK TRAVELSTEAD: Chris.

13 CHRISTOPHER ZEMAN: I just want to  
14 make sure that we also that we go to the public. I  
15 think we didn't do that the first time on the  
16 Council motion for summer flounder.

17 JACK TRAVELSTEAD: Any comments from  
18 the public on the motion?

19 JOSEPH HUCKEMEYER: Just a  
20 clarification.

21 JACK TRAVELSTEAD: Let us have your  
22 name.

23 JOSEPH HUCKEMEYER: Joseph  
24 Huckemeyer. Just a clarification of how these

1 numbers compare to 2011 'cause it's not in any of  
2 the handouts.

3 JACK TRAVELSTEAD: The commercial  
4 quota in 2011 was 20.36. Is that right?

5 JOSEPH HUCKEMEYER: That's the  
6 commercial?

7 JACK TRAVELSTEAD: Yes.

8 JOSEPH HUCKEMEYER: Okay. All right.

9 Thank you.

10 JACK TRAVELSTEAD: So this is an  
11 increase.

12 JOSEPH HUCKEMEYER: I just wanted to  
13 see how much.

14 JACK TRAVELSTEAD: Thank you. Vince.

15 VINCENT O'SHEA: Yeah. I was looking  
16 at the same thing. I think this is a 9 million  
17 pound increase over 26 million total. And you had I  
18 think that's something like a 40 percent increase  
19 from 2011 total.

20 JACK TRAVELSTEAD: Yeah.  
21 Recreational is 5.7. It's going to 8.3 or roughly  
22 in that ballpark. So both sides are increasing.  
23 Any further comments from the audience? David.

24 DAVID SIMPSON: John, thinking about

1 the SSC, and I'm concerned about going liberalizing  
2 too far too fast. We see declining recruitment  
3 indices. I've had a long-standing concern about  
4 commercial discards. And I wondered if there was a  
5 discussion about how -- you know, in the way they're  
6 estimated is it in fact an important part of holding  
7 the assessment together geometric, meaning discard  
8 to landing ratios, not arithmetic, kind of dampen  
9 down that variability that's likely happening, no  
10 accounting for discards and commercial trips where  
11 no scup are landed.

12 So you have a squid fishery; they  
13 don't land any scup because the price is down; that  
14 estimate doesn't get into the assessment, and then  
15 there's no estimate of state waters commercial  
16 discard at all.

17 And when I look at the numbers of  
18 estimated discards, the Table 10, it's incredibly  
19 stable to me given scup and you talk about the  
20 variability that you see in surveys, you would  
21 expect a fairly high degree of variability in  
22 commercial discarding as well; and yet for the last  
23 four years, they've bounced around between about 10  
24 and about 12, almost 13 million fish a year. Did

1 the SSC discuss any of this in arriving at the  
2 recommended quota? I know you've gone to a fairly  
3 formulaic process, but this is one of those things,  
4 it's just an extra measure of uncertainty in my  
5 mind, and just wondered how the SSC dealt with it  
6 this time.

7 JACK TRAVELSTEAD: John.

8 JOHN BOREMAN: We did discuss it,  
9 but, again, it's on our list of what we consider a  
10 significant source of uncertainty is the commercial  
11 discards.

12 Recent years they may have been close from  
13 year to year, but the history is that they do bounce  
14 around; they're relatively imprecise. So that's one  
15 of the factors that leads us to develop the  
16 probability function that we did for the OFL. So  
17 it's part of the general level of uncertainty in the  
18 estimate.

19 DAVID SIMPSON: But in addition to  
20 uncertainty, I think the way the discard estimate is  
21 calculated it's almost certainly biased low. And I  
22 didn't know if that particular estimate 'cause --  
23 well, as I mentioned, there are several sources of  
24 mortality or discard mortality that can't enter into

1       this because of the way it's calculated. So that  
2       adds an extra measure of concern in my mind to the  
3       recent estimates of low recruitment.

4               JOHN BOREMAN: Yeah. We didn't  
5       discuss the bias in the estimates, just that they're  
6       all over the board.

7               JACK TRAVELSTEAD: Chris.

8               CHRISTOPHER ZEMAN: I'd like to  
9       stress that point. I think it's a very good point  
10      to make here. I've raised this concern in previous  
11      spec processes, and in my personal view, I see that  
12      this loss of recruitment may be due to discarding in  
13      both this case and also in summer flounder.

14              It may not be the directed fisheries  
15      at all. It may not be fisheries that we even  
16      manage. That needs to be investigated. You know  
17      when we're at this point in the spec process, it's  
18      too late.

19              And the analyses in these documents  
20      don't explain to me how we come up with the discard  
21      rates for both summer flounder and scup. Because I  
22      raised that point before.

23              If I looked at the Fishery Science  
24      website, they say on average discard rate is at

1       about 30 percent of total catch on average since  
2       2000. And I'm sure that we're not making that  
3       deduction here. Our deductions are very low.

4               I don't know how to incorporate that  
5       in this. We have to get that done. We have to sort  
6       of incorporate this because when we come to today,  
7       it's already too late, and the spec process really  
8       binds our hands to only look at what we do to  
9       address directed mortality; but in actuality, we  
10      could be having a problem here that is due to  
11      indirect mortality. And so, again, I'm forced to  
12      then limit the directed fishery when there may be  
13      other factors involved here that are unrelated to  
14      that directed fishery. And I don't know what to do  
15      with this because every year we are at the same  
16      point.

17             Every year I request the discard  
18      evaluation is put in here, and every year I don't  
19      see a discard evaluation. I don't see any reliant  
20      use of the at sea observer data, any sort of attempt  
21      to extrapolate. That's something I don't know why  
22      it's not being done. But I see that as something  
23      that really can be something driving this  
24      retrospective pattern.

1 JACK TRAVELSTEAD: Seeing no further  
2 hands, I think we're ready to vote, Mr. Chairman.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
4 the Council ready for the question?

5 (Motion as voted.)

6 {Move to adopt recommendations put forward by the  
7 SSC and Monitoring Committee for an ABC = 40.88,  
8 which results in a recreational ACL = ACT = 8.99  
9 mil lbs. and commercial ACL = ACT = 31.89 mil lbs.  
10 This results in a recreational harvest limit of  
11 8.31 mil lb. and a commercial quota of 27.50 mil  
12 lb.}

13 COUNCIL CHAIR RICK ROBINS: All those  
14 in favor please raise your hand.

15 (Response)

16 COUNCIL CHAIR RICK ROBINS: Eighteen. Opposed like  
17 sign.

18 (No Response)

19 COUNCIL CHAIR RICK ROBINS: Abstentions like sign.

20 (Response)

21 COUNCIL CHAIR RICK ROBINS: One abstention. The  
22 motion carries. Thank you. Dave.

23 DAVID SIMPSON: Want to take a moment  
24 to caucus? [Pause]

1 [Break: 11:22 a.m. to 11:27 a.m.]

2 DAVID SIMPSON: Okay. Jim, did you  
3 have a comment?

4 JAMES GILMORE: Thank you,  
5 Mr. Chairman. We did have some discussion, and just  
6 for food for thought, the reality is is I think we  
7 would be actually comfortable going with status quo  
8 on scup and actually continuing on what we did in  
9 the current year; however, because of -- you know,  
10 our last discussion, we don't want to have disparate  
11 or disconnect with the Council. We're actually  
12 recommending something higher than we normally  
13 would. And I think that's where we need to go.

14 But I think this sort of emphasizes  
15 the issue we have right now. We think based upon  
16 Magnu or whatever, that we should be actually maybe  
17 staying status quo because there's a lot of issues  
18 with the scup fishery.

19 But, again, I guess on this one,  
20 we'll go with the SSC because it's a higher level,  
21 but we may end up paying for this in a couple years,  
22 and maybe we shouldn't be doing that. Thank you.

23 DAVID SIMPSON: Thanks. Pat.

24 PATRICIA KURKUL: But, of course,



1 just to remind you the SSC recommendation is a  
2 ceiling, and so you do have the option, and, in  
3 fact, that's the important thing, that's where you  
4 have the flexibility to go anywhere below that  
5 ceiling. So it certainly is an option for the  
6 Council and the Board.

7 DAVID SIMPSON: Go ahead.

8 COUNCIL CHAIRMAN RICHARD ROBINS: And  
9 just to this point, if you look at the SSC's advice,  
10 it is for a one-year specification. And one of the  
11 discussions we really haven't had in great detail  
12 with the SSC has been an exploration of this  
13 question of what a stable fishery looked like for a  
14 longer period of time, taking a hard look at multi-  
15 year specifications and trying to achieve some sort  
16 of regulatory stability in the context of a stock  
17 that appears to be rebuilt to a very high level of  
18 biomass.

19 So trying to get the most out of that  
20 stock over a long period of time will maximize the  
21 opportunities with it is something that we still  
22 haven't explored at least on the technical side in  
23 detail with the SSC. But I think that's a  
24 discussion that we should work to set up between

1 staff and the SSC. So thanks.

2 DAVID SIMPSON: Yeah. I think Jim's  
3 point, though, was that, yeah, we have that  
4 flexibility, but voting second we're following an 18  
5 to zero vote to go to 40.88 million pounds, and so  
6 we'd be asking the Council to revisit their  
7 unanimous decision and I think feeling that -- you  
8 know, that would be an unlikely outcome, so. Vince.

9 VINCENT O'SHEA: Well, I guess you  
10 don't know that until you try it.

11 DAVID SIMPSON: So we have the motion  
12 before us. We've caucused. If there's no other  
13 motions, then I'll ask for a show of hands. All  
14 those in favor raise your hand.

15 (Response)

16 DAVID SIMPSON: What have you got --  
17 ten? Ten in favor.

18 (No Response)

19 DAVID SIMPSON: Opposed?

20 (No Response)

21 DAVID SIMPSON: Don't see any.  
22 Abstentions?

23 (Response.)

24 DAVID SIMPSON: One. And null votes

1 should be none.

2 (No Response)

3 DAVID SIMPSON: None. So the motion  
4 passes.

5 JACK TRAVELSTEAD: Anything further  
6 on scup? All right. We're going to move right into  
7 the summer flounder recreational measures for 2012.  
8 It's behind Tab 7 for the council members.

9 And I would note that it's already  
10 been pointed out that with the possible exception of  
11 Delaware, I think most of the states are in a  
12 position of being able to liberalize to some degree,  
13 some more than others, obviously. Jessica.

14  
15 FINALIZE SUMMER FLOUNDER 2012 RECREATIONAL  
16 MANAGEMENT MEASURES

17 JESSICA COAKLEY: All right. Okay.  
18 Now that I can talk, 2012 recreational management  
19 measures for summer flounder. So this process  
20 started with the August council and board meeting.  
21 But we know; we just revisited everything a few  
22 hours ago.

23 So we had a December 5 Science and  
24 Statistical Committee meeting, revisited those catch

1 levels. There was a December 7th Monitoring  
2 Committee meeting to talk about recreational  
3 measures based on what the SSC recommended measures  
4 were and the December 8th Advisory Panel meeting to  
5 discuss their advice for recreational management  
6 measures. Since 1993 harvest limits have varied  
7 from a low of 6.22 million pounds in 2008 to a high  
8 of 11.98 million pounds in 2005. You'll recall that  
9 year was the last year when we realized we would not  
10 rebuild in time under the summer flounder rebuilding  
11 plan. So we had hit that high level, and then  
12 quotas dropped down from that point to continue  
13 rebuilding.

14               Recreational landings hit a low in  
15 1989 of about 3.17 million pounds, and in the recent  
16 few years, in 2006 there was a high of 11.7 million  
17 pounds, just to give you an idea of the relatively  
18 recent high. 2010 landings were 4.8 million pounds.

19               In 2011 for summer flounder  
20 conservation equivalency was used where states  
21 developed state-specific measures. A nonpreferred  
22 coastwide of 18 inch total length minimum fish size,  
23 two fish possession limit and May 1 to September 30  
24 season, open season, was put in place as the

1 nonpreferred.

2           The precautionary default measure  
3 included a 20 inch total length minimum fish size,  
4 two fish possession limit, and a May 1 to September  
5 30 open season. Recall the precautionary default  
6 measure is intended to be a measure that's more  
7 restrictive than what any individual state would  
8 implement.

9           So, if a state didn't do conservation  
10 equivalency as prescribed, that measure could be  
11 applied to that individual state. That hasn't  
12 happened in quite a few years. The last time was  
13 New York I think back in '04 or '05. The 2011  
14 recreational regulations in state waters varied  
15 quite a bit. North Carolina had a 15 inch minimum  
16 size. That was the lowest minimum size that was  
17 implemented.

18           Most of the other states varied in  
19 that 17 to 18 1/2 inch range, with the exception of  
20 New York, which had a 20.5 inch minimum fish size.  
21 The possession limits ranged anywhere from one to  
22 eight fish, and we had a variety of seasons from the  
23 southern states being open all year to some more  
24 constrained seasons in that May to September time

1 period, which is really when the fish are available  
2 inshore primarily.

3 The 2011 harvest limit targets by  
4 state are given in the first column. The second  
5 column includes 2011 landings by state based on  
6 Wave 1 through 4, 2011 information and using prior  
7 year proportions by wave from 2010.

8 So we use the prior year proportions,  
9 look at the first four waves, and project out what  
10 Wave 5 and 6 might be. Based on that information,  
11 all the states are under their 2011 targets. Some  
12 states are substantially under by as much as  
13 83 percent under their '011 targets. So the harvest  
14 limit in 2011 was 11.58 million pounds. The  
15 projected landings based on Waves 1 through 4 is 5.5  
16 million pounds for 2011. The 2012 recreational  
17 harvest limit that was recommended earlier today was  
18 8.76 million pounds. So in 2012 a coastwide  
19 reduction in landings would not be required.

20 So, for 2012 the Council and Board  
21 are going to need to make a decision whether they'd  
22 like to see coastwide measures, one common set of  
23 measures, to be implemented in all state waters and  
24 in federal waters or conservation equivalency for

1 2012.

2 If conservation equivalency is  
3 implemented, we need to specify a nonpreferred  
4 coastwide measure and a precautionary default  
5 measure. So, behind your briefing book, you have  
6 the staff memo. And the staff recommendation for  
7 this year was quite difficult.

8 It was status quo for 2012 and  
9 actually the same measures as 2011. So that's  
10 applying conservation equivalency and then having a  
11 coastwide nonpreferred of that 18 inch, two fish  
12 that I just presented earlier, May 1 to September 30  
13 open season; and a precautionary default of 20  
14 inches, two fish, May 1 to September 30 season.

15 And the basis for those  
16 recommendations is because of the complexity of the  
17 regulations and the fact that just about all of the  
18 states can liberalize this year, I really don't have  
19 the information to evaluate how to adjust those  
20 coastwide measures or to analyze what a common  
21 coastwide measure would look like that would  
22 constrain 2012 landings to the harvest limit, so  
23 essentially I'm recommending status quo.

24 Conservation equivalency. Well, the

1 staff recommendation was presented to the Monitoring  
2 Committee on December 7th, and the Monitoring  
3 Committee concurred with the staff recommendation  
4 for status quo.

5 So they noted specifically that until  
6 a new baseline is established, there is little  
7 information on which to base recommended adjustments  
8 to the coastwide measures.

9 So they were in agreement that this  
10 was difficult to figure out how those measures  
11 should be adjusted and what to recommend for a  
12 nonpreferred coastwide and a precautionary default  
13 measure.

14 They discussed the difficulty in  
15 finding a common ground for coastwide measure now  
16 that these measures have been so different for so  
17 long in the individual states.

18 They also noted that once the marine  
19 recreational information program is implemented at  
20 some point probably in the first quarter of 2012,  
21 that baselines may change for these fisheries  
22 including some of the baselines targets. So this  
23 information was presented to the Advisory Panel on  
24 December 8th, and the Advisory Panel came to



1 consensus that they would like to see state-by-state  
2 conservation equivalency because of the flexibility  
3 that it offers.

4 They also noted that they preferred  
5 state-by-state approaches over regional approaches  
6 because of the different fishery needs amongst all  
7 of the states that surround any individual states.  
8 They said there are a lot of different needs for the  
9 different user groups that the state-by-state allows  
10 accommodation of.

11 They also noted ongoing concerns  
12 about the marine recreational fishery statistics  
13 estimates, MRFS estimates. They had concerns over  
14 participation estimates for individual states being  
15 quite high and that the MRFS interviewers according  
16 to them only talk to people who land fish.

17 It was also noted that the average  
18 commercial weight in the commercial fishery is about  
19 2.2 pounds per fish, and they think that the  
20 recreational fishery should use that 2.2 pounds to  
21 identify the number of fish that the recreational  
22 fishery could catch with their quota. Oh, that  
23 should not be in there. So, on December 2nd and  
24 3rd, which is actually the Friday and Saturday prior

1 to all of these meetings last week, there was a  
2 recreational focus group meeting that was held that  
3 the Council did with the fisheries forum. You have  
4 the report in your stack of papers. And  
5 essentially, the groups were posed with questions  
6 about some of the tradeoffs between size, season,  
7 and possession limit in the recreational fisheries  
8 for summer flounder, scup, and black sea bass. That  
9 was a part of the discussion over the course of two  
10 days.

11 So I'm just going to highlight some  
12 of the points from that workshop for the group  
13 today. There were so many points that were made in  
14 there; it's really hard to touch on all of them, so  
15 I really encourage you to read the document  
16 yourself.

17 The groups noted how important it was  
18 to really create a positive fishing experience. So  
19 at this workshop we had private anglers; there were  
20 also bait and tackle boat owners, people that had  
21 party charter boats, trying to have representatives  
22 of all the different types of modes.

23 And they all talked about that it's  
24 really about providing that positive fishery

1 experience. They also discussed a lot of the  
2 differences in how access is defined and how value  
3 is defined. For some of the participants value is  
4 defined by yield, but for other participants, it's  
5 defined by fishing experience; and trying to set  
6 measures that accommodate those different sets of  
7 values is really quite difficult.

8 So for bag limits, these groups  
9 discussed that the party charter in particular had  
10 needs for high limits to attract customers, that  
11 it's sort of like a commercial fishery or a  
12 commercial business where they're looking to draw  
13 people in for the service that they're providing.

14 It was noted that lower bag limits  
15 may in fact reduce catch and result in favorable  
16 outcomes, such as reduce minimum sizes. So that was  
17 something that was also highlighted.

18 And recalling one participant, they  
19 had pointed out that what does an average angler  
20 look like? You have those people that are satisfied  
21 with going out and may just want to do catch and  
22 release, and then you have people at the other end  
23 of the spectrum that may want to fill a cooler; and  
24 it may look like a bell curve, and the average

1 angler is somewhere in between.

2 So how do you set measures in a way  
3 to accommodate that spectrum of anglers that are out  
4 there fishing? So I just thought that was an  
5 interesting way to think about it because it really  
6 is a spectrum. The focus group also talked a little  
7 bit about seasons and how these long seasons are  
8 advantageous and actually provide access for all the  
9 user groups during that time period, and by having  
10 those seasons open, it may actually reduce pressure  
11 on some of these other species. And we've talked in  
12 the past about some of the effort shifting where we  
13 have really narrow seasons and the fishermen may be  
14 shifting some of their effort on to other species  
15 that are open when certain species are closed.

16 In order to get those seasons, it may  
17 require having that higher minimum fish size or that  
18 lower possession limit. So the groups talked a  
19 little bit about minimum size and felt that it  
20 really should be structured in a way to benefit the  
21 productivity of the resource.

22 They highlighted that from their  
23 perspectives, lower minimum sizes are beneficial,  
24 that they reduce discards, the amounts of dead

1 discards, and that was a good thing.

2 And it was also noted that  
3 enforcement of minimum sizes in some of these  
4 regulations is also a concern for all those  
5 regulations. I think enforcement is somewhat  
6 analogous to speeding on the highway: you get  
7 stopped every so often and get a ticket; but it  
8 seems like a lot of people go five/ten over the  
9 limit, on the speed limit, doing 65 or 70.

10 So it is an honor system, and you  
11 hope that your anglers are going to abide by the  
12 regulations that are put in place. And I don't  
13 doubt that the majority of them do do that, but  
14 enforcement is, in fact, a concern as well. So  
15 that's the highlight from that focus group. Please  
16 do read the report. We have Wave 5 information that  
17 was just provided on Monday, so I've updated the  
18 projections.

19 So relative to that 2011 recreational  
20 harvest limit, the projected landings based on the  
21 Wave 1 through 5 data, indicate that landings are  
22 5.61 million pounds based on the projections.

23 That is up slightly from the previous  
24 5.5 million pound projection, but, again, very close

1 to what we had previously projected for Wave 1  
2 through 4. With that 8.76 recreational harvest  
3 limit for 2012, there's no coastwide reduction in  
4 landings required.

5 I also did go back and update the  
6 state-specific landings to take a look at those  
7 landings relative to the 2012 target based on that  
8 8.76 million pounds. And based on that, no states  
9 are over that 2012 target or their '011 landings are  
10 over that target, except for the state of Delaware,  
11 which is just slightly over by about 8 percent.

12 JACK TRAVELSTEAD: That's it?

13 JESSICA COAKLEY: Yeah, that's it.

14 JACK TRAVELSTEAD: Questions of  
15 Jessica? It was straightforward. Pat.

16 PAT AUGUSTINE: Thank you,  
17 Mr. Chairman. Excellent report, Jessica, very  
18 clear. I notice the Monitoring Committee touched  
19 upon apparently not having adequate information to  
20 consider any regional approaches whatsoever, and I  
21 know there's always been concern.

22 I've mentioned it over the last eight  
23 or nine years that it looks like we're not going to  
24 get there coastwide; however, when you look at what

1 all the states' minimum sizes are, with the  
2 exception of New York and maybe one other state,  
3 that's at 18 1/2 inches, it seems like the state of  
4 New York is constantly on the outer edge primarily  
5 because of the number of fish that are in our  
6 waters.

7 So it's awful difficult -- again,  
8 I'll restate it, that we're fishing on the same  
9 waters as Connecticut and Rhode Island on one end  
10 and New Jersey on the other end and not ever having  
11 any regional option where we could actually combine  
12 forces, as we've done with the four states for scup.

13 It becomes a non issue. And  
14 unfortunately or fortunately the stock seems to be  
15 moving ever northward. And it just seems to me that  
16 be it the Monitoring Committee or Council or the  
17 Board should dispel or dismiss any concern for a  
18 regional approach to this stock. It's very large,  
19 and it's going to continue to grow we hope. But I'd  
20 like to keep that on the table as a reminder, and  
21 hopefully I'll be back another term or two or three  
22 or four and drive you all crazy. But when you're  
23 ready for a motion, I'd like to talk about it.

24 The other question was conservation

1       equivalency or coastwide and yet your statement by  
2       the Monitoring Committee and the staff were not  
3       really recommending coastwide. So I guess we have  
4       one issue to deal with and that's coastwide. Am I  
5       correct? I'm sorry. We have conservation  
6       equivalency, and that's correct.

7               JESSICA COAKLEY: What the staff and  
8       the Monitoring Committee both suggested is we don't  
9       have the information that we need to evaluate what a  
10      coastwide measure would look like that could be  
11      implemented by all the states and federal waters and  
12      would be expected to constrain us to the landings.  
13      Essentially, there really was no way to analyze that  
14      this year because it was a liberalization and the  
15      complexity of the regs --

16             PAT AUGUSTINE: Thank you, Jessica.  
17      To that point, are we ever going to have the data to  
18      do that? And I'm not sure that the data collection  
19      is leading us in that direction. And will the new  
20      MRFS or MRIP actually give that option to us?

21             JESSICA COAKLEY: Well, one of the  
22      issues that we have is we get a lot of information  
23      about the fish that are landed, and your landings  
24      are above what your minimum fish size is. So we're



1 collecting a lot of information about that. We have  
2 limited information about the discards, the discard  
3 compositions of what's being thrown back or what's  
4 available to anglers to harvest. So liberalizations  
5 are always challenging, and even if we can't do a  
6 coastwide measure, many of the states are going to  
7 face the exact same data challenges in trying to  
8 develop how to liberalize their state-specific  
9 measures.

10 There may be ways that we could think  
11 about how we model the changes in size, season, and  
12 possession limit effect, fishing effort, or angler  
13 behavior. There is some data that's been collected  
14 on that.

15 There's some work that's being done  
16 on the scup allocation study to model that  
17 recreational component. And I think it's something  
18 in the long term that either the Center or the  
19 Council or Commission, someone, needs to invest some  
20 energy and resources into getting those tools  
21 developed so we're not in this position, and we do  
22 have what we need to really evaluate how these  
23 measures could be adjusted.

24 Because working with the bits and

1 pieces of discard data we have isn't going to cut  
2 it, and there are ways around that that may be even  
3 more informative than what we're using right now.

4 PAT AUGUSTINE: Just one final.

5 Mr. Heins has been working on something I believe --  
6 if you don't mind my mentioning this, Steve -- that  
7 would be a different approach, and I'm not even sure  
8 it's on the drawing board. We had talked about --  
9 was it catch harvest that you had discussed? It's  
10 too early to tell, so I guess I'll either pass it  
11 over to Mr. Heins or shut up.

12 JACK TRAVELSTEAD: Steve.

13 STEVEN HEINS: No. Just to respond  
14 to Pat, I'm always looking at different things, and  
15 we talk. I don't -- you know, have anything  
16 specific right now.

17 JACK TRAVELSTEAD: John Boreman, can  
18 you speak to the work group and what's going on  
19 there relative to all this?

20 JOHN BOREMAN: Yeah. Currently I'm  
21 involved as a PI on a management strategy evaluation  
22 study for summer flounder addressing just this  
23 issue. This is under a grant to the National Marine  
24 Fishery Service through the Northeast Center.

1                   What we're doing is developing a  
2                   management strategy evaluation to look at  
3                   conservation equivalency approaches other than  
4                   minimum size limit that would still achieve the same  
5                   conservation equivalency, not generate more  
6                   scientific uncertainty, but would address some of  
7                   the issues that we're facing now, and that is  
8                   basically a females-only recreational fishery for  
9                   most of the coast and a potentially large discard  
10                  mortality of undersized fish.

11                  The people actually developing -- the  
12                  scientists actually doing the modeling, it's not me.

13                  It's Mike Wilberg who's on our SSC and chairs our  
14                  Scientific Uncertainty subcommittee, Pat Sullivan,  
15                  who's a world-renowned stock assessment scientist  
16                  from Cornell, and he's on the New England SSC.

17                  Mike and Pat are doing the basic  
18                  modeling, but we're also getting input from Dr.  
19                  Brian Rothchild, Eric Powell; and Bruce Freeman has  
20                  also been very helpful in ground truthing a lot of  
21                  what we're doing.

22                  Right now the modelers and John  
23                  Weidman, who has just finished up an MSC study from  
24                  our ABC control rules here, he's also the principal

1 modeler here. And right now we're in the process of  
2 parameterizing the model, and we're selecting values  
3 which seem reasonable for the strategy model that's  
4 being developed, looking at types of outputs that we  
5 would like to see, the questions that we feel need  
6 to be answered.

7 And along those lines, we're working  
8 with the ASMFC Technical Committee, the Summer  
9 Flounder, Scup and Black Sea Bass Technical  
10 Committee. And I think we'll be meeting with them  
11 probably again in mid-winter to update them on where  
12 the model is and show some preliminary results and  
13 make sure that we're coming up with output that  
14 would be useful for the management process. So  
15 that's basically where we are now. We expect to  
16 finish this project sometime in August or September.

17 JACK TRAVELSTEAD: Thank you. Other  
18 questions of Jessica at this point? Jim.

19 JAMES GILMORE: Thank you,  
20 Mr. Chairman. And I couldn't agree more that we  
21 need a new baseline. And I think that was done in  
22 the Monitoring Committee and maybe the Advisory  
23 Panel. But one thing that you had put up there  
24 which I need some clarification on, and maybe the

1 Service can weigh in on is to get that baseline  
2 we're sort of in a catch 22 because we essentially  
3 have an unequal distribution of the quota along the  
4 coast, and that's what's preventing us from even  
5 recommendations on what coastwide would be because  
6 it's been 13 years that we've distributed this  
7 unevenly.

8 And I think one of the points says is  
9 that MREP would actually provide us with a new  
10 baseline, but I don't understand how that could  
11 possibly be without going back to equal measures,  
12 unless I misunderstand what MREP could provide. So,  
13 if somebody could comment on that, I'd appreciate  
14 it. Thank you.

15 JESSICA COAKLEY: Well, I guess it  
16 was a loose use of the word baseline in there.  
17 We'll essentially get revised estimates. So what  
18 those estimates are relative to 1998, the  
19 relationships in terms of the proportions by  
20 individual states, those types of things may change  
21 as a result of revised estimates. They may look  
22 different. Then again, they may not. Not having  
23 seen the estimates, it's hard to say. But the  
24 Monitoring Committee wanted to highlight that.

1                   Something else you may or may not  
2                   recall from last year but it was in the Monitoring  
3                   Committee notes and summary they did point out that  
4                   last year was the last year if you were going to try  
5                   to re-establish a new baseline using a coastwide  
6                   measure.

7                   It would essentially be the last  
8                   chance before annual catch limits and accountability  
9                   measures would be implemented. So you could do it  
10                  without the same implications for going over.

11                  So they had pointed that out last  
12                  year, that, yes, now that we've moved into a new  
13                  system, you do have those annual catch limits and  
14                  you do have accountability for overages if  
15                  recreational ACLs are exceeded.

16                  And that will start in 2013 when we  
17                  look back at the 2012 fishing year, which will be  
18                  the first year that we have ACLs and ACTs and all  
19                  those components.

20                  JAMES GILMORE: Thank you, Jessica.  
21                  Just and a second point. I know some of the  
22                  statements and including the recreational group that  
23                  met was about all the advantages of conservation  
24                  equivalency and giving a lot of latitude to the

1 states.

2 The one thing and this is actually a  
3 question and a comment -- did any of them bring up  
4 the issue that is the most frequently asked question  
5 I get in my state is that you have border states  
6 that share common waters, and then when you do that,  
7 you get the dilemma of what we have right now, 20  
8 1/2 inch size limit in New York, three fish bag  
9 limit; 18 inch in Jersey, eight fish bag limit; 18,  
10 17 size limits in Long Island Sound on one side.

11 And so that I think was there any  
12 comment about -- you know, the dilemma that causes  
13 and the problems that causes? And, again, that's a  
14 negative about conservation equivalency because when  
15 you get such desperate numbers, it creates much more  
16 headaches, especially for the state that's sitting  
17 in the middle, like New York. Thank you.

18 JESSICA COAKLEY: There were comments  
19 about that in one of the two focus groups that we  
20 were in that they split into two groups. I was  
21 taking notes in one. And that did come up, and they  
22 talked a little bit about the difficulty with having  
23 one set of measures in one place -- you know, in the  
24 same body of water, like New Jersey and Delaware,

1 and those kinds of things where they aligned and  
2 difficulty in people understanding the regulations  
3 and when they cross that magical line in the water  
4 that we can't actually see but is there from a  
5 regulatory perspective. So that did come up. And  
6 I'm not sure if it's highlighted in the report, but  
7 it was discussed.

8 JACK TRAVELSTEAD: Any further  
9 questions? Are you ready to proceed with the  
10 motion? Pete.

11 PETER HIMCHAK: Yes. Thank you,  
12 Mr. Chairman. In the interim of all these ongoing  
13 discussions that we're trying to solve, I would move  
14 on behalf of both the Council and the Commission to  
15 implement state-by-state conservation equivalency  
16 management measures for summer flounder in 2012.

17 TONI KERNS: Pete, when we make this  
18 motion, normally we just say conservation  
19 equivalency because within the rules of conservation  
20 equivalency you can also form voluntary regions. So  
21 states could get together and put a proposal as one  
22 unit. So, if you say state-by-state, you're going  
23 to limit it to state-by-state only.

24 PETER HIMCHAK: Okay. I'll accept



1 your modified language, Toni. Just put conservation  
2 equivalency. Delete state-by-state.

3 JACK TRAVELSTEAD: Pat Augustine and  
4 Erling Berg second for the Board and Council  
5 respectively. Comments on the motion? Dr. Pierce.

6 DAVID PIERCE: I assume that if the  
7 motion passes, it does provide all the states with  
8 the freedom to liberalize their management measures  
9 for 2012 if they desire to do so provided that  
10 liberalization does not result in the 2012 target  
11 for that state being exceeded.

12 JACK TRAVELSTEAD: With the exception  
13 of Delaware, it looks like.

14 DAVID PIERCE: Okay. Right.

15 JACK TRAVELSTEAD: Steve.

16 STEVEN HEINS: Yeah. Thank you,  
17 Mr. Chairman. I realize I'm probably in the  
18 minority here, but I'm not going to support this  
19 motion. I realize that that's really not going to  
20 mean anything, except that -- you know, the fact  
21 that we can no longer calculate coastwide measures;  
22 we're trapped in this system right now that has  
23 really prevented staff now from even evaluating what  
24 we're doing.

1 I suggest that the reason we're under  
2 harvesting on the recreational side is 'cause we  
3 can't even calculate the state level, what our  
4 management measures should be. I looked at the  
5 catch estimates versus the harvest for the last 10  
6 years, and what I'm seeing is an increasing rate of  
7 discards despite the fact that we've liberalized our  
8 rules and regulations. So I suggest we can't even  
9 calculate state-by-state. I think the system is  
10 just broken, and we really need to do something  
11 different. I've heard lots of comments here today  
12 in part of the earlier discussion.

13 My favorite comment came from  
14 Dr. Weinberg where he said the stock is rebuilt, so  
15 that frees the Council up to start thinking more  
16 broadly. So I think for this year -- you know,  
17 we've got what we've got, but we've got to start  
18 thinking more broadly about how to fix this fishery.

19 I don't think we can go on the way we're going on.

20 And, finally, the focus group report  
21 said people were looking for a positive angling  
22 experience. I don't believe in New York on the  
23 recreational summer flounder side, we've had a  
24 positive recreational experience in many years, and

1 it's partly due to the way this system is set up.

2 So I can't support this motion.

3 JACK TRAVELSTEAD: Other comments?

4 Adam.

5 ADAM NOWALSKI: Thank you,

6 Mr. Chairman. I will be supporting the motion, but

7 I have to just caution myself in that we're only

8 mostly satisfied with this, and I say mostly

9 satisfied because obviously there are concerns about

10 this because the MRFS data lets us be satisfied with

11 it this year. If the MRFS data came back and said

12 something different, which we all know it could at

13 any point in time, we'd be having very different

14 discussions.

15 Hearing Steve's comments, I echo his

16 sentiments exactly with regards to that we have an

17 issue with the mechanisms that we're using, and I

18 will continue to advocate for that we need to reopen

19 the issue of the fishery management plan,

20 specifically Section 9.1.2.4 that specifies how we

21 do this on an annual basis with regards to going

22 ahead and evaluating size, season, and bag limit

23 every year.

24 Council staff has made it abundantly

1 clear at every one of these meetings that it makes  
2 assumptions that we know will be violated. We need  
3 to move forward with a working group getting the  
4 FMAT involved to find a way to modify the fishery  
5 management plan.

6 This was a theme that came up at the  
7 recreational workshop, and I look forward to this  
8 group, the Council, being a leader in providing that  
9 positive recreational fishing experience by changing  
10 that mechanism.

11 JACK TRAVELSTEAD: Thank you. Jim.

12 JAMES GILMORE: Thank you,  
13 Mr. Chairman. Steve made most of the comments I was  
14 going to make. I just wanted to make a couple of  
15 points we've made before. And sorry for the  
16 redundancy. But first a document that state-by-  
17 state using MRFS data never worked. It violated the  
18 assumptions of MRFS.

19 So, I mean, we'd still be using  
20 13-year-old data, and every year we use this  
21 essentially. You know, Steve made that point pretty  
22 well. We wonder why we're having so many problems  
23 with this. It's because we're using a data set that  
24 was never designed down to this fine of a detail.

1                   As I said before, we need a new  
2 baseline. The main reason we want to go back to  
3 coastwide is just to get that, so we can start  
4 managing it on best available data.

5                   We have, and we can get new data, but  
6 when we keep going back to state-by-state, we just  
7 lock ourselves into an older data set. So we're  
8 never going to get out of this box.

9                   And I don't think we're going to get  
10 out of it today, obviously. I think we've been here  
11 or I've been here now three/four years, and this is  
12 just going to go back to the same thing is we're  
13 going to go state-by-state, and we're going to make  
14 the best we can do, but we're going to have the same  
15 headaches we've had and the same comments about,  
16 quite frankly, we have a little bit of a credibility  
17 issue because it seems like we're told that you guys  
18 can't manage this thing if you've got such crazy  
19 numbers all up and down the coast on the same  
20 fishery. What I would like to do and have a  
21 discussion after the vote is to actually get into  
22 maybe discussing a process of maybe a year from now  
23 if we can start something now to start addressing  
24 this to figure out how we get to a baseline.

1                   It's encouraging that John Boreman  
2                   said he has that study going on. That's some good  
3                   information. And if there's something we can do to  
4                   begin now and maybe at the February meeting to start  
5                   looking at how we get at this new baseline, then  
6                   maybe we can get out of this box.

7                   And the last point I'll make is like,  
8                   Pete, if you want to do a region with me, I'd be  
9                   more than willing to go in on it with you. Thank  
10                  you.

11                 JACK TRAVELSTEAD: Pete's going to  
12                 speak to that right now. Pete.

13                 PETER HIMCHAK: No. I mean I was at  
14                 the recreational focus group, and they're discussing  
15                 issues that we discuss every December here.

16                 And I mean my feeling on this is that  
17                 there are the haves and the have nots along the  
18                 Atlantic coast, and some states have done a  
19                 tremendous job because they had their resources in  
20                 enhancing their state-specific recreational landings  
21                 there, and I commend them for that. New Jersey is a  
22                 have not. And we are at the mercy of the MRFS, and  
23                 this year it's working well for us. But I realize  
24                 that this is a gamble every December. I'll just get

1 that on the record. I'm not happy with the system.

2 This year it's working great for us, but who knows  
3 what happens next year.

4 JACK TRAVELSTEAD: Pat Augustine.

5 PAT AUGUSTINE: Mr. Gilmore and  
6 Mr. Chairman. If I don't put this on the record,  
7 I'll be forever done. I move to amend -- I move to  
8 amend the motion to read exactly as it is, but to  
9 implement coastwide measures -- I'm sure I won't get  
10 a second, but I'm putting it on the record --  
11 coastwide measures for summer flounder recreational  
12 measures for 2012.

13 JACK TRAVELSTEAD: Is there a second  
14 to that motion?

15 PAT AUGUSTINE: Thank you for trying,  
16 Mr. Chairman.

17 JACK TRAVELSTEAD: The motion fails  
18 for lack of a second. Are there comments from the  
19 audience on the motion? Seeing none. John.

20 JOHN BOREMAN: Just to follow up on  
21 Jim Gilmore's comment. One of the activities we'll  
22 be doing in the MSC study is looking at the  
23 baseline. That's one of our terms of reference that  
24 the Technical Committee asked us to be looking at,

1 not the allocation part but just what is a suitable  
2 baseline that's representative of what's actually  
3 being caught out there.

4 JACK TRAVELSTEAD: David.

5 DAVID SIMPSON: Yeah. Just to add my  
6 two cents worth 'cause I sympathize with New York's  
7 problem. You know we've seen this fishery evolve,  
8 the recreational fishery, with higher and higher  
9 minimum sizes to stay within harvest limits.

10 They have created considerable  
11 discard mortality problems for us. We're now  
12 discarding dead 1 1/2 fish for every fish we  
13 harvest, and part of that is the really high minimum  
14 sizes that New York has had to contend with, and  
15 those need to come down.

16 And I think the mechanism is going to  
17 be through the work that Dr. Boreman's group is  
18 working on, and that's when I think the Commission  
19 could really get aggressive in pursuing something  
20 that simultaneously addresses New York's particular  
21 concern and generally addresses -- you know, this  
22 enhanced discard mortality problem that we've  
23 caused.

24 JACK TRAVELSTEAD: Frank and then



1 Rick.

2 FRANK BLOUNT: Yes. Thank you,  
3 Mr. Chairman. Just one comment. When we do re-look  
4 at these things is what Jim's suggesting here. One  
5 of the things that came out of the recreational  
6 focus groups that wasn't mentioned there was that  
7 perhaps we should be looking at a different way of  
8 calculating the recreational catch. If you go back  
9 in time, the last time that the recreational catch  
10 had this number of pounds landed equivalent to this  
11 year was back in 1990, and in that year the  
12 recreational landings were 3.8 million fish.

13 For this year for the same number of  
14 pounds, it's half of that. It's 1.7. So the  
15 poundage are the same, the fishes landed. The  
16 recreational opportunity has been cut -- perceived  
17 value is cut in half.

18 So I ask the question then: Does it  
19 make a difference if you're catching five million  
20 one-pound fish or one million five-pound fish? What  
21 difference does it have on the F rate and the stock?

22 And that's what we need to be calculating.

23 We're getting into a fishery where,  
24 great, you can go home with one fish, but you had a

1 great opportunity. Ten years ago when there were no  
2 fish, you went home with ten fish.

3 What's having the biggest effect on  
4 the stock? And that's the question that needs to be  
5 added in, too, at the same time we do the baseline.

6 JACK TRAVELSTEAD: Any other hands?  
7 Rick. I'm sorry.

8 COUNCIL CHAIRMAN RICHARD ROBINS: No  
9 worries, Jack. You know, in terms of thinking more  
10 broadly about these issues, I just wanted to point  
11 out that we are getting a lot of input right now  
12 through the visioning project. We've had the survey  
13 online now for a while, and after that recreational  
14 workshop, we had a lot of outreach that happened  
15 from the participants on a peer-to-peer basis  
16 appealing to the recreational community to weigh in  
17 through the survey mechanism.

18 The survey response is now up I  
19 believe over 700. A lot of those are primarily  
20 recreational participants, and a lot of them are  
21 coming in on summer flounder specifically. So we're  
22 getting a lot of input on these issues.

23 And the question, such as allocation,  
24 are an area of interest obviously, access to the

1 resource, the quality of the experience, etcetera,  
2 and then again recreational data collection.

3 So we're getting a lot of input on a  
4 broad range of subjects, many of which you all  
5 touched on here today. But I think that's going to  
6 be a very productive exercise and put the Council  
7 and all of our management partners in a position of  
8 being able to come back and consider that output and  
9 then develop a plan to try to implement as much of  
10 it as we can. But we're getting a lot of good input  
11 on all of these subjects right now.

12 JACK TRAVELSTEAD: I think we're  
13 ready for the vote, Mr. Chairman.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
15 the Council ready for the question?

16 (Motion as voted.)

17 {Move that ASMFC use conservation equivalency for  
18 scup for 2012.}

19 COUNCIL CHAIR RICK ROBINS: All those  
20 in favor please raise your hand.

21 (Response)

22 COUNCIL CHAIR RICK ROBINS: Fourteen.  
23 Opposed like sign.

24 (Response)

1 COUNCIL CHAIR RICK ROBINS: Four.

2 Abstentions like sign.

3 (Response)

4 COUNCIL CHAIR RICK ROBINS: One  
5 abstentions. The motion carries. Thank you. Dave.

6 DAVID SIMPSON: Board, I need a  
7 minute to caucus. [Pause] Looks like everyone's  
8 settled. All those in favor please raise your hand.

9 (Response)

10 DAVID SIMPSON: Ten in favor.

11 Opposed.

12 (Response)

13 DAVID SIMPSON: One. Good job. Jim.  
14 You get one vote, New York. Pat, put your hand  
15 down. Okay. So it's nine in favor, a null for New  
16 York. Correct? And abstentions?

17 (Response)

18 DAVID SIMPSON: One. Thanks.

19 JACK TRAVELSTEAD: Jessica, do we  
20 need motions on the nonpreferred and precautionary  
21 or defaults?

22 JESSICA COAKLEY: Yes.

23 JACK TRAVELSTEAD: Can you put your  
24 recommendations back on the screen?

1 JESSICA COAKLEY: Sure. Let me just  
2 get these.

3 JACK TRAVELSTEAD: These are  
4 identical to what's currently in place?

5 JESSICA COAKLEY: Yes. So, if you  
6 recommend that those would continue to stay in place  
7 in federal waters 'cause those are already in place  
8 right now. Hold on. I'm trying to find them.

9 JACK TRAVELSTEAD: Do we need a  
10 motion if we want to keep those?

11 JESSICA COAKLEY: Joel is saying that  
12 we need affirmation to maintain status quo.

13 JACK TRAVELSTEAD: Okay. So we do  
14 need a motion. Anyone wish?

15 JESSICA COAKLEY: Just affirmative  
16 for status quo.

17 PAT AUGUSTINE: Mr. Chairman, I move  
18 for the Board that the -- what do we call them?

19 JACK TRAVELSTEAD: Status quo.

20 PAT AUGUSTINE: -- status quo for --

21 JACK TRAVELSTEAD: -- nonpreferred  
22 coastwide measure and a precautionary default  
23 measure.

24 PAT AUGUSTINE: Thank you for that

1 clarification.

2 JACK TRAVELSTEAD: Is there a second  
3 to that motion? Seconded by Red Munden. Is there a  
4 similar motion from the Council? For the Council  
5 Red Munden. Seconded by Peter deFur. Is there any  
6 objection to the motion? Is there any further  
7 discussion on the motion? All right. We'll go  
8 ahead and vote then.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
10 the Council ready for the question?

11 (Motion as voted.)

12 {Move status quo (same as 2011) for precautionary  
13 default and nonpreferred coastwide measure for  
14 summer flounder}

15 COUNCIL CHAIR RICK ROBINS: All those  
16 in favor please raise your hand.

17 (Response)

18 COUNCIL CHAIR RICK ROBINS: Fourteen.  
19 Opposed like sign.

20 (Response)

21 COUNCIL CHAIR RICK ROBINS: Four.  
22 Abstentions like sign.

23 (Response)

24 COUNCIL CHAIR RICK ROBINS: One

1 abstention. Thank you. The motion carries. Dave.

2 DAVID SIMPSON: Okay. For the Board  
3 a second to caucus. You guys good, New York?

4 JAMES GILMORE: I need to go over the  
5 other side of the table, Mr. Chairman.

6 DAVID SIMPSON: Okay then. For the  
7 Board all those in favor raise your hand.

8 (Response)

9 DAVID SIMPSON: I see seven in favor.  
10 Those opposed?

11  
12 (Response)

13 DAVID SIMPSON: One opposed. Any  
14 abstentions?

15 (Response)

16 DAVID SIMPSON: One. Any null votes  
17 out of that?

18 (No Response)

19 DAVID SIMPSON: I don't see any.  
20 Okay. So that was eight in favor then? Okay.  
21 We're going to try again.

22 Raise your hand if you're in favor.

23 (Response)

24 DAVID SIMPSON: One, two, three,

1 four, five, six, seven, eight -- nine in favor.

2 Opposed?

3 (Response)

4 DAVID SIMPSON: Zero. Oh, stop it,  
5 New York. One opposed, New York. Abstention from  
6 Pat. Any null votes?

7 (No Response)

8 DAVID SIMPSON: None. Okay.

9 JACK TRAVELSTEAD: Anything further  
10 on summer flounder? Okay. We're going to take a  
11 lunch break, and I would ask that you be back here  
12 promptly at 1:30. Steve.

13 STEVEN HEINS: I'm sorry to drag this  
14 out, Mr. Chairman. But given the discussions that  
15 have taken place, things that Rick mentioned about  
16 the visioning process, the P (inaudible) report, do  
17 we need something formal to start a process to bring  
18 this information together and generate some new  
19 thought on the issue?

20 JACK TRAVELSTEAD: Well, let me ask  
21 the group. Is there any objection to bringing all  
22 of that information together at some point? I think  
23 everybody's in favor of looking at what the various  
24 groups are working on.



1 STEVEN HEINS: To that, Mr. Chairman,  
2 I was a little concerned about staff resources. I  
3 mean speaking with staff earlier, I think there's a  
4 task issue there, and I just wondered if there were  
5 some other resources available maybe we could take  
6 advantage.

7 JACK TRAVELSTEAD: Rick.

8 COUNCIL CHAIRMAN RICHARD ROBINS:  
9 Well, Steve, two points; one, the Visioning Project  
10 already has a structured framework, and that's one  
11 of our ongoing Council priorities for this year.

12 Tomorrow we'll be discussing the  
13 draft priorities for 2012. Then we'll be able to  
14 review all of those, and we can discuss that staff  
15 load and whether or not we need to augment any of  
16 those resources with additional outside assistance.

17 But that's a discussion we can have under  
18 priorities. But I would envision the work that  
19 Dr. Boreman's speaking of that's feeding in from a  
20 technical perspective into these ongoing discussions  
21 about the management of summer flounder as soon as  
22 they're available. So I think we're all very  
23 interested in that question. That's been an area of  
24 technical study before, and that modeling exercise

1       should provide us with the information that we need  
2       to really consider the question.

3                   JACK TRAVELSTEAD: Does that help  
4       you, Steve? Good. Okay. Please be back here at  
5       1:30 when we'll take up the scup recreational  
6       measures. Thank you.

7                   [Lunch 12:19 p.m. to 1:49 p.m.]  
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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 28th, day of January, 2012.

\_\_\_\_\_  
PAUL T. WALLACE. Notary Public  
My Commission Expires

October 8, 2015

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

COUNCIL MEETING

13-15 DECEMBER 2011

at

Kingsmill  
1010 Kingsmill Road  
Williamsburg, VA 23185

(Afternoon Session)

WEDNESDAY DECEMBER 14, 2011

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1 [1:49 p.m.]

2  
3 JACK TRAVELSTEAD: Jessica says she's  
4 ready to rock-n-roll, so if everybody will take  
5 their seats. We're going to move on to the 2012  
6 scup recreational measures. Jessica.

7  
8 FINALIZE SCUP 2012 RECREATIONAL MANAGEMENT MEASURES

9 JESSICA COAKLEY: All right. Good  
10 afternoon, everyone. Hopefully, you had a great  
11 lunch. For 2012 recreational measures, we had the  
12 December 5th SSC meeting. And this morning you  
13 revisited the scup recreational harvest limit for  
14 2012.

15 The Monitoring Committee met  
16 December 7th to discuss scup recreational measures  
17 followed by a December 8 Advisory Panel meeting.  
18 Since 1997 the harvest limits for scup have varied  
19 from a low of 1.24 million pounds in the 1999 and  
20 2000 fishing years to a high of 5.74 million pounds  
21 in 2011. So 2011 is the highest since the harvest  
22 limits were implemented for this fishery. The 2011  
23 harvest limit was 2.81 million pounds. Recreational  
24 landings hit a low in 1998 of 0.88 million pounds.

1 And recently in just looking at the most recent  
2 years, in 2003 there was a high in landings of 8.5  
3 million pounds. 2010 landings were 5.5 million  
4 pounds.

5 The 2011 federal waters measures  
6 included a 10 1/2 inch total length minimum fish  
7 size, 10 fish possession limit, and is open season  
8 from January 1 to June 5th and September 27th to  
9 December 31st.

10 The 2011 state regulations were  
11 actually quite a bit more complicated than that.  
12 The states apply a regional approach where they have  
13 a northern region from New York through  
14 Massachusetts, which receives 97 percent of the  
15 harvest limit.

16 And for those states they had an 11  
17 inch minimum size which was set for the party  
18 charter fishery with a 40 fish possession limit  
19 during a bonus season, 10 fish during the remainder  
20 of the season, and the season from about May to  
21 mid-September.

22 And for the private anglers a 10 1/2  
23 minimum fish size was put in place with a smaller  
24 possession limit of 10 fish and various seasons.

1 And this -- I know it's hard to see the screen --  
2 but this information is behind the briefing book tab  
3 in the staff memo. The recreational regulations in  
4 state waters for New Jersey and south range from 8  
5 to 9 inches, had possession limits of 50 fish, and  
6 were open all year from Delaware through North  
7 Carolina. And in New Jersey there was a season from  
8 January 1 to February 28th and July 1 to December  
9 31.

10 The 2011 landings were projected  
11 based on the Wave 1 through 4 information. It's  
12 provided here by state. The 2011 target for the  
13 northern states was a little under five million  
14 fish. So, relative to the landings by those four  
15 northern states, the northern states did not go over  
16 their 2011 target, and the entire coast actually was  
17 substantially under that 2011 target landing about  
18 2.3 million fish.

19 So the 2011 recreational harvest  
20 limit was 5.74 million pounds. The 2011 projected  
21 landings based on Wave 1 through 4 was 2.81 million  
22 pounds. The 2012 recreational harvest limit that  
23 was recommended earlier this morning is 8.31 million  
24 pounds. So, on a coastwide basis, no reduction in



1 landings is required for 2012.

2 So the staff recommendations are  
3 detailed in the memo. And staff recommended status  
4 quo for 2012, the same approaches that were used in  
5 2011. Because of the complexity of the state  
6 regulations coupled with the lack of information to  
7 inform the effects of liberalizing measures, a  
8 coastwide measure to be set, a common measure for  
9 all state waters and federal waters couldn't be  
10 developed.

11 So the staff recommendation was  
12 presented the Monitoring Committee on December 7th,  
13 and they also agreed that they cannot develop a  
14 coastwide measure for both state and federal waters  
15 similar to the reasoning given by the staff, because  
16 of the complexity of the regulations in the fishery  
17 as it's presently prosecuted.

18 Based on their expert judgement, they  
19 recommended liberalizing federal waters measures and  
20 that states continue the state regional conservation  
21 equivalency. So states will go back, look at their  
22 harvest targets, what was landed, and develop that  
23 conservation equivalent approach that they've  
24 applied the last few years.

1                   The Monitoring Committee noted that  
2                   recent landings have been 10 percent or less of the  
3                   total landings from all areas and that the states  
4                   should account for this in the development of the  
5                   state measures using that regional conservation  
6                   equivalency. So, specifically, the Monitoring  
7                   Committee recommended a 10-inch total length minimum  
8                   fish size, 10 fish possession limit, an open season  
9                   all year for federal waters. Those recommendations  
10                  are intended to align with state waters measures.  
11                  The Monitoring Committee did not expect that those  
12                  measures would substantially increase landings in  
13                  federal waters and, again, noted that historically  
14                  the federal waters landings have been a high of 10  
15                  percent. In the most recent year under the  
16                  constrained measures in place, it was actually 2  
17                  percent in 2010.

18                  And this was intended to ensure that  
19                  federal permit holders and federal water fishermen  
20                  were not disproportionately affected by having  
21                  federal waters measures that did not align with what  
22                  was anticipated to be developed in state waters for  
23                  2012.

24                  The Advisory Panel met on December

1 8th by webinar, and by consensus they recommended  
2 the continuation of the regional conservational  
3 equivalency approach for states because of the  
4 flexibility it offered.

5 Some of the advisors had indicated  
6 that the 10-fish possession limit in federal waters  
7 that's been in place and those minimum sizes and  
8 seasons have been constraining for fishermen wanting  
9 to fish in federal waters or run party charter trips  
10 into federal waters. They noted that the party  
11 charter advisors indicated that they would like to  
12 see a 40 to 50 fish possession limit for the party  
13 charter bonus season in 2012 and at least a 25 to 30  
14 fish possession limit for the non-bonus season in  
15 the northern region. They noted that the current  
16 minimum fish size is too high and shore-based  
17 fishermen have a very difficult time catching and  
18 landing legal size fish.

19 They noted that the stock is twice  
20 the rebuilding target; therefore, recreational  
21 measures should reflect that high stock level and  
22 the productivity of the stock. And they noted at  
23 the end that it's time to give fish back to the  
24 fishermen.

1                   So Wave 5 information was  
2                   incorporated into the projection, which wasn't  
3                   available at the time when those recommendations  
4                   were developed. The 2011 harvest limit, again, was  
5                   5.74 million pounds.

6                   The projected landings for 2011 based  
7                   on Wave 1 through 5 is 3.51 million pounds. That is  
8                   up from the 2.9 million pound projection based on  
9                   the Wave 1 through 4 information. It's still  
10                  substantially lower than the 2012 harvest limit of  
11                  8.31 million pounds, so on a coastwide basis there'd  
12                  be no required reduction. And that's it.

13                  JACK TRAVELSTEAD: Thanks, Jessica.  
14                  Questions? Pat.

15                  PAT AUGUSTINE: Thank you,  
16                  Mr. Chairman. Excellent report, Jessica. A quick  
17                  question. I noted that there was no increase -- I'm  
18                  sorry. I noted that the increase in federal waters  
19                  was not an increase. It's going to stay at 10 fish  
20                  in federal waters as we have in state waters.  
21                  Unfortunately or fortunately, I think there's going  
22                  to be a push or at least there's an interest on our  
23                  part in New York and some other states to increase  
24                  the minimum size from 10 up to 15.

1                   And it just seems to me that the  
2                   stock being in such great shape as it is, I'm  
3                   wondering if the Monitoring Committee and/or the  
4                   staff looked at a possible change from 10 to 15 fish  
5                   for the federal waters as a minimum size keeping 10  
6                   inches as a minimum?

7                   I wonder if that came up as an option  
8                   or whether it was ever looked at, or was it just a  
9                   matter of the Monitoring Committee and staff  
10                  agreeing to move from whatever the limit was to go  
11                  to the 10 as the states have?

12                 JESSICA COAKLEY: This was based on,  
13                 as I said, it was the expert judgement of the group  
14                 that they felt comfortable that a 10-inch fish size,  
15                 the 10-fish possession limit and opening that season  
16                 up all year, where as it had been previously  
17                 constrained during some parts, wouldn't increase the  
18                 federal waters landings substantially. In the past  
19                 the Monitoring Committee has talked about possession  
20                 limits and the difficulty in terms of trying to set  
21                 possession limits that suit the different modes and  
22                 sort of finding that balance between what the  
23                 average angler might catch and what the party  
24                 charter fishery is looking for.

1 PAT AUGUSTINE: Thank you. It just  
2 seems to me that now we will -- I think through  
3 ASMFC and through the states we decide want to go  
4 with something greater than a 10 fish bag limit, it  
5 seems that it will disadvantage those folks fishing  
6 in the EEZ.

7 I'm not sure it's a major concern, I  
8 have -- I've heard it voiced by some party boat  
9 folks who are taking those long trips to go out to  
10 the EEZ. Again, the abundance of the fish that are  
11 out there and the status of the stock I just wanted  
12 to put the issue on the table to see if anyone  
13 wanted to address it further or if any of the  
14 audience members that would like to address it when  
15 the time comes. Thank you for that information.

16 JACK TRAVELSTEAD: David.

17 DAVID SIMPSON: Yeah. I just  
18 wondered: Back in August the AP, as I remember, had  
19 recommended a 25 fish limit, and now they're looking  
20 up toward 40, and I wondered -- you know, what  
21 discussion might have occurred and what logic might  
22 explain that.

23 JESSICA COAKLEY: Well, my best guess  
24 in terms of some of the logic here is the advisors

1       were aware that the new harvest limit that was being  
2       proposed was substantially higher than what had been  
3       previously -- higher than what had been in place in  
4       the past where the highest that we had ever seen for  
5       the time series was 5.74 million pounds.

6               So now we were looking at a  
7       recreational harvest limit upward of 8 million  
8       pounds, close to a 3 million pound increase, and  
9       they felt that it was an opportunity to really  
10      liberalize the measures and bring them back to what  
11      they had been in the past.

12             JACK TRAVELSTEAD: Go ahead, Dave.

13             DAVID SIMPSON: Yeah. I guess I  
14      thought -- and maybe I was wrong -- that going into  
15      that August meeting, they had a sense of where we  
16      would be, in other words, that 8.3 million pounds;  
17      and I wonder if some of that change was not having  
18      the benefit of the actual landings, whether they  
19      thought well, we're well short, and that might have  
20      been some of the logic.

21             JESSICA COAKLEY: That could be as  
22      well, Dave.

23             JACK TRAVELSTEAD: Adam.

24             ADAM NOWALSKI: Thank you,

1 Mr. Chairman. Jessica, could you go back to your  
2 slide for a minute on the current 2011 federal  
3 waters measures? The dates you have up there, just  
4 for clarification: those are actually the federal  
5 waters closed seasons, not the open season; is that  
6 correct? It was my belief that the open season was  
7 6/6 through 9/26 for federal waters.

8 JESSICA COAKLEY: Yeah. That's a  
9 good catch. I apologize. That was --

10 ADAM NOWALSKI: I just wanted to make  
11 sure in our own state that we haven't been telling  
12 people that something got changed. Thank you very  
13 much.

14 JACK TRAVELSTEAD: Other questions?  
15 Yes. Frank.

16 FRANK BLOUNT: Not so much a  
17 question. But, Pat, I think if you look at Table 10  
18 on page 14, I think that would answer, except it  
19 doesn't go down to 10 inches; it only goes to 10  
20 1/2. But that would probably be the information.  
21 Whether or not the Monitoring Committee looked at it  
22 or not I don't know, but the information would be  
23 there.

24 JACK TRAVELSTEAD: Any other



1 questions? Are we ready for motion considerations?

2 Pat.

3 PAT AUGUSTINE: Thank you,  
4 Mr. Chairman. Could we put the new information up  
5 for 2012, please.

6 JACK TRAVELSTEAD: It's basically  
7 status quo, right, Jessica?

8 PAT AUGUSTINE: Oh, status quo. Do  
9 we need a motion for status quo? If we're changing  
10 the size for federal waters, I guess we do need a  
11 motion, maybe not from the ASMFC but from the  
12 Council.

13 TONI KERNS: Pat, for the Board, if  
14 we go ahead and move forward with conservation  
15 equivalency, I need a motion to do conservation  
16 equivalency just from the Board, though.

17 PAT AUGUSTINE: Thank you for that.  
18 Move that the ASMFC use conservation equivalency for  
19 the measures for scup for the year 2012. Thank you.

20 JACK TRAVELSTEAD: Is there a second?  
21 And, Bob, do you have a question or a comment?  
22 Okay. Comments on the motion? Seeing none -- yeah.  
23 Rick.

24 RICK COLE: We're talking about

1 regional conservation equivalency status quo?

2 JACK TRAVELSTEAD: Yes.

3 RICK COLE: Thank you.

4 DAVID SIMPSON: Okay. Do you need  
5 time to caucus? All right.

6 (Motion as voted.)

7 {Move that ASMFC use conservation equivalency for  
8 scup for 2012}

9 DAVID SIMPSON: All those in favor  
10 raise your hand.

11 (Response)

12 DAVID SIMPSON: Okay. We have nine  
13 in favor. Opposed?

14 (No Response)

15 DAVID SIMPSON: See none. No nulls.

16 (No Response)

17 DAVID SIMPSON: And abstentions.

18 (Response)

19 DAVID SIMPSON: One -- two  
20 abstentions.

21 JESSICA COAKLEY: For conservation  
22 equivalency the four northern states will get  
23 together and pull together their measures. In years  
24 past, we have sometimes changed New Jersey's

1 regulations, but the southern states, Delaware south  
2 have kept their 8 inch, 50 fish, open, I believe,  
3 year round. For the purposes of the Technical  
4 Committee doing evaluations is New Jersey going to  
5 submit a proposal to change their regulations? Just  
6 so I can know ahead of time for timing our meetings  
7 and information for the Board meeting in February.

8 PETER HIMCHAK: Well, I guess it all  
9 depends on what we show in Wave 5 because right now  
10 I mean we show minimum landings, but the Wave 4, the  
11 Wave 5 constantly -- the dominance of the wave  
12 constantly changes --

13 JACK TRAVELSTEAD: Let's see if  
14 Jessica has the Wave 5 stuff.

15 JESSICA COAKLEY: I have the overall  
16 Wave 5 estimate, which is the 3.51. I didn't put it  
17 in the presentation broken out by state, but I can  
18 pull that up if you want to see it by state.

19 PETER HIMCHAK: If you could do that.

20 JESSICA COAKLEY: Okay. Sure.  
21 Because I think the original estimates for New  
22 Jersey were low. It was something like 3,000.  
23 Yeah. It's amazing I remember that. What am I  
24 doing? That's not what I want. One through five.

1                   Okay. The revised scup landings and  
2 numbers for New Jersey are about 50,000 pounds oh  
3 50,000 fish. Excuse me. It's 50,000 fish. In  
4 pounds for New Jersey it's about 52,000 pounds.

5                   PETER HIMCHAK: So we're still under  
6 this negotiated 3 percent, I guess, for the -- I  
7 mean I don't see any constraint on our fishery for  
8 next year. Is that correct?

9                   TONI KERNS: Correct. You'll have a  
10 large -- you'll have the ability to liberalize is  
11 what I'm -- because last year your catch was almost  
12 a million, and we did not adjust your measures; and  
13 this year you're significantly lower. So if the  
14 state could just give me a heads-up if you're going  
15 to put forward a proposal so I can put that on the  
16 agenda for the February meeting.

17                  PETER HIMCHAK: Well, I'm sure we'll  
18 put forward a proposal. I think it's up to the  
19 Marine Fisheries Council and the Scup Committee.

20                  TONI KERNS: Great. Thank you.

21                  JACK TRAVELSTEAD: Okay. We still  
22 need a motion from the Council on the federal waters  
23 measures. Correct? And you had recommended status  
24 quo originally. The Monitoring Committee's

1 recommending 10 inch, 10 fish, open year round. Is  
2 that correct?

3 TONI KERNS: Yes. And the status quo  
4 staff recommendation was on the basis that I didn't  
5 really have the information to evaluate it. So the  
6 Monitoring Committee expert opinion of the group was  
7 10 inch, 10 fish, open all year.

8 JACK TRAVELSTEAD: Okay. So we're in  
9 need of a motion from the Council -- from the  
10 Council. Erling, do you have a motion?

11 ERLING BERG: Status quo would be my  
12 motion. Do you want me to -- I'll get my friend  
13 here to --

14 PAT AUGUSTINE: Accept the  
15 recommendation of the Monitoring Committee and staff  
16 for the federal waters for 2012. Does that do it?

17 TONI KERNS: The Monitoring Committee  
18 recommendations were the 10 inch, 10 fish, open all  
19 year. Is that what you want?

20 PAT AUGUSTINE: That's exactly what  
21 we want.

22 JACK TRAVELSTEAD: Erling, are you  
23 making that motion for the Council? Okay. Just  
24 getting a little confused here. Mike, are you

1 seconding the motion? Is there a second? Peter  
2 deFur seconds the motion. Comments on the motion?  
3 Mike.

4 MICHAEL LUISI: I just thought that I  
5 heard that the staff and the Monitoring Committee  
6 didn't come up with the same recommendation, and  
7 then when he said status quo, it kind of threw me  
8 off. So I think I'm clear.

9 JACK TRAVELSTEAD: Okay. Good.  
10 David.

11 DAVID SIMPSON: Yeah. Not knowing  
12 exactly what the northern states are likely to do,  
13 but recognizing currently we're at 10 1/2 inches,  
14 unless there was a movement to go to 10, it would  
15 seem to make sense for this consistency to keep the  
16 minimum size in federal waters at 10 1/2 inches.  
17 Ten fish makes perfect sense.

18 I mean there's only one or two  
19 percent of the landings that come from federal  
20 waters anyway, but I wouldn't want to suggest the  
21 smaller minimum size in federal waters than we're  
22 likely to do in the Northeast.

23 JACK TRAVELSTEAD: So you're thinking  
24 that the northern states won't change their size

1 limit as part of their liberalizations?

2 DAVID SIMPSON: Dr. Pierce, go ahead.

3 Maybe he can. I've thrown some ideas out there,  
4 and I haven't heard any -- and that included 10 1/2,  
5 and I haven't heard much back. But Dr. Pierce maybe  
6 can give us an idea.

7 DAVID PIERCE: I suspect that we will  
8 be discussing the merits of going to ten as opposed  
9 to staying at 10 1/2 especially if indeed the  
10 Council goes with 10. Being able to liberalize,  
11 being able to drop the minimum size back down to 10  
12 will do what we want it to do, which is to provide  
13 opportunities for the shore-based fishermen. So I  
14 think it will be discussed by all of us as a group  
15 of states in the northern area.

16 JACK TRAVELSTEAD: So you're in  
17 support of the 10 inch fish in the motion. Okay.  
18 Any other comments? Any comments from the -- sorry.  
19 Adam. And then we'll go to the audience.

20 ADAM NOWALSKI: Thank you, Mr.  
21 Chairman. I know Pat made the comments earlier in  
22 consideration of a 15 fish possession limit. As a  
23 Board member I'm not in a position to provide a  
24 substitute motion, but I would certainly support

1 given the low landings that come from the EEZ and  
2 that that would predominantly be a winter time  
3 fishery utilized by the four higher sector. They  
4 would greatly benefit from a 15 fish bag limit. I  
5 would certainly support that given the low landings  
6 that come from there.

7 JACK TRAVELSTEAD: Any comments from  
8 the audience on the motion? Okay. Seeing none, I  
9 think we're -- I'm sorry. Frank. Joe.

10 JOSEPH HUCKEMEYER: Joe Huckemeyer.  
11 Just a couple clarifications. At the advisors  
12 meeting we had suggested 25 and 40, being 25 where  
13 it's 10 now and 40 to 50 where it's the spring or  
14 the fall depending on the four state region. But  
15 being that it's a combination ASMFC and Mid-Atlantic  
16 advisers I'm not sure on what the federal -- the  
17 people that suggest it mostly were for people that  
18 fish in state waters.

19 So I'm not really sure about the  
20 federal waters, but I do agree that having a little  
21 higher back limit with such a small percentage of  
22 the fishery in federal waters a higher bag limit  
23 definitely helps the for-hire fleet, especially  
24 since sea bass in a lot of places has been cut down



1 substantially.

2 I don't fish in the federal waters  
3 fishery, but I think it would be a good move to show  
4 the pendulum swings both ways, and then when the  
5 fishery comes back, there's a little bit for  
6 everybody.

7 I would assume that when we get  
8 together as a four-state region in the northeast,  
9 we're going to get some liberalization. So it  
10 wouldn't be bad for the fed water boats to be able  
11 to get a little something as well.

12 JACK TRAVELSTEAD: Frank.

13 FRANK BLOUNT: Yes. Thank you. I  
14 can't speak for most of the industry, but I would  
15 think right now in the four-state region it's an 11  
16 inch size limit for the party and charter boat  
17 fleet. And I think given the options most of that  
18 fleet would like to stick to the 11 inches and have  
19 the bag limit increase as opposed to going down on  
20 the size. So they would definitely be in favor of  
21 the higher bag.

22 JACK TRAVELSTEAD: Erling.

23 ERLING BERG: I listened to the last  
24 two speakers. I think I'm going to change that to a

1 15 fish possession limit if the second concurs.

2 JACK TRAVELSTEAD: Who was the  
3 second? Peter.

4 PETER deFUR: I was going to ask  
5 Jessica if the Monitoring Committee discussed a  
6 higher bag limit.

7 JESSICA COAKLEY: The Monitoring  
8 Committee did discuss going to higher bag, and  
9 because we dropped the size a little bit and opened  
10 the season year round, we went against increasing  
11 the bag limit due to the potential for what we  
12 didn't know would be an effect on harvest to  
13 increase even more.

14 And the Monitoring Committee did say  
15 that the northern states and New Jersey if they did  
16 liberalize their regulations they should buffer some  
17 for the uncertainty on how much the federal waters  
18 harvest would go up. Currently, it's at only two  
19 percent, and with this liberalization of  
20 regulations, we anticipate that it will all increase  
21 that harvest. That without knowing how much, we  
22 just suggested that the states buffer that when  
23 they're doing their liberalizations. It's something  
24 that the Monitoring Committee was comfortable doing

1 because of the other liberalizations that we did to  
2 the regs.

3 JACK TRAVELSTEAD: Pat.

4 PAT AUGUSTINE: To that point, Mr.  
5 Chairman. We do know that the reason the  
6 administrator's office watches very closely as to  
7 how the harvest is reported. And is it not true  
8 that they're monitoring that with ACLs and AMs now  
9 that if the group comes close to the 80 percent or  
10 thereabouts the regional office could actually shut  
11 it down? I'm not clear on that. I don't know if  
12 Ms. Kurkul could help us on that, or doesn't it  
13 apply?

14 JACK TRAVELSTEAD: Pat, do you want  
15 to comment?

16 PATRICIA KURKUL: This is the  
17 recreational fishery, not the commercial fishery.  
18 The commercial fishery we monitor the quota. We  
19 don't monitor the recreational fishery, and we don't  
20 shut it down unless we know that the harvest limit  
21 has been exceeded. We don't do a projection unless  
22 we have definitive numbers that the harvest limit  
23 has been exceeded.

24 PAT AUGUSTINE: So there is a

1 mechanism; although, you don't do that on a normal  
2 basis?

3 PATRICIA KURKUL: Well, there's an  
4 after the fact mechanism. Once you've gone over, we  
5 do close it.

6 PAT AUGUSTINE: Okay. I'll risk it.  
7 Thank you.

8 PETER deFUR: As the second, I think  
9 I want to keep it at 10.

10 JACK TRAVELSTEAD: Further comments  
11 on the motion? Was there another one in the  
12 audience? Joe. Yes, sir.

13 JOSEPH HUCKEMEYER: Just on the issue  
14 of the size, if there's a question about a trade-off  
15 I think in federal waters the size limit is far less  
16 an issue for fishermen than it is for shore side  
17 fishermen. The problem we always have especially in  
18 the Northeast is people fishing from shore having a  
19 problem with the size limit. Not a problem out on  
20 boats and especially out on federal waters.

21 If there was to be a tradeoff, 10 1/2  
22 inches in federal waters, which would match what the  
23 private angler size is in the Northeast and a  
24 slightly higher bag limit would be a fair tradeoff,

1 and it would probably be far more popular than going  
2 to 10 inches because in federal waters the size  
3 limit's not an issue.

4 JACK TRAVELSTEAD: Thank you. Yes,  
5 sir.

6 PAUL FOSBERG: Paul Fosberg, Viking  
7 fishing fleet, Montague. We fish in the federal  
8 waters for scup just about 90 percent of the time.  
9 I'd like the people here to keep in mind there are  
10 people that fish with us out of Montague come from  
11 New York, New Jersey, Pennsylvania, points way to  
12 the west.

13 They make a long trip to come out  
14 fishing. They need a bag limit; otherwise, they  
15 can't afford to go fishing. These people are people  
16 mostly of color and people with a very low income or  
17 medium income, and it's the only way they can go  
18 fishing if they have a good size bag limit. Size to  
19 us in the federal waters doesn't mean very much for  
20 the simple reason our fish are all big.

21 But we need the bag limit, and that  
22 makes it worthwhile for these people to be able to  
23 go fishing and gives them the opportunity to go  
24 fishing. They have to go a long ways to catch the

1 fish. We have to charge a substantial fare because  
2 we have to go out in the federal waters to get to  
3 the fish. Thank you very much.

4 JACK TRAVELSTEAD: Any further  
5 comments? Pete.

6 PETER HIMCHAK: Based on the most  
7 immediate preceding conversations, I'm inclined to  
8 offer a motion to substitute -- move that the  
9 federal waters measures for scup in 2012 be 10 1/2  
10 inch minimum size with a 20 fish possession limit  
11 and an open season all year. I can understand why  
12 they want the higher possession limit, absolutely.

13 JACK TRAVELSTEAD: Substitute motion:  
14 10 1/2 inch, 20 fish, open all year. Is there a  
15 second to the motion? Seconded by Erling Berg.  
16 Comments on the substitute motion? Frank.

17 FRANK BLOUNT: Yeah. I just want to  
18 point out I think some people may be uncomfortable  
19 with this one, but what people are going to have to  
20 keep in mind once the four states get together, it's  
21 going to be the states that regulate this, but the  
22 states can't give a bonus -- party and charter boats  
23 are going to be bound by what's in federal waters.

24 Even if the states liberalize and the

1 federal waters stays at 10 fish, it's not going to  
2 do them any good. So you have to get the bag limit  
3 up. You have to do something in federal waters so  
4 the states have the option so they can do something.

5 If you keep it down at a restrictive number,  
6 they're not going to be able to. So even if this  
7 goes way up, you can make this almost anything you  
8 want because the landings are still controlled by  
9 the states.

10 JACK TRAVELSTEAD: There was another  
11 hand down here that I missed. Chris and then Peter.

12 CHRISTOPHER ZEMAN: As a point of  
13 order, can Erling Berg's second a motion to  
14 substitute his own motion?

15 JACK TRAVELSTEAD: I think so. Yeah.  
16 In the opinion of the chair, yes. Peter.

17 PETER deFUR: Thank you, Mr.  
18 Chairman. The question that was running around my  
19 mind is not increasing the bag limit but what we've  
20 opened it up all year. So there's 365 days open for  
21 fishing now.

22 So it's not just number of fish and  
23 size of fish, but we're keeping it open for three  
24 times the length of the fishing period, trip. So

1       that's my concern.

2                       And I don't know whether the  
3       Monitoring Committee has evaluated that tradeoff  
4       between bag limits and the duration of the open  
5       season. I mean, as we pointed out here, before it  
6       was only open June through September. Right? But  
7       now we're going to open it up all year, which has  
8       the potential to substantially increase it just  
9       because of the days of fishing. That's my concern.

10                   TONI KERNS: The Monitoring Committee  
11       did not specifically evaluate how much of the  
12       increase in harvest there will be. Because of the  
13       differences in regulations in state waters versus  
14       federal waters, it's difficult for us to actually do  
15       that estimate. But the Monitoring Committee was  
16       comfortable with looking back in the history of how  
17       much harvest has occurred in federal waters and the  
18       knowledge that the states could buffer how much they  
19       may liberalize their regulations knowing that we've  
20       increased or liberalized the regulations in federal  
21       waters. We are comfortable with the open year round  
22       and it not exceeding the target for 2012 even if the  
23       states liberalize their state water regulations.

24                   JACK TRAVELSTEAD: Further comments



1 on the substitute motion? Okay. Seeing none, let's  
2 vote and see how this goes.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Okay. So we have the motion to substitute. Is the  
5 Council ready for the question?

6 (Motion as voted.)

7 {Move that the Federal waters measure for scup in  
8 2012 be 10-1/2 inch minimum size, 20 fish  
9 possession limit, open all year.}

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

12 (Response)

13 COUNCIL CHAIR RICK ROBINS: Sixteen.  
14 Opposed like sign.

15 (Response)

16 COUNCIL CHAIR RICK ROBINS:  
17 Abstentions like sign.

18 (Response)

19 COUNCIL CHAIR RICK ROBINS: Sixteen  
20 to two to one. The motion carries. Thank you.

21 That's now the main motion. Is the  
22 Council ready for the question? All those in favor  
23 please raise your hand.

24 (Response)

1 COUNCIL CHAIR RICK ROBINS: Eighteen.  
2 Opposed like sign.

3 (No Response)

4 COUNCIL CHAIR RICK ROBINS:  
5 Abstentions like sign.

6 (Response)

7 COUNCIL CHAIR RICK ROBINS: One  
8 abstention. The motion carries. Thank you. Jack.

9 JACK TRAVELSTEAD: Anything further  
10 on scup? We don't need a motion. We're not voting  
11 on the ASMFC side. Let's move on to black sea bass.  
12 Steve. Steve, is this on scup?

13 STEVEN HEINS: I think it appears  
14 that we have some of the same issues with scup that  
15 we do with summer flounder, and I'm kind of hope  
16 moving forward that we can change what we're doing  
17 there too, kind of throw this in the mix with summer  
18 flounder and maybe black sea bass.

19 JACK TRAVELSTEAD: Jessica.

20  
21 FINALIZE BLACK SEA BASS RECREATIONAL

22 MANAGEMENT MEASURES

23 JESSICA COAKLEY: All right. 2012  
24 black sea bass recreational measures. You've seen

1 this slide twice already. You know the history.  
2 The monitoring Committee has provided advice. The  
3 Advisory Panel has provided advice. So since 1998,  
4 the harvest limits have varied from a low of 1.14  
5 million pounds in 2009 to a high of 4.13 million  
6 pounds in 2005.

7 The 2011 harvest limit was 1.83  
8 million pounds. Recreational landings have ranged  
9 from 2 to 3 million pounds in the recent years for  
10 2004 to 2009. The 2010 landings were 3 million  
11 pounds.

12 The 2011 regulations in federal  
13 waters included a 12 1/2 inch minimum fish size, 25  
14 fish possession limit, and an open season from May  
15 22nd to October 11th and November 1 to December 31.

16 In 2011 in response to overages that have occurred  
17 in the fishery in 2010, the Commission developed an  
18 addendum to set state-specific regulations to  
19 address those overages, such that status quo  
20 measures from 2010 could be carried forward into  
21 2011 in federal waters measures, and the states  
22 would develop sets of measures that when taken in  
23 combination would address that coastwide overage and  
24 achieve the new harvest limit for 2011.

1                   So minimum sizes range from about 12  
2                   1/2 inches for the states New Jersey and south up to  
3                   14 inches in Massachusetts. They range from about  
4                   10 fish to 25 fish depending on which state. And  
5                   they had a variety of seasons which were developed  
6                   to achieve the new harvest target.

7                   So, looking at the 2011 recreational  
8                   harvest limit which was 1.83 million pounds and the  
9                   2011 projected landings based on Wave 1 through 4,  
10                  which was 1.16 million pounds, landings would not  
11                  need to be reduced to achieve the 2012 recreational  
12                  harvest limit that was recommended by this group  
13                  back in August of 1.32 million pounds. The  
14                  coastwide measures were in place for both state and  
15                  federal waters.

16                  Oh, excuse me. 2012. Oh. For 2012  
17                  we need to consider a coastwide measure for both  
18                  state and federal waters. That's what the plan  
19                  actually requires. The Commission state-by-state  
20                  addendum was for one year only. It was only for  
21                  2011. So it had a sunset clause. So that  
22                  capability is not present in the Commission's parts  
23                  of the FMP for 2012 unless action is taken. So the  
24                  staff recommendations are actually for status quo

1 for 2012, and this is to have measures the same as  
2 2011 as in identical to 2011.

3 So that would include the same  
4 measures in federal waters, that 12 1/2 inch minimum  
5 fish size, possession limit and season and  
6 recommending identical state measures for 2011 as  
7 described in Table 5B in the staff memo, which was  
8 shown on the screen.

9 In order to maintain this status quo,  
10 it would require the development of an addendum to  
11 enable state-by-state measures. The basis for the  
12 staff recommendations are because the measures that  
13 were in place in 2010 resulted in 3 million pounds  
14 of landings.

15 So, in 2011 the Commission developed  
16 that specific state-by-state process. And I really  
17 -- based on the information I have available and the  
18 complexity of those regs. I am unable to evaluate  
19 what common coastwide measure that could be  
20 implemented in both state and federal waters that  
21 wouldn't result in an increase in landings in 2012.

22 Because right now this combination of landings that  
23 was in place resulted in a little over a million  
24 pounds of landings and is actually very close to the

1 harvest limit. So if we tried to bring down the  
2 minimum size for those northern states to line up  
3 better with the southern states, the landings in  
4 that northern region are going to go up  
5 substantially.

6 If we try to increase the minimum  
7 size in those southern states, those landings may go  
8 down a little bit, but those southern states really  
9 aren't the states that are producing the bulk of the  
10 sea bass landings at this point and don't have that  
11 high availability.

12 So it's a very difficult issue to  
13 figure out how to reconcile what that coastwide  
14 measure could be. So the monitoring committee  
15 concurred with the staff recommendations for status  
16 quo in 2012.

17 They recommended again states  
18 liberalizing their measures in 2012 as the landings  
19 in 2011 are actually very close to the harvest limit  
20 in 2012. The advisers were given this information  
21 as well and recommendations, and it was their  
22 consensus recommendation to use the state-by-state  
23 conservation equivalency in 2012.

24 And they understood that in order to

1 do it, it would require the Commission to develop  
2 and addendum. They were concerned that for 2012 the  
3 quota is being reduced even though the stock is  
4 considered rebuilt, and they noted that the current  
5 minimum size may actually be harming the production  
6 of the black sea bass stock. Advisers noted that  
7 the fishery used to land zero and one year old fish,  
8 and now they're landing the three and four year old  
9 fish and older.

10 They think there was higher  
11 production when those smaller fish were taken and  
12 the fish were spawning at a smaller size, and that  
13 at this point they're actually spawning at a larger  
14 size.

15 They were concerned about the current  
16 minimum fish size and the fact that a high minimum  
17 size is resulting in dead discards. They also  
18 expressed concerns about the MRFS survey similar to  
19 the concerns that were expressed that I highlighted  
20 for summer flounder and scup.

21 They also pointed out that site  
22 fidelity is not a tool that's currently being  
23 considered in management and that the sea bass are  
24 returning to the areas that they came from once

1 they've done their offshore movement.

2 They are moving back into the same  
3 areas they originally came from. The advisers also  
4 noted that trawling offshore may be impacting the  
5 inshore population. So targeted trawling in certain  
6 areas may be hitting segments of the population, and  
7 then when those fish move back inshore, certain  
8 portions of the population have been more heavily  
9 affected. And as part of that reef fidelity  
10 discussion, they also talked a little bit about the  
11 effects of fishing pressure on individual reefs and  
12 thoughts that there may be better ways to utilize  
13 those components as a management tool.

14 So the Wave 5 data is available. The  
15 projected landings estimate incorporating Wave 5  
16 came in slightly lower than originally projected.  
17 It came in at 0.99 million pounds. This is slightly  
18 lower than the 1.16 that was projected using Wave 1  
19 through 4.

20 We did not have post stratified North  
21 Carolina data north of Hatteras, so this includes  
22 and assumption that 25 percent of the North Carolina  
23 landings occurred north of Hatteras in Wave 5. The  
24 1 through 4 we did have that information post



1 stratified.

2 So just for the North Carolina folks,  
3 we did post stratify that. So again relative to  
4 that 1.32 million pound recreational harvest limit,  
5 a coastwide reduction is not required. Okay. And  
6 that's it.

7 JACK TRAVELSTEAD: Adam.

8 ADAM NOWALSKI: Thank you very much,  
9 Jessica. For scup and summer flounder in the  
10 meeting materials you provided nice cheat sheets of  
11 landings by state. I didn't see that for black sea  
12 bass and was wondering if you had that as another  
13 slide somewhere or if I just missed it and you could  
14 refer to a specific sheet to help in the evaluation  
15 of the impact of the state-by-state measures if we  
16 go that route.

17 JESSICA COAKLEY: Table 3 on page  
18 seven in the staff memo gives recreational landings  
19 by state. It's the Wave 1 through 4 that are in  
20 hand and shows that comparison. I don't have 5 and  
21 6 in there, but I can pull up the '011 projections  
22 by state if that's something you're interested in  
23 seeing, read those off.

24 ADAM NOWALSKI: Okay. This table,

1       thank you, doesn't have the percent reduction  
2       overage that was shown for the scup and the sea  
3       bass, and I guess that was what I was looking for.

4               JESSICA COAKLEY: Well, we're not  
5       going to have that table because we only have a  
6       coastwide harvest limit. So even though the states  
7       did state-by-state measures in 2011, it's still a  
8       coastwide harvest limit. So it's the combination of  
9       the measures are expected to achieve a coastwide  
10      target, whereas in summer flounder and scup, you  
11      actually have individual targets either for regions  
12      for scup or by state using that 1998 base year for  
13      summer flounder.

14             ADAM NOWALSKI: Okay. So what I'm  
15      understanding is then we won't really know what  
16      these pluses and minuses would be until the  
17      Commission moves forward with an addendum if they  
18      choose to do so.

19             JESSICA COAKLEY: Yes.

20             JACK TRAVELSTEAD: Toni.

21             TONI KERNS: And recall that we did  
22      not necessarily -- when we did the addendum, while  
23      we said each state has to reduce by specific  
24      amounts, those weren't necessarily based on history;

1       it was based on compromise that they Board came to  
2       at the March meeting and that we said no state would  
3       be accountable for their target because we would be  
4       accountable for a 40 percent reduction on a  
5       coastwide basis, not state specific.

6               So, if we do another addendum coming  
7       forward, the Board will have to discuss how you want  
8       to do those state measures, if you want to do  
9       anything other than status quo measures for each  
10      state.

11             JACK TRAVELSTEAD: Further questions?

12       Pat.

13             PAT AUGUSTINE: The short answer is  
14       we will have to develop an addendum to address that.

15       Now, the second question I notice on this chart up  
16       here -- I'm not sure we talked about it -- just for  
17       clarity sake: I've had several party boat folks who  
18       fish in federal waters raise some concern about the  
19       dates and the seasons, and I have no clue whether  
20       there's any flexibility on those dates, or are they  
21       locked in forever, or are they just for this year,  
22       May 22nd, October 11, November 1st, December 31st?

23             And the only reason I raise the  
24       question is when I read the report, it indicated on

1 black sea bass that there was I think the word was  
2 insignificant number of fish being reported in Wave  
3 1; and if in fact that's true -- don't know what  
4 insignificant means, whether it's one percent, two  
5 percent, five percent -- could there be any way to  
6 extend the December 31st into the first wave, or is  
7 it based on a calendar year?

8 There are two or three questions  
9 here, so if I could get some clarification on that  
10 I'll be able to take that information back.

11 JACK TRAVELSTEAD: Jessica.

12 JESSICA COAKLEY: Sure. The  
13 Monitoring Committee specifically discussed the Wave  
14 1 issue, and I'm just going to highlight from the  
15 report what their comments were. They noted that  
16 even though Wave 1 is not sampled for most states in  
17 the Northeast, except North Carolina, it does not  
18 mean that there are no landings of black sea bass  
19 during that wave, nor that the landings are  
20 inconsequential. So the Monitoring Committee  
21 examined the vessel trip report estimates for black  
22 sea bass from 1994 onward to determine the  
23 magnitude. The VTR data only includes the federally  
24 permitted vessels, and they noted there are pilot

1 studies to examine the extent of recreational  
2 fishing effort. It's a project that the Council is  
3 working with MRIP on to look at effort during Wave  
4 1, so not doing the intercepts during Wave 1 but  
5 actually calling and looking at effort. And if you  
6 just give me one moment, I do have some information  
7 on the VTRs. If you're interested in seeing that,  
8 Dr. Mark Terceiro was kind enough to help us pull  
9 together for the Monitoring Committee.

10 JACK TRAVELSTEAD: Is that something  
11 you can get to right away?

12 JESSICA COAKLEY: Yeah. I thought I  
13 could if you give me two minutes.

14 JACK TRAVELSTEAD: Sure. One thing  
15 while she's looking, we might consider if -- I know  
16 it's difficult to anticipate what your questions are  
17 going to be before we get to these meetings; I know  
18 they come up at the spur of the moment -- but if you  
19 maybe for next year if you have your questions in  
20 mind before you get here and can call Jessica, she  
21 can have her data all laid out and ready to address  
22 them. Just a thought. Go ahead.

23 PAT AUGUSTINE: A follow up on that,  
24 Mr. Chairman would be the reason for the question

1 again having talked to a couple of party boat folks  
2 who fish during the January, February timeframe and  
3 they do interact with black sea bass when they're  
4 fishing for scup.

5 It would just seem to me if we were  
6 to set the stage and this year try to see is it open  
7 from January 1st or continue it from December 31st  
8 into the month of January for a specific period of  
9 time.

10 Even though it's too late to do that  
11 officially through the record by the time it got  
12 processed through the Northeast Region Regional  
13 Office and so on, it would be a mute point; it  
14 wouldn't happen, but it could set the stage for next  
15 year if possible.

16 The other point would be we don't  
17 have a sense for what MRIP is going to show us in  
18 terms of what the actual harvest is during that  
19 period of time. So I think I'm on the front end of  
20 saying maybe once you find the paperwork, it might  
21 be worth looking at trying to take an action now  
22 rather than waiting until the year 2012, the end of  
23 it, to try to do this in 2013. Just looking ahead,  
24 Mr. Chairman, and trying to make sure that we've

1 covered all our bases.

2 JACK TRAVELSTEAD: Thank you. Dr.  
3 Pierce.

4 DAVID PIERCE: I know Jessica's still  
5 trying to find some information, but my question is  
6 one she can probably address because I think,  
7 Jessica, you were at the SARC down in Woods Hole a  
8 week and a half ago -- a SAW on black sea bass. A  
9 new assessment has been done for black sea bass.

10 There were some conclusions regarding  
11 2012 biomass, 16,000 metric tons or so. So my  
12 question is: Have you, Jessica -- how should I put  
13 this -- how do we intend; how does the Council and  
14 the ASMFC intend to deal with this new assessment  
15 information that may result in some SSBs, spawning  
16 stock biomass values that are higher than we think  
17 they are right now for 2012 that might have some  
18 implications for 2012 the OFL, the ABC.

19 We did that for scup and for fluke  
20 obviously this morning. So what's the prospects?  
21 What is the thinking of staff in particular as to  
22 how we will respond in the context of this new  
23 assessment?

24 JACK TRAVELSTEAD: Jessica.

1 JESSICA COAKLEY: Sure. I actually  
2 was not there a week and a half ago, but I know Dr.  
3 Weinberg was, although I don't see him at the table.

4 The assessment reports from the SAW/SARC are  
5 typically released the end of January/early  
6 February, something in that timeframe. It usually  
7 takes them six to eight weeks to produce those  
8 reports and actually have those released, so. At  
9 some point in that timeframe, you'll have those  
10 available, and we'll know what the results of the  
11 peer review panel is officially after the individual  
12 reports have been written.

13 If at that point the assessment has  
14 been accepted or the information suggests that those  
15 issues should be revisited for 2012, then the  
16 Council would need to ask the SSC to review that  
17 information and revisit the ABC recommendations.

18 It's also possible -- again, I don't  
19 know what the results are -- sometimes these  
20 assessments fail as well, and in a case where the  
21 assessment fails, the typical fall back is the  
22 previous peer reviewed accepted model. So that also  
23 would be an alternative outcome, and you've  
24 essentially set your measures for 2012 based off of



1       that information.

2               So there's two potential tracks for  
3       how that information could be handled, and really  
4       until that final report is released, end of January  
5       or at some point in February when it becomes  
6       available, that's when the results would be  
7       official.

8               DAVID PIERCE:   Okay.   Thank you.  
9       That clarifies matters.   I'm offering up now the  
10      suggestion that -- I don't know what happened at the  
11      SARC.   I don't know whether the group accepted it or  
12      did not accept it, but assume that they did not  
13      accept it.

14              If that's the case, then it puts the  
15      states, me in particular, in a very interesting  
16      situation since I know who participated in the  
17      working groups and the meetings relative to the  
18      assessment.

19              They did some fine work, some great  
20      work, and I sincerely hope that these individuals  
21      from state, from the federal government in  
22      particular NOAA Fisheries, I hope that their work  
23      stands up because I will trust their conclusions  
24      more than I will trust the conclusions of the peer

1 review done by individuals who are knowledgeable and  
2 well-meaning, but not working with the same  
3 knowledge and in the trench kind of understanding  
4 that this long list of individuals had when they put  
5 together this assessment through the working group.

6 So I'll wait and see. And I certainly hope that  
7 this assessment will be approved by the peer review.

8 JACK TRAVELSTEAD: Frank.

9 FRANK BLOUNT: Yes. Thank you. This  
10 goes to Pat's point. I would imagine -- and maybe  
11 the Service can help me out here -- after today it  
12 would go to a proposed rule and a final rule for the  
13 recreational measures which wouldn't take place  
14 probably until sometime in March before it would be  
15 final. So the question is: Even if we wanted to  
16 open up January/February today, it can't be done.

17 So I think something would have to be  
18 done probably at the August meeting when you're  
19 looking at next year's specs, even if you don't put  
20 in what the recreational specs would be somehow to  
21 open up January or February.

22 Because, otherwise, having this  
23 meeting in December all the time, the fact that it  
24 was easy enough to close those two months, it seems

1 to be next to impossible to open them back up. So  
2 there has to be some way, and I would assume the  
3 August meeting if something could be done then.

4 JACK TRAVELSTEAD: Pat.

5 PATRICIA KURKUL: Well, of course,  
6 the measures carry over, so if you put it in this  
7 year's then January/February 2013 would be open. So  
8 it's a year. It's just not quite on a calendar.

9 JACK TRAVELSTEAD: Frank.

10 FRANK BLOUNT: If that was the case  
11 and it was determined next year that they didn't  
12 want them open, you can't close it. Okay.

13 JACK TRAVELSTEAD: It's one of those.

14 Adam.

15 ADAM NOWALSKI: Thank you, Mr.  
16 Chairman. I certainly don't want to step on  
17 Jessica's toes. I had compiled a lot of the VTR  
18 information back in 2009. If there's any interest  
19 in sharing it throughout most of the 2000s, the  
20 party and charter sector according to the VTR data  
21 was landing between 13 and 20,000 fish throughout  
22 the last decade according to the VTR data as  
23 provided by the Northeast Office when I compiled  
24 this two years ago.

1 JESSICA COAKLEY: Okay. Well, I did  
2 not find Mark's e-mail which summarized all this for  
3 us, but I've managed to find the Excel files  
4 themselves.

5 So from 1993 to 2009, the Wave 1 VTR  
6 landings which are just the party and charter boat  
7 component, about 3 percent of the total landings  
8 during the year from that VTR party charter boat --  
9 3 percent of it occurred during Wave 1. So it's a  
10 few percent.

11 One of the things that I also have,  
12 and this was something that the Monitoring Committee  
13 has discussed, the ratio of VTR to party charter to  
14 MRFS party charter landings -- the ratio of the  
15 reported landings has changed over time, and it  
16 appears that the ration of reported VTRs has gone  
17 down, the ratio relative to those MRFS estimates.  
18 One of the things that the Monitoring Committee had  
19 suggested was possible is while people were  
20 reporting through the for-hire survey that had  
21 started in recent years, if they report through  
22 that, they may not also be going through the process  
23 of filling out all of their VTRs and reporting all  
24 of those VTRs as well.

1                   So that 3 percent is just the VTR  
2 party charter boats that hold federal permits. It  
3 wouldn't include any party charter boats that hold  
4 state-only permits, and it wouldn't include any  
5 private anglers or fishermen that may be boat based  
6 and going fishing during that Wave 1 time period up  
7 through 2009. So it's one segment of the fishing  
8 population, but it looks like that's about 3 percent  
9 in Wave 1 of those party charter VTRs.

10                  JACK TRAVELSTEAD: Are we ready for a  
11 motion? Pat.

12                  PAT AUGUSTINE: Thank you,  
13 Mr. Chairman. You need to put something up there.

14                  JESSICA COAKLEY: What do you want me  
15 to put up?

16                  PAT AUGUSTINE: Put your last chart  
17 up, what your recommendations were, please.

18                  JESSICA COAKLEY: Okay.

19                  PAT AUGUSTINE: I'm going to put this  
20 up there and ask if anyone wants to word smith or  
21 substitute. I'm open to substitution. I recommend  
22 the 2012 why don't I just say status quo.

23                  JACK TRAVELSTEAD: Pat, you're going  
24 to make a motion for the Board. Correct? So I

1 would assume that would pertain to initiation of an  
2 addendum. Toni, could you describe what ASMFC  
3 means?

4 TONI KERNS: In order for the Board  
5 to initiate an addendum, you're going to put  
6 measures in place any different than the status quo  
7 measures that you did in 2011. You're to initiate  
8 an addendum, and you're going to need to tell me  
9 what types of measures you're going to want to put  
10 into that addendum document.

11 Because in order for us to get the  
12 information to the Center and in order for you guys  
13 to get your regulations in time to be put in place  
14 for your upcoming fishing season, those measures are  
15 going to need to be in this draft addendum, which  
16 will take place I believe -- I guess we will have to  
17 have them to me now and our February meeting which  
18 will be again the addendum will have to be put  
19 together very quickly, so I'll need to know that  
20 information what those regulations will need to be  
21 immediately.

22 JACK TRAVELSTEAD: Now, if you want  
23 to maintain status quo, do you need an addendum?

24 TONI KERNS: I do because last year

1 the addendum was -- it said specifically for one  
2 year only. So, if those measures are anything  
3 different I'll need those in the next week.

4 JACK TRAVELSTEAD: Pat.

5 PAT AUGUSTINE: I would like to move  
6 that we develop an addendum that includes the  
7 following -- I'd like to call on Toni or any Board  
8 members who itemize those three, four, and five  
9 items that we must include. So I need a Board  
10 member who wants to reiterate what Toni said. Let's  
11 please put it up on the board and include it in this  
12 motion.

13 JACK TRAVELSTEAD: We still need a  
14 motion.

15 PAT AUGUSTINE: Whatever you want --

16 JACK TRAVELSTEAD: No. That wasn't a  
17 motion.

18 PAT AUGUSTINE: -- to elaborate on  
19 the four, five, and six items that we need to  
20 include in this.

21 JACK TRAVELSTEAD: Peter. Peter  
22 deFUR.

23 PETER deFUR: Thank you, Mr.  
24 Chairman. Are you restricting this to a motion, or

1 can I ask a question, a point of clarification?

2 JACK TRAVELSTEAD: Go ahead.

3 PETER deFUR: The question is whether  
4 or not the Monitoring -- Jessica, did you guys  
5 consider the technical consequences of opening  
6 January and February for a limited season? Was that  
7 something that was considered at all, or is that  
8 just --

9 JESSICA COAKLEY: Well, the  
10 Monitoring Committee did talk about Wave 1, and they  
11 talked about the fishing season and all the measures  
12 that were in place in federal waters and state  
13 waters previously.

14 The Monitoring Committee recommended  
15 keeping everything status quo, status quo federal  
16 waters measures, so not increasing or liberalizing  
17 any of those measures as well as doing state-by-  
18 state measures through this development of an  
19 addendum but keeping those state measures status  
20 quo.

21 They were concerned because the  
22 projected landings were very close to what the  
23 harvest limit had been. And there was some  
24 discussion actually not just for sea bass, but for



1 all three species that weather was not particularly  
2 great in 2011, people didn't think it was a really  
3 great fishing year.

4 Things seemed to be down for all  
5 three species, but next year could be different,  
6 that there could be better weather next year, there  
7 could be improved availability, things like that,  
8 and that it wasn't prudent in their minds to  
9 liberalize; in fact, they added a statement to their  
10 recommendation that said they recommended against  
11 states liberalizing their measures in 2012, and they  
12 specifically asked for that to be added to their  
13 recommendations for that reason.

14 PAT AUGUSTINE: The first part, Mr.  
15 Chairman, would be that the Board develop and  
16 addendum that extends conservation equivalency.  
17 Then Mr. Gilmore.

18 JACK TRAVELSTEAD: Jim, do you have a  
19 motion?

20 JAMES GILMORE: Yes, I do, Mr.  
21 Chairman. I'd like to initiate an addendum to  
22 evaluate implementing state-by-state or regional  
23 conservation equivalency that would achieve a  
24 coastwide target of 1.32 million fish -- pounds.

1 Sorry.

2 JACK TRAVELSTEAD: That's for the  
3 Board. And there's a second to the motion. I guess  
4 that's an ASMFC motion. Comments on the motion?  
5 Seeing none, I guess we're ready to vote, Dave.

6 JAMES GILMORE: Let me read it one  
7 more time. Initiate an addendum to evaluate  
8 implementation of state-by-state or regional.

9 JACK TRAVELSTEAD: Okay. Are the  
10 maker and seconder in agreement? This is the  
11 motion. Comments on the motion? I didn't see any  
12 before. Comments from the audience on the motion?  
13 Yes, sir. Joe and Monty.

14 JOSEPH HUCKEMEYER: I would hope that  
15 this passes because although a lot of portions of  
16 the fishery managed to get through with the  
17 regulation changes this past year, there were some  
18 sectors of the fishery that were devastated by the  
19 changes in the regulations, and pushing this through  
20 may give an opportunity for a state to be able to  
21 manipulate the regulations slightly enough to offset  
22 those changes that hurt a number of fishermen,  
23 particularly six man charter boats in the Northeast.

24 JACK TRAVELSTEAD: Thank you, Joe.

1 Monty.

2 MONTY HAWKINS: Thank you, sir. I  
3 think this regional plan is absolutely needed with  
4 sea bass. The habitat is unquestioned. It's in the  
5 federal taggings. It's in the Massachusetts  
6 taggings. It's in the ALS tagging.

7 The fish aren't just regionally  
8 habitat fidelity -- they will return back to the  
9 exact same region in an artificial reef group. I  
10 have scuba diver reports where fish were released  
11 and went back to the exact same ledge of a reef.  
12 The habitat fidelity is very real.

13 And one thing Jessica touched on  
14 earlier where we had a spike in trawl landings in  
15 2004. It really knocked our particular region the  
16 Del Mar region of sea bass it knocked them pretty  
17 loopy, and we really haven't recovered from that.  
18 And I touched on that in an e-mail. Folks, I really  
19 think the sea bass or the spawning stock biomass is  
20 being reduced by management. I think as the size of  
21 it goes up, fewer and fewer fish are spawning. I  
22 think that where we used to catch 4 million fish in  
23 the Atlantic reports as an average. In MRFS in some  
24 years had 21 million fish.

1                   Before there was ever any regulation,  
2                   we were catching 4 million fish. So now we're  
3                   protecting those fish out to 3, 3 1/2, 4 years of  
4                   age with the 12 1/2 inch size limit where before  
5                   there was no size limit at all, and a lot of fish  
6                   didn't even celebrate a single birthday let alone  
7                   four birthdays.

8                   So geometrically the spawning stock  
9                   has to be -- it has to be fantastically more huge.  
10                  And the benefit to fishing -- we should be fishing  
11                  on the interest on the interest instead of being  
12                  worried about the principal. We shouldn't even be  
13                  worried about the principal at all.

14                 The sea bass should just be going  
15                 crazy out there, and they're not. Fishing is  
16                 better, but fishing's not as good as it could be. I  
17                 think that by reducing the size limit, taking it  
18                 down a half inch at a time, you can't go all at once  
19                 'cause obviously we're developing an overfishing  
20                 situation, but I think that you'll get far more bang  
21                 for your buck for the recreational and commercial  
22                 fisheries by beginning to reduce the size limit.  
23                 I'm very, very sure that in the science where it  
24                 said the age two and three fish at 7 1/2 inches were

1 spawning, well early on when fishery management  
2 plans were first being developed, we were using the  
3 size, the 7 1/2 to 9 inches.

4 Everything had spawned by 9 inches  
5 someplace. And now we're using the same sentence in  
6 the manual where it says two to three years. But we  
7 know that the two to three year part isn't right. I  
8 don't want to take up too much of the Council's  
9 time, but in all seriousness, I think that this is a  
10 great place for fishery management to step in and  
11 really create a lot of production. It's a very  
12 simple fishery. Thank you.

13 JACK TRAVELSTEAD: Thank you, Monty.

14 Jim Gilmore.

15 JAMES GILMORE: Thanks. Just as a  
16 clarification, the intent of this motion is really  
17 not so much to go away from status quo, but just to  
18 provide an opportunity for alignment in the northern  
19 states, but essentially if the southern areas want  
20 to stay with what they have, that would be fine.

21 This was just, again, we have I  
22 talked about before disparate numbers between the  
23 states on border waters, so we're trying to get  
24 those more aligned. So we don't think we're going

1 to go too far off of status quo. It just made it a  
2 little bit more manageable.

3 JACK TRAVELSTEAD: I think that's  
4 very helpful. I'm glad you made that comment, Jim,  
5 because that was my question. For the southern  
6 states. Red.

7 RED MUNDEN: Thank you, Mr. Chairman.  
8 I would ask the maker of the motion to identify the  
9 time period to which this addendum would apply. Is  
10 this for 2012 only?

11 JAMES GILMORE: I mean we could limit  
12 it to 2012. I'd like to see actually options under  
13 that. There might be a possibility to go further.  
14 So I mean if that makes you more comfortable, well,  
15 we could limit it for one year.

16 JACK TRAVELSTEAD: Were you after  
17 something in particular, Red?

18 RED MUNDEN: No. I was just trying  
19 to offer suggestions for making this motion more  
20 clear. We're just talking about 2012 harvest  
21 period? Because the following year the harvest  
22 limit may increase or decrease from 1.32 million  
23 pounds.

24 JACK TRAVELSTEAD: Jim.

1 JAMES GILMORE: Yeah. Since it's --  
2 David just reminded us -- a specific harvest limit,  
3 it would only have to be for one year. So you can  
4 add in for 2012.

5 JACK TRAVELSTEAD: That makes sense.  
6 Mike.

7 MICHAEL LUISI: Thank you, Mr.  
8 Chairman. Is there a way to simplify it such that -  
9 - I know the amount of time and effort that it takes  
10 to do what I would consider a fast-track addendum by  
11 February. We were faced with this same problem last  
12 year, and hoping that we were going to be able to  
13 get everything done.

14 There were conference calls, public  
15 meetings up and down the east coast. It takes an  
16 enormous amount of time to get all of that done. Is  
17 there a way to incorporate some function in this  
18 addendum to allow the Commission to review it on an  
19 annual basis and make that determination without  
20 having to go back to recreate the entire addendum  
21 and recreate the wheel each year?

22 TONI KERNS: I guess we could  
23 potentially write language in there so that it says  
24 to meet the current year's harvest target. But I

1       caution that we also want to think about how well  
2       this sort of hodgepodge conservation equivalency is  
3       working and considering that there is a significant  
4       portion in some states harvest in federal waters and  
5       other states it's in state waters how the federal  
6       regulations are set and how that limits the way  
7       folks can put their regulations in place and that I  
8       think a fast track addendum may not be able to sort  
9       of think through all of those impacts as well as a  
10      more reasonably paced addendum would. And we are --  
11      the Council is currently considering Amendment 17,  
12      which does get into some of this information.

13               I don't know if Amendment 17 would be  
14      completed in time for the 2013 fishing year, so  
15      maybe you'd only want to do this for a couple of  
16      years, this emergency addendum knowing in  
17      anticipation that Addendum 17 may take into  
18      consideration those other issues.

19               MIKE LUISI: That clears it up.

20      Thanks.

21               JACK TRAVELSTEAD: Rick.

22               COUNCIL CHAIRMAN RICHARD ROBINS:

23      Thank you, Mr. Chairman. We will be having a  
24      discussion about Amendment 17 after this exercise,



1 and given the timing of that -- rather the time  
2 necessary to develop that amendment, if the  
3 Commission wanted to consider a one year option but  
4 also maybe a two year option that would likely cover  
5 that interim period. So you may want to consider  
6 that.

7 JACK TRAVELSTEAD: Further comments  
8 on the motion? Seeing none, I guess we're ready to  
9 vote. David. Toni is indicating if you want to do  
10 this for more than one year, you have to change the  
11 motion. So it's up to the group.

12 DAVID SIMPSON: You see the motion as  
13 it is. This is for one year right now. I don't see  
14 any hands up to address it or change it, so I'll  
15 give you a minute to caucus on this, and then we'll  
16 take a vote. [Pause] All set in Jersey? Okay.

17 (Motion as voted.)

18 {Move to initiate an addendum to evaluate  
19 implementation of state-by-state or regional  
20 measures that would achieve the coast-wide harvest  
21 limit of 1.32 mil lbs.}

22 DAVID SIMPSON: So all those in favor  
23 of the motion please raise your hand.

24 (Response)

1                   DAVID SIMPSON:  It's ten in favor.

2                   Opposed?

3                   (No Response)

4                   DAVID SIMPSON:  I don't see any.  No  
5                   nulls.

6                   (No Response)

7                   DAVID SIMPSON:  Abstentions?

8                   (Response)

9                   DAVID SIMPSON:  One.  Vince.

10                  VINCENT O'SHEA:  Thanks, Mr.  
11                  Chairman.  I think the next question then is when do  
12                  you want this by?  You need two meetings, and you  
13                  need a 30 day public comment period.

14                  DAVID SIMPSON:  So we certainly want  
15                  to do this before the February meeting.  So specific  
16                  ideas?  I think Toni is probably going to want to  
17                  flush out the addendum, what options might be  
18                  included.

19                  I think we're going to want to have  
20                  this in place, aren't we, by February?  I'm thinking  
21                  a calendars for publishing angler regulations and so  
22                  forth.  That's what hung us up last year.  We got to  
23                  a point where we couldn't wait anymore and had to go  
24                  ahead with what was going to be in place in federal

1 waters. Any thoughts?

2 So, if we had one conference call  
3 between now and the February meeting, sometime in  
4 mid-January-ish, and then the second meeting would  
5 be the February meeting; that's the week of  
6 February 5th. I think that's enough time to get it  
7 in place if we adopted it at the February meeting.  
8 So specific ideas I guess we got to Toni before the  
9 end of the year would help her. Go ahead.

10 TONI KERNES: In order for it to be  
11 out for 30 days, I'll have to publish the draft  
12 addendum I guess just to be safe I'll say January  
13 5th.

14 The summer flounder meeting could  
15 potentially be on February 7th, so I'll have to have  
16 some information prior to that, and I also will need  
17 to schedule public hearings now, tomorrow maybe with  
18 some of you guys basically in order to make sure  
19 those public hearings happen if you want to have  
20 public hearings. The Commission does not require  
21 public hearings. We only require that it be out.  
22 We don't actually -- we just try to have it out for  
23 30 days.

24 PAT AUGUSTINE: States could handle

1       their own public hearings, in fact it will reduce  
2       your travel time and you'll be able to work on that.  
3       So maybe we'll have a show of hands how many states  
4       are going to want to have a public hearing. Get  
5       that cleared out of the way, and then we're off and  
6       running.

7                   DAVID SIMPSON: If somebody wants to  
8       have a formal Commission hearing, let Toni know  
9       during this meeting. I think that's enough time.  
10      And I may be wrong, but my view of what we'll likely  
11      do in this addendum is fairly simple. I think  
12      regionally states need to talk to each other about  
13      specifically what they'd like to see in there for  
14      public consideration. I don't see a lot has to  
15      happen based on what we had this year, the outcome  
16      and what the target is.

17                   There's room for a little bit of  
18      movement to align, for example, North Carolina is  
19      slightly different than it's neighbors to the north,  
20      and aligning that would make sense in my mind. I'll  
21      tell you that the states from Mass. to New York  
22      we're talking a little bit on the side about seeing  
23      what we could do to have one set of rules similar to  
24      what we've done on scup, where there's some latitude

1 on the season but try to get in line with the bag  
2 and size so it's understandable by the public and  
3 not a chess game trying to figure out where you can  
4 fish when. And then New Jersey the same type of  
5 thing, some tinkering to align things for fairness  
6 and to have some measures in place earlier this year  
7 than we had last year.

8 PAT AUGUSTINE: Would there be  
9 anything we could put in there about adaptive  
10 management, or it has to be an addendum -- I'm sorry  
11 -- an amendment? If there was a one liner in there  
12 so we don't have to bring this up every year. Note  
13 Mr. Gilmore said this would be for one year. And  
14 I'm not sure we can put the statement in there that  
15 says this will be on an annual basis. We just need  
16 one year that we could use adaptive management, and  
17 then we wouldn't have to go through an addendum  
18 process.

19 TONI KERNS: Well, we just asked that  
20 question of the Board prior to voting on this  
21 motion, and no one wanted to change the motion, so  
22 we're going for one year.

23 The one thing that I will say is that  
24 the hardest part of all of this will be between now

1 and January 5th putting this addendum together and  
2 that's why we'll need the cooperation of the states  
3 to help me work out those measures as quickly as  
4 possible with the holidays and your Technical  
5 Committee members probably not being around this  
6 whole time, so.

7 DAVID SIMPSON: All right. So we  
8 need to get things to Toni as a group in the next  
9 couple of weeks so that she can comfortably have  
10 that done right into the new year. Vince, did you  
11 have something?

12 VINCENT O'SHEA: Yeah, I did. With  
13 the normal process, Mr. Chairman, you would task us  
14 with initiating an addendum and bringing a draft to  
15 you before the Board for an impersonal meeting so  
16 that you could consider the contents, debate it,  
17 take public comment, so on and so forth. So it  
18 seems like you're not going to have the opportunity  
19 to have an in person meeting to do that.

20 Instead, you're going to do that  
21 through a conference call meeting of the Board, and  
22 I guess what I'm thinking is that the closer this  
23 addendum looks like what you've already done so that  
24 it's a rollover exercise would seem to be less

1 intrusive to the public process, if you will.

2 If you start talking about putting  
3 add-ons and making it much different, then I think  
4 it raises issues about the transparency of what  
5 you're doing here on the telephone, and I don't  
6 think that's what the intent of the Board is.

7 I think what I'm hearing today is you  
8 basically want to roll over what you did last year,  
9 and unfortunately the mechanism to do that is an  
10 addendum. So I'm kind of hoping that Toni's job of  
11 getting this draft for you all can be done fairly  
12 quickly and much sooner than the 5th of January.

13 Before Christmas even starts, for  
14 example, we may be able to get a good part of this  
15 off to you guys and get your feedback. If I  
16 understand what you're trying to do here, Mr.  
17 Chairman, you want to take final action in February  
18 on this.

19 DAVID SIMPSON: Right. So  
20 potentially what we could do is suggest today that  
21 Toni draft up an addendum that looks exactly like  
22 the 2012 measures, get that out to the public very  
23 quickly, and then I think based on public comment  
24 and our thoughts on the experience in 2012, some

1 refinements may come out of that, but it doesn't  
2 necessarily have to be in the initial document. Go  
3 ahead, Toni.

4 TONI KERNS: I'm hearing two  
5 different things what the Board wants and what Vince  
6 is suggesting and what you're saying. I heard that  
7 the Board wants to slightly adjust their measures so  
8 that they can sort of align their state water  
9 measures with those states that had to make  
10 adjustments last year, mainly those norther states,  
11 New Jersey north, and also to maybe allow North  
12 Carolina to be more aligned with what their southern  
13 partners had put in place.

14 So that would require making -- the  
15 addendum would be similar but still have some  
16 adjustments. It wouldn't be exactly the same as the  
17 measures in 2011, but yet still fairly transparent  
18 for the public process is what would be happening.

19 DAVID SIMPSON: So I think what we'll  
20 do -- I think we're pretty close to what we want to  
21 do and how to do it, but to be efficient with time,  
22 if we can kind of hold the decision on the details  
23 of this. We'll go to the Amendment 17 update and  
24 information, and then before we leave here maybe get



1 20 minutes to map out the concept for the addendum.

2 That work for everyone?

3 JACK TRAVELSTEAD: I think that  
4 works. Now, we still have on sea bass, federal  
5 waters measures that the Council needs to determine.

6 So we need a motion on that. Rick Cole.

7 RICHARD COLE: I move that the  
8 Council adopt the Monitoring Committee and staff  
9 recommendations for status quo for the 2012  
10 recreational sea bass fishery in federal waters.

11 JACK TRAVELSTEAD: Thank you. Is  
12 there a second? Seconded by Steve. Comments on the  
13 motion? Chris.

14 CHRISTOPHER ZEMAN: I would like to  
15 make a motion to substitute that motion with a  
16 motion to set the 2012 coastwide black sea bass  
17 recreational measures as follows: The season would  
18 start January 1st to February 29th with a 12 1/2  
19 inch size limit and 15 fish bag limit, and then  
20 would reopen again May 19th to October 14th and 11/1  
21 to 12/31 with a 12 1/2 inch size limit and 25 fish  
22 bag limit.

23 And the purpose for those changes are  
24 basically we open Wave 1. We're always very

1 concerned with that closure because we never  
2 obtained any conservation benefit for that closure.

3 I'd rather have it open with fishing and  
4 documenting catch so that if we do close it in the  
5 future, we will actually get some conservation  
6 benefit for that closure.

7 The changes for the start date May  
8 19th as opposed to May 22nd is just because that  
9 would start on the weekend as opposed to Wednesday  
10 to Wednesday, and the October 14th would capture the  
11 holiday weekend. And those are all the changes.

12 JACK TRAVELSTEAD: Is there a second  
13 to the motion to substitute? Peter Himchak seconds  
14 the motion. Discussion on either motion? Frank.

15 FRANK BLOUNT: Thank you. I can't  
16 vote on this, but one thing -- I think this goes  
17 back to the scup discussion as well -- if this is  
18 going to the regional and state-by-state, this is  
19 going to give the states the flexibility; you  
20 haven't tied their hands.

21 The states are still going to come up  
22 with something that meets the equivalency of what  
23 they had last year. But if you're tying the hands  
24 of the federal waters, they don't have that option.

1       At least this way they have the option.

2               JACK TRAVELSTEAD: Okay. Chris,  
3       could you repeat your motion, so she can get it all  
4       up on the board. After 29th should be 12 1/2 inch  
5       size limit with a 15 fish.

6               CHRISTOPHER ZEMAN: Okay, so May 19th  
7       to October 14th, and November 1st to December 31st  
8       with a 12 1/2 inch size limit and 25 fish bag limit.

9               JACK TRAVELSTEAD: Okay. Everybody's  
10      got the motion. It's been seconded. Further  
11      comments on the substitute? Red.

12              RED MUNDEN: Thank you, Mr. Chairman.  
13      I have a question for Pat. Pat, when could we  
14      reasonably expect these measures to be implemented  
15      in 2012? This is for 2012 I assume?

16              JACK TRAVELSTEAD: Pat.

17              PATRICIA KURKUL: So we're using the  
18      new spec process that we've been working on with the  
19      Council, so it should be -- we hope it will be  
20      faster than other years, but frankly, it's typically  
21      May/June. So I think best case we're talking maybe  
22      April.

23              RED MUNDEN: If that's the case, then  
24      these measures would not be in place for the January

1 to February 29th opening based on what Ms. Kurkul has said.

JACK TRAVELSTEAD: But, Pat, doesn't this get at your earlier point, that if you want the first wave open, if you do it now, it will be open first wave of next year or rather 2013; whereas, if you do nothing, you'll never get the first wave open? I think that's what Chris was trying to respond to with the motion. So the reality is you pass this motion January and February of 2012 will not be open, but they would be open in 2013. So that's the logic. A.C.

A.C. CARPENTER: You might be able to clarify that up by taking out the open season. You start the open season with May 19th through October 14th and November 1st through February 29th next. All right. The 28th.

JACK TRAVELSTEAD: Does that help, folks?

CHRISTOPHER ZEMAN: I would consider that a friendly amendment.

JACK TRAVELSTEAD: If that is a friendly amendment -- who was the seconder? Pete.

CHRISTOPHER ZEMAN: And, of course,

1       that friendly amendment would have to match up the  
2       bag limits appropriately.

3               JACK TRAVELSTEAD:   So you want to  
4       keep the 15 fish.   Okay.   So you're going to have to  
5       clarify the motion, Jessica, that the 15 fish.  
6       Joel.

7               JOEL MACDONALD:   Thank you, Mr.  
8       Chairman.   My observation is that we set these  
9       specifications on an annual basis, so I think it's  
10      rather difficult to go over the end of the year with  
11      any of these measures.

12              JACK TRAVELSTEAD:   Well, then how  
13      would you ever open up Wave 1?   So you open it in  
14      the current year even though in reality it doesn't  
15      take effect until the next year.

16              JOEL MACDONALD:   That's correct.   See,  
17      what happens is typically these measures roll over,  
18      so you would have closure, as you point out, in 2013  
19      during the first wave.

20              JACK TRAVELSTEAD:   So keep the motion  
21      the way it was originally submitted.

22              JOEL MACDONALD:   I would keep it the  
23      way it is.

24              JACK TRAVELSTEAD:   Can we have a

1 friendly amendment to put it back the way it was?

2 UNIDENTIFIED: Yes.

3 JACK TRAVELSTEAD: Okay. I see a lot  
4 of hands now. Mike.

5 MIKE LUISI: I thought I understood  
6 it, and maybe I'm confused. But if this goes  
7 forward after Wave 1's already finished for 2012, if  
8 we re-meet on this next December, we won't be able  
9 to close Wave 1.

10 JACK TRAVELSTEAD: That's right.

11 MIKE LUISI: So Wave 1 will be open.

12 JACK TRAVELSTEAD: That's correct.  
13 And only the way it was worded originally, not  
14 change it.

15 MIKE LUISI: I'm sorry.

16 JACK TRAVELSTEAD: So we're going  
17 back to the original language.

18 MIKE LUISI: The original wording.

19 JACK TRAVELSTEAD: Yes. Rick.

20 COUNCIL CHAIRMAN RICHARD ROBINS: I  
21 do have a question about it and I guess for staff,  
22 and that is: It was my understanding that in order  
23 for this motion to result in the recreational  
24 harvest limit not being exceeded, it would have to

1 be accompanied by the Commission action to constrain  
2 landings through their addendum to achieve the  
3 harvest limit.

4 Is that correct, and does the motion  
5 need to be conditioned then upon the Commission  
6 approving an addendum or developing an addendum that  
7 would achieve the recreational harvest limit?

8 JESSICA COAKLEY: Well, the way the  
9 addendum was tackled this year or last year for this  
10 year, for the 2011 fishing year, was that the  
11 Commission moved forward with developing the  
12 addendum, and if the addendum was developed to  
13 achieve that harvest limit, status quo measures  
14 could be maintained in federal waters, and that was  
15 the premise for 2011, that status quo was kept in  
16 federal waters, and the state's developed their  
17 addendum. The recommendations from the staff and  
18 the Monitoring Committee, again, were for that  
19 status quo federal waters and the development of the  
20 addendum to address setting status quo or close to  
21 status quo, which is what the Commission's  
22 discussing, measures for 2012. So, yes, I think it  
23 is conditioned on the Commission developing that  
24 addendum.

1                   And that sort of gives you the  
2                   history of the premise that last year was to  
3                   maintain status quo in federal waters and allow the  
4                   addendum to deal with the development.

5                   JACK TRAVELSTEAD: Does that need to  
6                   be a part of the motion, that condition?

7                   COUNCIL CHAIRMAN RICHARD ROBINS: Was  
8                   that part of the motion last year? As I understand  
9                   the intent of the motion, we're providing more  
10                  flexibility that then the Commission can work off of  
11                  is the individual states work together to develop  
12                  their measures. So I think in principal that's fine  
13                  as long as at the end of the day we still have a  
14                  package that achieves the recreational harvest  
15                  limit.

16                  JACK TRAVELSTEAD: Chris.

17                  CHRISTOPHER ZEMAN: Yeah. And I  
18                  would just add that I see this as virtually status  
19                  quo because we did not get any conservation benefit  
20                  for the Wave 1 closure. That's undisputed. So  
21                  whether or not that's open or closed is just  
22                  conservation neutral. And so the only change here  
23                  is basically changing the dates of the second open  
24                  season to be consistent with a weekend start date



1 and a weekend end date, as opposed to a Wednesday to  
2 Wednesday opening. So that's a measure that's just  
3 really meant for making it more consistent with when  
4 people fish. So overall there are not significant  
5 changes here.

6 JACK TRAVELSTEAD: Further comments  
7 on the substitute? Pat, does this provide you with  
8 enough information? Adam. Pat. I think we're  
9 ready to vote.

10 COUNCIL CHAIRMAN RICHARD ROBINS: All  
11 right. We have a motion to substitute. Are there  
12 any public comments on this motion before we vote?  
13 Monty.

14 MONTY HAWKINS: Thank you, sir. I  
15 heard Mr. Adam here talk about VTRs and VIRs were  
16 dismissed. Everybody in the industry thinks that  
17 the private boats don't catch anywhere near what the  
18 recreational party and charter boats catch.

19 Everybody in the industry thinks that  
20 we catch more fish than they do. So I think that  
21 the VTRs that were submitted, not the MRFS data --  
22 I've got MRFS data where my four days of VTRs not  
23 MRFS data, but VTRs are a good measure of what's  
24 really going on out there, and we have just four

1 wave sets just private boat and like Massachusetts  
2 twice and New Jersey once, and New York once, just  
3 individual waves, just two month waves bag more than  
4 twice the catch of the party charter fleet for the  
5 whole year. These spikes in landings that are  
6 showing up in the MRFS data I really think that's  
7 the poacher here. I don't think recreational  
8 fishers are overfishing sea bass at all. I think  
9 MRFS is a poacher, and he's the one taking the fish.

10 Thank you.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
12 further comment on the motion? Okay. The motion to  
13 substitute. Is the Council ready for the question?

14 (Motion as voted.)

15 {Move to substitute above motion for 2012 with an  
16 open season Jan. 1-Feb. 29 with a 12.5 inch size  
17 limit, 15 fish bag limit and  
18 May 19 - October 14 and November - December 31  
19 season with a 12.5 inch fish size limit and 25 fish  
20 bag limit.}

21 COUNCIL CHAIRMAN RICHARD ROBINS: All  
22 those in favor please raise your hand.

23 (Response)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Sixteen. Opposed like sign.

2 (Response)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 One. Abstentions like sign.

5 (Response)

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 One. The motion carries. Thank you.

8 The motion is now the main motion.

9 Is the Council ready for the question? All those in  
10 favor please raise your hand.

11 (Response)

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Sixteen. Opposed like sign.

14 (Response)

15 COUNCIL CHAIRMAN RICHARD ROBINS: One.

16 Abstentions like sign.

17 (Response)

18 COUNCIL CHAIRMAN RICHARD ROBINS: One  
19 abstention. The motion carries. Thank you. Jack.

20 JACK TRAVELSTEAD: Okay. I think  
21 that's everything on sea bass. David.

22 DAVID PIERCE: Yeah. Mr. Chairman,  
23 I've got a question relative to the actions that  
24 we've just taken on sea bass and also relevant to

1 the decisions we made on scup and fluke. If I may  
2 ask it before you go on to the next agenda item?

3 JACK TRAVELSTEAD: Sure.

4 DAVID PIERCE: I think we all know  
5 that interest in purchasing research set-aside by  
6 recreational fishermen for the taking of black sea  
7 bass and scup and fluke outside of the seasons and  
8 exempting them from bag limits is increasing. At  
9 least that's my understanding. My question is:  
10 Does the Council or does the ASMFC have a list of  
11 the amounts of research set-aside that has been  
12 purchased for use in 2012 by individual recreational  
13 fishermen and by party and charter boat fishermen  
14 for the taking of sea bass, scup and fluke?

15 It's relevant to the decisions that  
16 ASMFC states will be making in the future, and I  
17 think it's also relevant to why many fishermen are  
18 not in the audience anymore, because they've got  
19 that opportunity.

20 I know that this Council has  
21 expressed concern about the increasing amount of  
22 purchase of fish for that purpose. The ASMFC  
23 certainly has done so. So do we have a list that we  
24 can reference to get some idea of what is to come

1 specific to the amount and the type of request for  
2 letters of authorization for exemptions by different  
3 states?

4 JACK TRAVELSTEAD: I'm hearing that  
5 they haven't auctioned yet for next year, so I don't  
6 think the list exists. Can anybody from the Service  
7 answer that?

8 DAVID PIERCE: I thought the auction  
9 was in November, but maybe I'm wrong.

10 JACK TRAVELSTEAD: Pete, what do you  
11 know?

12 PETER HIMCHAK: I think the auction  
13 is in December, and we may be able to get the list  
14 soon. I think it's conducted in early December in a  
15 auction.

16 DAVID PIERCE: Well, wait a minute.  
17 Maybe some people who participated in the auction  
18 are here.

19 JACK TRAVELSTEAD: Steve, do know the  
20 answer?

21 STEVEN HEINS: January 19th.

22 JACK TRAVELSTEAD: Is the auction?  
23 There you go. January 19th.

24 DAVID PIERCE: January 19th. So will

1 a list be available for us to acquire, or does it  
2 have to be requested from the auction? What is the  
3 procedure that this Council and ASMFC for that  
4 matter follows to get that sort of information? Is  
5 it posted on a web site? I don't know. Does the  
6 National Marine Fishery Service have a handle on it?

7 JACK TRAVELSTEAD: I think we're  
8 going to have to track down the answer. I don't  
9 think anybody here knows the answer to that, David.  
10 We'll have to track it down.

11 DAVID PIERCE: I was going to make a  
12 motion relative to getting a list if indeed this  
13 agreement that that information should be provided  
14 to the Council and the ASMFC. I guess I don't need  
15 a motion. I turn to you, Mr. Chairmen, for some  
16 guidance on that particular issue since it would be  
17 enlightening to all of us I suspect.

18 JACK TRAVELSTEAD: Steve on this  
19 issue.

20 STEVEN HEINS: I believe that if we  
21 want a list, we can just contact NFI to get the list  
22 after the auction. But that's only going to be a  
23 partial list 'cause then there's transfers and that  
24 sort of thing.

1 Plus some of the people have bid on  
2 quota don't necessarily get permits because they  
3 have other compliance issues we have to deal with.  
4 And the other thing I want to respond to, David  
5 mentioned was individual recreational fishermen.

6 I know in New York we do not issue  
7 permits to individual recreational fishermen. We  
8 consider that to be privatization as opposed to  
9 commercial fishermen or commercial party and charter  
10 boat interests, which still allows the public with  
11 access to the fish. And my understanding is that no  
12 individual angler's bid on the quota.

13 JACK TRAVELSTEAD: Can I ask staff,  
14 the ASMFC and the Council staff to procure that list  
15 from NFI? So we will get the list, at least the  
16 initial list and see what we can do to keep up with  
17 any changes in that list, the transfers. I assume  
18 they monitor the transfers. So we'll do that,  
19 David.

20 COUNCIL CHAIRMAN RICHARD ROBINS: And  
21 just on this point more broadly, we are in the  
22 middle of a comprehensive programmatic review of the  
23 RSA program within the Council committee, and so I  
24 think that ought to be wrapping up over the next six

1 months I would anticipate.

2 That's among our 2012 priorities, to  
3 complete that project, and that work remains  
4 ongoing. So we are taking a comprehensive look at  
5 the details of the program.

6 JACK TRAVELSTEAD: Let's take a  
7 10-minute break, and then we're going to come back  
8 and talk about Amendment 17 in joint session, and  
9 then following that we'll have about a 20-minute  
10 discussion of the ASMFC addendum that's got to be  
11 coming this way. Adam.

12 ADAM NOWALSKI: Thank you. Just one  
13 last comment. Speaking as a Board member, I want to  
14 express my thanks to the Council here today for  
15 providing us some leeway. We make the decisions.  
16 We make the Board a lot easier by extending these  
17 things. And also the sentiment I've had from a lot  
18 of fishermen in my home state the decisions made  
19 here today are going to be greatly appreciated. I  
20 want to extend my thanks on their behalf. Thank  
21 you.

22 JACK TRAVELSTEAD: Be back in 10  
23 minutes.

24 [Break: 3:40 p.m. to 3:56 p.m.]



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REVIEW AMENDMENT 17 TO THE SUMMER FLOUNDER, SCUP  
AND BLACK SEA BASS FMP ALTERNATIVES

JACK TRAVELSTEAD: Tab 10 for the Council members contains Amendment 17 information. I think, Jessica, you've got the presentation for us.

JESSICA COAKLEY: Yes, I do.

JACK TRAVELSTEAD: Please proceed.

JESSICA COAKLEY: Okay. Greetings again. We're going to talk about Amendment 17 to summer flounder, scup and black sea bass. This amendment was initiated by the Council to address regional and spacial management for the black sea bass recreational fishery and address issues related to the differences in catch rates that have been observed for the fishery.

The FMAT development slowed a bit pending interest in the SAW/SARC results in some of the work that was being done there to see if there was any biological information that could be used to inform the development of this amendment.

And based on that information, it doesn't appear that there's a lot of redefinition of stocks or biological information that would be useful

1       for use at this time.

2               So back in October, the Council  
3       received a brief overview of the alternatives that  
4       are being considered right now under the amendment.  
5       You were provided with a general description of the  
6       types of approaches. So this meeting is an  
7       opportunity now that the Board is here to present  
8       these alternatives, see how the Board feels about  
9       them because if the Commission's board does not  
10      develop a complimentary amendment to the Council's  
11      amendment, the Council can't implement any state-by-  
12      state or regional approaches for managing black sea  
13      bass because the EEZ does not have state-by-state or  
14      regional boundaries.

15             So it really has to be done as a  
16      complimentary action between both groups, and at this  
17      point, only the Council has taken action to move  
18      forward with development on this.

19             So really there's two general  
20      approaches that have been put forward. For the  
21      alternatives for NEPA, we always have to have a no  
22      action, and that no action alternative is coastwide  
23      measures, which are currently in place in both the  
24      Commission and the Council's FMP.

1                   The other alternative which is  
2           described in the document Alternative 2, conservation  
3           equivalency, really just has two flavors here. The  
4           first is state-by-state with voluntary regions,  
5           Alternative 2A; and the second is mandatory regions,  
6           Alternative 2B. So the state-by-state with voluntary  
7           regions is similar to the summer flounder process.  
8           States or voluntary adjacent multi-state regions  
9           would develop recreational measures each year. The  
10          voluntary regions must pool state-specific harvest  
11          limits and set identical measures for the fishery.  
12          That means that we would have to identify through the  
13          amendment state allocations for the recreational  
14          harvest limits. So either a base year or years on  
15          which those allocations can be derived.

16                   For Alternative 2B -- and actually I  
17          should note under the summer flounder process, once  
18          measures are developed, those are provided to the  
19          National Marine Fishery Service, and the Fishery  
20          Service can then consider waiving the measures in  
21          federal waters in lieu of state water landings.

22                   So what's contemplated under this  
23          alternative, again, similar to the summer flounder  
24          process is we move forward on that similar timeline.

1       The states would submit those measures probably in  
2       conjunction with their summer flounder measures that  
3       same timing, and then the feds could waive those  
4       federal waters measures if they're conservation  
5       equivalent, and so you would only have a set of  
6       state-specific measures or regional measures with  
7       those specific harvest limits.

8               The other alternative would be  
9       mandatory regions. This is where fixed regions are  
10      permanently established in both the state and federal  
11      FMPs. So I just put an example here. It could Mass.  
12      through New York; New Jersey to North Carolina. It  
13      could be one of those things where New Jersey's  
14      kicked out separately with another state or North  
15      Carolina is treated separately, but -- you know, some  
16      very specific defined regions of adjacent states.  
17      The measures for those regions would be set in  
18      December jointly, and then the Commission can submit  
19      those measures to NMFS to consider waiving federal  
20      waters measures. So unlike what we did for sea bass  
21      just an hour ago where we had to set federal waters  
22      measures for sea bass and then the states are going  
23      to move forward with the addendum to try to do  
24      something state-by-state, those federal water

1 measures wouldn't need to be set. You would  
2 essentially just be setting measures for those  
3 regions.

4 So at the October meeting, the Council  
5 identified some additional considerations that they  
6 felt were important to be included in the amendment,  
7 and this was based on some input from the FMAT. The  
8 Council asked the FMAT to examine specifically what  
9 has or has not worked for summer flounder, so the  
10 FMAT would move forward to developing some sort of  
11 overview or report on pros and cons of some of the  
12 different features of summer flounder conservation  
13 equivalency. And the Council wanted the FMAT to  
14 consider approaches other than just that summer  
15 flounder model, that there may be better ways to  
16 doing it. And so just taking that model and applying  
17 it. Sea bass might not be the best approach. They  
18 also wanted to see a sunset clause on the management  
19 system to essentially force re-visitation of whatever  
20 system is put in place, be it coastwide or state-by-  
21 state or regional.

22 The Council also wanted to see  
23 allocations based on multiple years, not just a  
24 single base year, and they thought it was important

1 to consider recent fishery dynamics. So there were  
2 examples of possibly looking at combinations of  
3 historical information in conjunction with more  
4 recent information, maybe trying to find ways to rely  
5 on more recent years. But they wanted the FMAT to  
6 explore multiple allocation strategies.

7 And, again, on the allocation part,  
8 the Council had asked that there be some sort of  
9 sunset provision or mechanism to revisit those  
10 allocations once they're set periodically so they're  
11 not set indefinitely and that they don't become  
12 stale, for lack of a better term. So that is a quick  
13 highlight of Amendment 17. I thought we were going  
14 to run long on everything else, so I kept this really  
15 short. So, if you have additional questions, we can  
16 go over that. But one of the main points of bringing  
17 this up at this December meeting is to find if these  
18 are some of the same things that the Board is  
19 interested in examining and if the Board is  
20 interested in moving forward with complementary  
21 action before the Council continues to invest  
22 resources and FMAT work on an amendment at this  
23 point.

24 JACK TRAVELSTEAD: Thanks, Jessica.

1       We're not going to go long. I can promise. Pat.

2                   PAT AUGUSTINE: Thank you, Mr.  
3       Chairman. Jessica, I've been looking for this for  
4       about eight years now, and we're getting close. But  
5       there's one action that I thought about putting down  
6       here: Unfortunately the way we're structured in  
7       individual states, the haves, have nots don't have it  
8       and never will they get it. So it just seems to me  
9       that one of the additional conservation equivalencies  
10      that should be vetted is that if you decide to go  
11      with conservation equivalency that there should be  
12      mandatory regional considerations, meaning that in  
13      regard to wherever the fisheries are moving to in all  
14      fairness to all the other states contiguous or  
15      otherwise, that there could be three, four, five  
16      elements identified under the case where you had  
17      conservation equivalency that in fairness to the  
18      other states that the Council could actually say,  
19      hey, look, you meet these other criteria, so we as a  
20      Council, individual members, 21 of us, could vote  
21      that if you're going to go conservation equivalency,  
22      you will abide by one of these regional concepts.

23                   Now, it may be foreign to some of you,  
24      but we've had the ability to voluntary regional

1        formations from Day 1. It's never happened, and my  
2        humbler opinion it never will happen. Fortunately,  
3        with scup we're able to do that. Summer flounder I  
4        don't ever see it happening. So, again, briefly  
5        stated: Another alternative conservation  
6        equivalency/mandatory regional formation. And I  
7        don't know if the group talked about it or did not,  
8        but it sure --

9                JACK TRAVELSTEAD: It's in there, Pat.  
10        It's in there.

11               PAT AUGUSTINE: Thank you Mr.  
12        Chairman.

13               PAT AUGUSTINE: Rick.

14               COUNCIL CHAIRMAN RICHARD ROBINS:  
15        Thank you. I just wanted to follow up on the earlier  
16        discussion we had with the Council about Amendment  
17        17. Jessica said the FMAT asked a number of  
18        questions, I believe, or posed a number of questions  
19        back to the Council, and we reflected on those; we  
20        had a lot of discussion about the experience that  
21        we've had over the years with summer flounder  
22        conservation equivalency and some of the benefits of  
23        that but also some of the consequences and things we  
24        wanted to avoid going forward. But the FMAT also



24 JESSICA COAKLEY: Yeah. Thanks, Rick,

1       for pointing that out. That was one of the things  
2       that I didn't detail at length. The FMAT presented  
3       information to Council in October that spoke to some  
4       recent literature and information about protogynous  
5       hermaphrodites that suggests minimum size regulations  
6       and the way that they're presently applied and open  
7       fishing seasons during spawning may reduce stock  
8       productivity and spawning success. And so these  
9       studies there was a couple at all 2006 -- 2010 and  
10      some of these others that we had presented. And with  
11      the minimum size, one of the concerns was that  
12      minimum sizes have increased particularly during  
13      spawning season if those dominant males are removed  
14      while that spawning behavior is occurring, it could  
15      be disruptive to the identity of the complex, the  
16      harem.

17                   In some cases a female needs to  
18      transition to become a male in order to spawn for  
19      that group. There's a whole variety of things that  
20      could go on. And (inaudible) in particular had  
21      suggested that applying minimum sizes in a way that  
22      allowed for more balance harvesting of the sex  
23      ratios, not just taking those dominant males, but  
24      also taking fish from some of the other size

1 categories may be reasonable managing for better  
2 balance there, not applying those minimum size  
3 approaches and using quota monitoring, catch limits  
4 or time area closures may be more appropriate.

5 So one of the things the Monitoring  
6 Committee or FMAT -- excuse me -- had suggested to  
7 the Council was even though right now a lot of these  
8 are theoretical, it may be worth exploring the three  
9 tools that we have in the toolbox that already exist  
10 -- minimum size, possession limit and seasons, and  
11 how in combination those could potentially be  
12 modified in a way that could improve productivity may  
13 be beneficial in a couple of different ways.

14 We've had issues raised on minimum  
15 size and some of the literature suggests that the  
16 minimum sizes aren't really a very good tool for  
17 protecting protogynous hermaphrodites the way that  
18 they're being applied. So maybe looking at the  
19 minimum sizes differently or looking at how the  
20 possession limits are applied may be one step.

21 The season component may be another  
22 part that may be worth exploring, and potential time  
23 area closures may be another potential thing to  
24 explore. So the Council had indicated to the FMAT

1       that this was something that they were interested in  
2       exploring. And, like I said, right now with the FMAT  
3       it's theoretical. We were just talking about these  
4       approaches. We would need to get together with the  
5       appropriate technical people to try to work through  
6       some of the information that's available and what  
7       some of those potential options might be or what they  
8       might look like for the Council to consider. So I  
9       guess that pretty much covers what we had discussed.

10               JACK TRAVELSTEAD: Thank you. Jim.

11               JAMES GILMORE: Yes, Mr. Chairman.

12       Jessica, just one comment. And it was on I think we  
13       need to clarify, define sunset clause because when we  
14       first started this -- and I think it was maybe a year  
15       or two ago we first put it into spiny dogfish -- my  
16       interpretation was that you pick a time period, maybe  
17       you do it for two or three years, and then the thing  
18       sunsets, and then you need to re-evaluate all the  
19       data baseline, whatever; but then after thinking  
20       about it and actually somebody suggested, well, what  
21       we could do is essentially take the same plan and  
22       every year just re-vote it back in again. It sunsets  
23       every year. But that's not what the intent was. So  
24       I hope that the former thing I described is what most

1 people are thinking of is that we need to reevaluate  
2 the data at the end of the sunset not just have an  
3 annual vote to do the same thing. So as long as we  
4 clarify that at some point I think it would be  
5 helpful. Thanks.

6 JACK TRAVELSTEAD: Other comments,  
7 questions? I guess, Jessica, what are you looking  
8 for from the Board? Are you looking for a motion  
9 that the Board would initiate a like addendum, or  
10 just endorsement of the concept at this point? Toni,  
11 you want to comment on that?

12 TONI KERNS: If we're not aligned with  
13 what the Council is doing, we can initiate a like  
14 addendum. We can do this through the addendum  
15 process. It would be most fluid if we did a like  
16 amendment, but they've already started their  
17 amendment process and scoped, so we would be behind.

18 We haven't scoped. And so, if we wanted to move  
19 forward together, then we could just do an addendum.

20 JACK TRAVELSTEAD: David.

21 DAVID PIERCE: Regarding the addendum,  
22 following along the lines of the FMAT options on the  
23 screen, I can certainly understand why the FMAT would  
24 offer up Alternative 2B -- maybe it was the Council

1       that did that; I'm not sure now -- to go with  
2       mandatory regions, but my goodness, ASMFC this Board  
3       has dealt with that concept for it seems like 10  
4       years off and on, certainly the last five years  
5       whether it be scup or whether sea bass or fluke.  
6       Mandatory regions just don't seem to work because the  
7       fisheries in the different states seem to be so  
8       different in terms of when the fisheries begin, when  
9       the fish arrive.

10               So mandatory regions as an addendum  
11       option if we were to move forward with an addendum I  
12       suspect would not be very successful. I still prefer  
13       the voluntary region aspect of how we do business. I  
14       know that doesn't work very well for the state of New  
15       Jersey and New York because of the great differences  
16       between those two states relative to the different  
17       measures in place right now. And I just can't see in  
18       almost any instance where those two states could get  
19       on the same page with recreational limits. Maybe I'm  
20       being too pessimistic.

21               But, anyways, I don't favor -- I would  
22       not provide any blessing, so to speak, that I would  
23       favor any addendum that we have any mandatory regions  
24       as an option. And relative to the other point that

1       you made about uniqueness of black sea bass  
2       pertaining to hermaphrodites -- dominant males  
3       seemingly forming harems. If the dominant males are  
4       removed, then we'll find females transitioning to  
5       become males. I would certainly like to see more  
6       investigation into how we can provide more protection  
7       for the dominant males because I do subscribe to the  
8       fact that fisheries that take the biggest fish, the  
9       dominant males in particular, are bound to have some  
10      negative impact on spawning success of this temperate  
11      reef fish.

12                        So I'd like to see some sort of an  
13      ability to allow states to actually implement  
14      restrictions that would provide for a slot limit of  
15      sizes where fish could be taken within some  
16      intermediate range; below a certain size, no, and  
17      above a certain size, no, to provide that measure of  
18      protection for those large, large males. Whether or  
19      not it's a viable option, hard to say, but I think  
20      until we can actually accomplish that sort of a  
21      strategy for black sea bass, we're never going to be  
22      in a position to convince the SSC and others that we  
23      actually are in a meaningful way beginning to reduce  
24      uncertainty relative to the impacts of this unique

1       life history of black sea bass.

2               We'll always find ourselves having to  
3       put in an extra layer of caution to account for that  
4       likelihood that cropping off the large males is bound  
5       to be, well, a practice that we should not continue.

6               JACK TRAVELSTEAD:   Red.

7               RED MUNDEN:   Yes.   Thank you, Mr.  
8       Chairman.   I agree with some of the points that Dr.  
9       Pierce made.   Going back to the suggestion by Mr.  
10      Augustine that one of the options would be  
11      conservation equivalency with mandatory regions, that  
12      seems to undermine the concept of conservation  
13      equivalency where a state can implement measures for  
14      a specific forage fishery.   Also, I do support the  
15      concept of spawning season closures, but last week at  
16      the South Atlantic Council meeting, the South  
17      Atlantic rejected spawning season closures for black  
18      sea bass in Amendment 19, which is under development,  
19      because they said it didn't really work for the South  
20      Atlantic because black sea bass were spawning around  
21      February in Florida, and then as the spring season  
22      comes, they work their way up, and off North Carolina  
23      they're spawning during April or May.   So, Jessica,  
24      are you aware of anything like that in the Mid-



1 Atlantic?

2 JESSICA COAKLEY: Yeah. It is  
3 something that the FMAT has talked about and the fact  
4 that the timing of the spawning is different as you  
5 go up the coast, but, again, it's something that the  
6 FMAT hasn't invested a tremendous amount of work into  
7 it at this point. We would need to dig more into the  
8 information that's available and explore how we can  
9 use some of those tools in different ways. We  
10 presented this conceptually to the Council and Board:  
11 Is this something you want to explore? And then  
12 we'd have to go back and really do the work with some  
13 people from the Center and do more exploration.

14 JACK TRAVELSTEAD: Red.

15 RED MUNDEN: And as a follow-up, Mr.  
16 Chairman, the South Atlantic has implemented spawning  
17 season closures for some species, particularly the  
18 (inaudible) group, so they are moving ahead with some  
19 species, but for some reason they didn't feel like it  
20 was very workable for black sea bass.

21 JACK TRAVELSTEAD: Other comments? Is  
22 there support from the Board to proceeding with the  
23 like addendum? I guess that's the one remaining  
24 question. Steve.

1                   STEVEN HEINS: I just wanted to  
2           comment sort of following up on some of the comments  
3           that have already been made about state-by-state  
4           versus mandatory regions. I don't even know if the  
5           PSEs on the estimates support state-by-state right  
6           now, and with the new MREP survey, we're going to get  
7           those new estimates next year.

8                   I don't even know if mandatory regions  
9           would work working with the data that we have. I  
10          think we have to wait and see and analyze the data.  
11          So I don't support taking anything out of this  
12          amendment right now. I just wanted to make that  
13          point. Thanks.

14                   JACK TRAVELSTEAD: Rick.

15                   PAT AUGUSTINE: Oh, you want to do it?

16                   COUNCIL CHAIRMAN RICHARD ROBINS: One  
17          other point that hadn't been discussed much: When we  
18          initially considered moving forward with this, there  
19          were different thoughts about whether to be a  
20          regional approach or state-by-state, etcetera, just  
21          in terms of what type of contrast you wanted to have  
22          in the options. But one of the issues related back  
23          to the potential stock structure and the fact that  
24          the tagging evidence suggest that there are

1       significant movements and if not necessarily a  
2       genetic stock structure, there are at least some  
3       demographic patterns of movement within the  
4       population. And we don't have any tools in place  
5       currently in the Council plan to address that, so.

6               Part of it was to put us in a better  
7       position to be able to consider those factors and the  
8       fact that, again, some of the population dynamics  
9       appear to be shifting, and we're just not in a  
10      position to account for those differentials in  
11      performance of the fishery. And the FMAT's looked at  
12      that, and they said there's not a lot of evidence at  
13      least from a genetic standpoint, and Dr. Boreman's  
14      not with us, but at the last discussion we had, he  
15      did point out the fact that that genetic homogeneity  
16      can actually mask some of the important movements  
17      within the stock that I think are revealed through  
18      some of the tagging information.

19             So there's still some other lines of  
20      evidence like that that need to feed into the  
21      discussion as well. I think that's what led to the  
22      first conversation about having a regional approach  
23      to management recognizing that there's going to be  
24      pros and cons of regional versus state-by-state, but

1       it seems like if we're going to move forward, it  
2       would at least be beneficial to have some range of  
3       options for conceptual approaches to how to structure  
4       that.

5                   JACK TRAVELSTEAD:   Jim.

6                   JAMES WEINBERG:   Yeah.   Relevant to  
7       that, at the SARC, they were talking about this  
8       question of stock structure and whether it would be  
9       possible to recommend different management units, and  
10      they concluded that it's a very complicated situation  
11      and that the amount of data that we currently have  
12      doesn't support that kind of management.   And it also  
13      isn't adequate to do from a stock assessment  
14      perspective, we don't have adequate data to divide it  
15      up into the small spacial scale that the fish seem to  
16      geographically do their thing at.

17                   So the message coming out of the SARC  
18      was that if this is going to be possible in the  
19      future, it will require a lot more data of the type  
20      that we don't have, and it's not likely to be  
21      something that can be fixed in the short term.   It  
22      would require a real investment of resources into  
23      collecting new data, perhaps new dedicated surveys  
24      and more on the three-to-five-year timeline rather

1       than expecting this next year.

2                   JACK TRAVELSTEAD:   Pat.

3                   PAT AUGUSTINE:   Thank you for that.

4       But, again, talking about mandatory regional, you  
5       made my point very eloquently, Rick.  When I referred  
6       back and thought about the work that Steve Morowski  
7       was doing and identified six or eight coastal areas  
8       that were regional management units where species of  
9       fish congregated, I thought sooner or later maybe the  
10      next 20 years we would consider mandatory regional  
11      areas such as that.  And in order for it to go  
12      through this process, it will take another five to  
13      ten years just to get it in the pipeline let alone  
14      get the regulations in place.

15                  So I still believe that we need to  
16      consider some form of mandatory regional management,  
17      whether it's just a line option in here that gives  
18      the Council in later years the opportunity to pull  
19      that out and say we can develop that as a possible  
20      tool.  And with that I'd like to make that motion,  
21      Mr. Chairman, if you want to move forward and suggest  
22      we create an addendum that mirrors the Amendment 17  
23      with the elements that we discussed today.\*\*

24                  JACK TRAVELSTEAD:   That's fine.  Let's

1       get it on the screen. Is there a second to that  
2       motion? Well, I guess this is Board business. You  
3       should handle that. Right?

4                 DAVID SIMPSON: So is there a second  
5       to Pat's motion from the Board? Second by Jack  
6       Travelstead. Discussion? David Pierce.

7                 DAVID PIERCE: I can see how having  
8       mandatory regional management might make sense if  
9       indeed there was a very distinct separation of black  
10      sea bass, meaning a northern group, a southern group,  
11      a Mid-Atlantic group, a New England group so that we  
12      would all be as a region responsible for managing a  
13      relatively distinct definable group of fish that  
14      intermixes in a relatively minor way with the rest of  
15      the black sea bass. I could see this approach if  
16      indeed we had that situation. But Jim has already  
17      indicated what was concluded at the SARC and actually  
18      not so much at the SARC I guess, but more by the  
19      working group.

20                The working group prepared the working  
21      paper for peer review, gave it a great summary  
22      relative to a term of reference that was established  
23      for it, a great summary of what is there. It would  
24      help us conclude there is or there is not, there are

1 different groups or different substocks of black sea  
2 bass. And it's just not there. They make it very  
3 clear that the tagging data, growth curves,  
4 (inaudible) analyses and genetic studies indicate  
5 that the northern stock of black sea bass, that is  
6 north of Cape Hatteras, shows a (inaudible) gradient  
7 north and south, but there's not enough evidence to  
8 further divide the northern stock into sub units.  
9 And it goes on from there.

10 Plus I know from the tagging work that  
11 my agency has done in Nantucket Sound going back a  
12 few years, more than a few years, that in many of the  
13 sea bass that are tagged in the spring, the summer  
14 and the fall in Nantucket Sound wind their way off of  
15 North Carolina, off of Virginia, off of North  
16 Carolina in deeper waters during the wintertime. So  
17 a mix. There's absolutely no evidence for specific  
18 groups or units or substock. So without that  
19 information in hand, without convincing evidence, I  
20 really can't support moving forward with an amendment  
21 as an option that would require mandatory regional  
22 management.

23 DAVID SIMPSON: Thanks, David. Any  
24 other comment on this motion? All right. Well,

1       seeing none, need a minute to caucus? Jersey, you  
2       need to caucus? Okay. All right.

3                       (Motion as voted.)

4       {Move to develop a Commission addendum to mirror the  
5       Council Amendment 17.}

6                       DAVID SIMPSON: All those in favor  
7       raise your hand.

8                       (Response)

9                       DAVID SIMPSON: Eight in favor.  
10      Opposed?

11                      (Response)

12                      DAVID SIMPSON: One. One opposed.  
13      Any null votes?

14                      (No Response)

15                      DAVID SIMPSON: Any abstentions?

16                      (No Response)

17                      DAVID SIMPSON: The motion carries  
18      eight-one.

19                      TONI KERNS: What's the timeframe on  
20      the movement of addendum on Amendment 17?

21                      JESSICA COAKLEY: Well, that's an  
22      excellent question, Toni. The timeframe actually  
23      slowed up partly because of a lot of the spec  
24      activity this fall, so there hasn't been development



1       since the Council reviewed this information in  
2       October.  Though, I think that the best next step  
3       would be for the FMAT to get together and reorganize  
4       the timeline that we have in the action plan, and we  
5       can provide that action plan in February to the  
6       Council, and we can pass that on to the Commission's  
7       board for their meeting as well and lay out what our  
8       expected timeline for development may be.  I'm leary  
9       to suggest time lines without really talking to  
10      everyone who will be involved.

11                 DAVID SIMPSON:  David.

12                 DAVID PIERCE:  So this addendum then  
13       would have a number of options related to regional  
14       management, such as for the recreational fishery for  
15       black sea bass the states of New York, Connecticut,  
16       Rhode Island and Massachusetts would be obliged to  
17       implement the same measures for the recreational  
18       fishery.  And as another option New Jersey, New York  
19       would have requirement to implement the same measures  
20       or New Jersey, New York, Connecticut, Rhode Island  
21       and Massachusetts the same measures.  Right?  If  
22       that's the case, good luck with that.

23                 TONI KERNS:  David, there's two -- as  
24       you can see from the slide up there, there's two

1 options. One is that it's similar to summer  
2 flounder, scup, black sea bass where we vote for  
3 conservation equivalency and through that then the  
4 states can either do state-by-state measures or the  
5 voluntary regions. The other alternative within the  
6 document is some sort of mandatory regions, but those  
7 mandatory regions have not been developed by the FMAT  
8 yet, so potentially those could be options. Just so  
9 that I make sure that everybody's expectations are  
10 clear on the board, since we are mirroring the  
11 Council's amendment, that means that our timeframe  
12 will also mirror their timeframe, so don't expect a  
13 draft addendum in February.

14 JACK TRAVELSTEAD: I think that's  
15 clear, in my opinion anyway. Any further discussion  
16 on this Amendment 17? Seeing none, I guess we're  
17 finished with that item. Now, there was a request by  
18 the Board to continue some discussion on the  
19 addendum, the sea bass addendum.

20 COUNCIL CHAIRMAN RICHARD ROBINS:  
21 Yeah, if I may. The Board has requested about  
22 probably 20 minutes roughly to try to hammer out a  
23 strawman relative to the sea bass addendum. I would  
24 just say that the Council can stand at ease or take a

1 break if you want to, but after that I would like to  
2 try to come back at least take some reports that we  
3 would do tomorrow, for example, the regional  
4 administrator's report, and then we have a 5:30  
5 listening session. So I'd like to go ahead and take  
6 advantage of the remaining time this afternoon, if we  
7 can, to take some reports, and that will shorten the  
8 day up for tomorrow. So with that, I'll hand it back  
9 over to Dave. And thanks again to Jack Travelstead  
10 who always serves the Council and Commission so  
11 effectively in this meeting every year. I appreciate  
12 his leadership on the Council. Pete.

13 PETER HIMCHAK: Mr. Chairman, I have a  
14 special request in light of how complicated this day  
15 has been. I know that you get a press release that  
16 comes out and gives the bottom line of the decision-  
17 making process. How hard would it be to get the list  
18 of motions and get them mailed out, e-mailed out on  
19 fast track because a lot has to happen between now.  
20 We have a Marine Fisheries Council meeting coming up  
21 January 5th, and a press release doesn't give me as  
22 much detail as the actual rundown of the motions that  
23 show up in a briefing book.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Chris is telling me that we can have it to you Friday  
2 afternoon.

3 PETER HIMCHAK: That would be  
4 wonderful, thank you Sir.

5 COUNCIL CHAIRMAN RICHARD ROBINS: All  
6 right, Pete. Peter.

7 PETER deFUR: Thank you, Mr. Chairman.

8 In light of our discussion earlier about resources  
9 that had to be shared between the New England Council  
10 and our council and the extent to which we struggle  
11 for that bit of competition, it occurs to me that one  
12 way to resolve that competitive impasse is to have a  
13 cook-off between our council chair and the New  
14 England Council chair. I'm sure that we would win.

15 COUNCIL CHAIRMAN RICHARD ROBINS: All  
16 right, Peter. The Iron Chef 2. Right? With that I  
17 will turn to David Simpson. And, again, the Board's  
18 going to work out a strawman, and the Council can be  
19 at ease while they do that, and then we'll come back  
20 and take some reports. Thank you.

21 [Break 4:33 p.m. to 5:14 p.m.]

22 COUNCIL CHAIRMAN RICHARD ROBINS:  
23 Thank you, Chris. Okay. Again, I wanted to go ahead  
24 and try to take a couple reports to see if we could

1 work through some of tomorrow's agenda. So I'll look  
2 to Pat Kurkul with the Regional Administrator's  
3 Report. Pat.

---

4  
5 NMFS REGIONAL ADMINISTRATOR'S REPORT

6 PATRICIA KURKUL: Thank you, Mr.  
7 Chair. Starting with mackerel, squid and butterfish,  
8 the final rule for Amendment 11 published in the  
9 Federal Register on November 7th. This is the rule  
10 that establishes a limited access program in the  
11 mackerel fishery, so it kicks off the time period  
12 where people are to apply for their permits, their  
13 limited access permits.

14 The limited access permits are  
15 required beginning March 1, 2012, and so to ensure  
16 that you can get a permit by that date, assuming we  
17 have all the information and you provide all the  
18 information, applications need to be submitted by  
19 January 31st. Now, that's only the deadline for  
20 ensuring that you have a permit by March 1, 2012.  
21 The application period itself actually extends for a  
22 full year. Let's see.

23 We want to remind you that cost  
24 recovery in the tilefish IFQ fishery runs on the

1 calendar year, and so the second year of this program  
2 will conclude at the end of the month. Cost recovery  
3 bills will be issued to allocation holders in  
4 February based on the cost of managing the fishery  
5 and the value of tilefish landings during 2011.

6 The Period 2 commercial spiny dogfish  
7 season opened on November 1st and will go through  
8 April 30th. This is in federal waters. And that is  
9 assuming that the quota is not taken before April  
10 30th. We actually think we're on a track where it  
11 might be. The quota for the period is approximately  
12 8.4 -- I'm sorry -- It's 8,420,000 pounds with a  
13 3,000 pound trip limit; however reminder that the  
14 spiny dogfish fishery is closed in state waters for  
15 the states of Maine through Connecticut under the  
16 ASMFC's FMP for dogfish. And that's until May 1.

17 Cost recovery in the sea scallop  
18 fishery, the 2011 cost recovery fee period for  
19 limited access general category scallop quota holders  
20 ended on September 30th. So the cost recovery bills  
21 were sent out on November 9th, and payments will be  
22 due on January 1st. The bills amounted to .2948  
23 percent of the ex-vessel value of IFQ scallops they  
24 landed during the period. The bills ranged from --

1 we didn't actually send out bills for less than \$10.  
2 So bills range from slightly more than \$10 to up a  
3 little bit over \$2,000.

4 The Hudson Canyon scallop access area  
5 closed to general category scallop trips effective on  
6 November 12th, so IFQ scallop vessels may not fish in  
7 that area until March 1st. Let's see.

8 On skates. On October 28th we  
9 published a temporary rule to implement an emergency  
10 increase in the fishery for 2011, for the catch  
11 limits for 2011 in the skate fishery again. So  
12 effective November 28th the rule increased the annual  
13 catch limit by 23 percent. The resulting catch limit  
14 was 111 million pounds. It also increased the total  
15 allowable landings by 56 percent, so it went up to 48  
16 million pounds.

17 We have been petitioned by the Natural  
18 Resources Defense Council to list river herring as  
19 threatened under the ESA. The Northeast has the lead  
20 on the response to this petition. A positive 90 day  
21 finding indicating the petition action may be  
22 warranted was published in the Federal Register on  
23 November 2nd. We've initiated the status review of  
24 the species and will be relying heavily on the

1 results of the ongoing stock assessment that the  
2 Commission is undertaking. A determination as to  
3 whether either of the species, that is blueback or  
4 alewives warrants listing under the ESA is due by  
5 August 5, 2012.

6 We have renewed the temporary PSP  
7 closure in federal waters which has been effective  
8 since 2005. The closure is renewed annually, and the  
9 current closure was scheduled to expire on December  
10 31st. So it will be in effect for the 2012 calendar  
11 year.

12 And then finally, I just wanted to let  
13 you know that the recruitment for the Regional  
14 Administrator and the Center Director positions are  
15 ongoing. The vacancy announcements for those, the  
16 job openings for those closed I think it was about  
17 two weeks ago, so NOAA's in the process of moving  
18 through the applicants for those positions. I expect  
19 that fisheries will have a recommendation on those  
20 positions fairly early in the start of the calendar  
21 year. After that it's hard to say exactly what will  
22 happen and how long it will take.

23 So I wanted to let you know that in  
24 the interim George would be covering the Council



1 meetings, George Darcy would be covering the Council  
2 Meetings, and that Dan Morris who's Deputy Regional  
3 Administrator right now will be the Acting Regional  
4 Administrator. That's all I have.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you, Pat. It has been a great pleasure serving  
7 with you.

8 PATRICIA KURKUL: Thank you very much.

9 [Applause.]

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Questions for Pat of her report? Jim.

12 JAMES FLETCHER: The general category  
13 received a statement for the amount of money that  
14 they owed. If they pay that statement, will the  
15 fisheries agree that that's all that they owe for the  
16 year? In other words, the reason I'm asking this  
17 question: It has become evident that somebody has  
18 made a mathematical mistake, and on the record I want  
19 that whatever the fishermen paid to date or before  
20 January 1st is all they owe for last year.

21 COUNCIL CHAIRMAN RICHARD ROBINS: I

22 think the short answer is no. I'm not aware of what  
23 you're talking about on the mathematical mistake, so  
24 I'd certainly like to know more about what you think

1 the problem is. The bills that we sent out if  
2 everyone pays those bills, then it guarantees that  
3 their permits will be renewed for the 2012 fishing  
4 year. If in fact there's a major mistake, then I'm  
5 not exactly sure how we would handle it. Of course,  
6 this is a new program for us. But I can't say that  
7 we're not going to correct any error that might have  
8 occurred.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
10 other questions for Pat? Okay. Seeing none, if we  
11 can go to Joel MacDonald for the general counsel  
12 report. Joel.

13  
14 NOAA OFFICE OF GENERAL COUNSEL REPORT

15 JOEL MACDONALD: Thank you, Mr.  
16 Chairman. I just have some procedural matters to  
17 bring to your attention just to keep the Council up  
18 to date on what's going on on the litigation front.  
19 In Oceanna versus Brison, you will recall that's the  
20 most recent suit on the Omnibus Amendment. We're  
21 supposed to file the administrative record and the  
22 answer this Friday. We've asked the court for an  
23 extension of 30 days to file the administrative  
24 record, to which the plaintiffs have agreed. And my

1 understanding is the court has issued a minute order  
2 in the last couple days granting that motion.

3 In Martha's Vineyard/Dukes County  
4 Fishermen's Association versus Locke, that was the  
5 challenge to the Agency and the ASMFC regarding shad  
6 and river herring. The allegations in essence were  
7 that we had failed to manage shad and river herring  
8 as required by the Magnuson Act and also alleged that  
9 the ASMFC's interstate plan for shad and river  
10 herring was ineffective.

11 We had gotten the court to agree that  
12 dismissal is warranted because the plaintiffs failed  
13 to state a cause of action. Their allegation's that  
14 the Magnuson Act and the Atlantic Coastal Act propose  
15 a positive legal duty on the Agency to take action.  
16 The court did not agree with that. And the  
17 plaintiffs have filed a notice of appeal I believe on  
18 November 2nd.

19 Another shad and river herring case is  
20 Flaherty versus Locke. That's a case that challenged  
21 Amendment 4 to the Herring Plan, in essence alleging  
22 that the amendment should have designated shad and  
23 river herring as stocks in the fishery and set ACLs  
24 and AMS for them, and we have filed our cross-motion

1 for summary judgement on October 7th. The  
2 plaintiff's reply in opposition to our motion was  
3 filed on October 28th. We have filed a reply to the  
4 previous plaintiff's motion on November 18th.

5 You may recall there was a case called  
6 The General Category Scallop Case. It was a case  
7 involving a number of plaintiffs. I believe there  
8 were about 17 fishermen. And they had alleged that  
9 Amendment 11 to the scallop plan -- and you may  
10 recall that that established a limited access program  
11 for the general category in the scallop fishery --  
12 they alleged that it was unlawful, violated several  
13 national standards of the Magnuson Act and the  
14 Constitution. The district court found in our favor,  
15 and the plaintiffs appealed that, and they lost on  
16 appeal, so everything was resolved in our favor.

17 At the same time as this general  
18 category scallop case was going on, there were three  
19 other lawsuits filed that were virtually identical.  
20 There was Miguel versus Locke, McCullough versus  
21 Locke, both filed in the state of New Jersey. And  
22 there was another case filed in the state of Maryland  
23 called Hahn versus Locke. And we have recently --  
24 the court essentially continued those cases until

1       there was -- you know, a decision in the general  
2       category case, and lately we had gotten both the  
3       Miguel and McCullough cases dismissed in the District  
4       court for the state of New Jersey and we had just  
5       filed a motion to dismiss the Hahn case in Maryland.

6               The Hahn case I believe, also involved  
7       the issue of whether the plaintiffs filed a lawsuit  
8       late. You may remember that in section 305 of the  
9       Magnesun Act there's what's know as the statue of  
10      limitation that if you want to bring a lawsuit  
11      against an action that the Agency publishes in the  
12      Federal Register, you have to file it within 30 days  
13      of that date; and I believe Hahn did not file within  
14      that time period -- at least that's one of the  
15      arguments that we're making.

16             There were actually two lawsuits filed  
17      on August 3rd and 4th in the Federal District Court  
18      in Washington, D.C., one by the Humane Society of the  
19      United States and the other by Wild Earth Guardians  
20      challenging a (inaudible) making a negative finding  
21      on the 90 day requirement to come to some sort of  
22      conclusion on whether a petition to list porbeagles  
23      under the Endangered Species Act presented enough  
24      information that the listing of those species may be

1 warranted under the Endangered Species Act. Our  
2 determination was in the negative. We got sued on  
3 that. We have filed a motion to consolidate those  
4 two cases, and the court to my knowledge has not  
5 ruled on that.

6 There is also another case that the  
7 plaintiffs I think want consolidated with those other  
8 two cases and that involves the challenge to the NMFS  
9 decision to not declare porbeagle a species of  
10 concern under the Endangered Species Act, and we're  
11 not sure how that's going to go. We're not going to  
12 oppose it. On November 7th we filed our answer in  
13 the Humane Society case. We're waiting to see what  
14 the court does with that, whether we'll have to file  
15 a separate answer in the Guardian case or not.

16 In the Amendment 16 lawsuit you may  
17 recall there was a couple of those that were  
18 consolidated, one being Lovgren and other plaintiffs  
19 and the other the City of New Bedford. The  
20 plaintiffs appealed that decision which was in our  
21 favor at the district court level, and they are  
22 scheduled to file their briefs by December 21st. And  
23 the government's supposed to file its brief 30 days  
24 after that date.

1                   And I believe there is also another  
2                   case called Western Sea versus Gutierrez. That  
3                   involved a case that challenged I believe Amendment  
4                   4, the Herring Plan. It was a very narrow issue.  
5                   You may recall that there's a permit splitting  
6                   provision that's in the regulations. The Herring  
7                   Plan did a little tweak on it, but essentially  
8                   repeated it. But the court found that was  
9                   indefensible, and the court actually ordered us to  
10                  issue permits to I think three of those vessels that  
11                  were owned by the plaintiffs.

12                  I think at least one of those vessels  
13                  doesn't meet the qualifying criteria, so it kind of  
14                  put us in a quandary. We sought vacatur of the  
15                  decision that was granted. We tried to reach a  
16                  settlement with the plaintiffs that involved the  
17                  provision that both parties would seek vacatur of the  
18                  decision by the court and that we would issue permits  
19                  to a number of the plaintiff's vessel. We are  
20                  essentially going to not abandon, but at least not  
21                  pursue the vacatur of the decision and settlement  
22                  agreement. So we're looking to settle that and deal  
23                  with the aftermath in due course. And that's it, Mr.  
24                  Chairman.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Joel. Questions for Joel of his report?  
3 Lee.

4 LEE ANDERSON: Mr. Chairman, do we  
5 have enough time to do this and still get the talk  
6 session in, or should I wait until tomorrow?

7 COUNCIL CHAIRMAN RICHARD ROBINS: What  
8 do you have?

9 LEE ANDERSON: Well, I have a brief  
10 question. I didn't want to --

11 COUNCIL CHAIRMAN RICHARD ROBINS: No.  
12 Go ahead with your question.

13 LEE ANDERSON: Okay. Joel, it's a  
14 short question I hope. In the one case you talked  
15 about -- I forget the name of it, what the suit was  
16 about, that we didn't include river herring as stock  
17 in the fishery.

18 JOEL MACDONALD: Right.

19 LEE ANDERSON: You said you asked for  
20 a summary dismissal. May I have a short reason: I  
21 want a summary dismissal because. What was your  
22 basic reason for asking for a dismissal?

23 JOEL MACDONALD: I think what you're  
24 talking about is the Martha's Vineyard case. It was



1       they were alleging that we didn't manage shad and  
2       river herring as we were supposed to under the  
3       Magnuson Act. And if you look at the Magnuson Act,  
4       it says the secretary may. And they also pointed to  
5       the Atlantic Coastal Act saying we had an obligation  
6       to publish complimentary regulations to the  
7       Commission's regulations implementing their  
8       interstate plan. Well, if you look at the Atlantic  
9       Coastal Act, it doesn't say that. It's a  
10      discretionary provision.

11               So what we argued to the court was  
12      there's no legal obligation here, and the plaintiffs  
13      have really failed to show a cause of action. We  
14      didn't violate any obligation. And the court agreed  
15      with us that the plaintiffs really didn't have a  
16      cause of action because they didn't have any  
17      statutory obligation they could point to saying that  
18      we violated this.

19               LEE ANDERSON: If I could follow up  
20      then. The ocean conservancy suit has the similar  
21      thing I think, that river herring wasn't included as  
22      a stock in the fishery. Is there any relation  
23      between those two that were dismissed? Would this  
24      other one be dismissed?

1 JOEL MACDONALD: We briefed that one.  
2 That was a different type of lawsuit. They were  
3 alleging that the Amendment 4 should have designated  
4 shad and river herring as stocks in the fishery and  
5 set ALs, ACLs and AMs for them. And they're going on  
6 certain provisions of the Magnuson Act. You know,  
7 you can argue both ways on that whether we have an  
8 obligation to do that. If you look at the guidelines  
9 on National Standard 1, it's very clear that it's  
10 within the discretion of the Council as to what  
11 stocks they will consider stocks in the fishery. And  
12 bring your minds back to when we're doing the Omnibus  
13 Amendment. You made a global decision at the outset  
14 that we were only going to include those fisheries  
15 that we managed currently in all our FMPs, directly  
16 managed as stocks in the fishery.

17 That automatically caused us not to  
18 consider any nontarget bycatch species as stocks in  
19 the fishery. We have an initiative under foot in one  
20 of the amendments to consider I think it's Amendment  
21 14, to consider measures to deal with shad and river  
22 herring. I think one of the alternatives still in  
23 there is that they be stocks in the fishery. The New  
24 England Council -- I think another of the

1 alternatives is to treat them with bycatch measures  
2 'cause they're certainly bycatch in the fishery. And  
3 if you look at National Standard 9, there's an  
4 obligation on the Council and the Agency to deal with  
5 bycatch to the extent that it's practicable. So  
6 that's what we're doing.

7 The New England Council has companion  
8 measures, if you will, I think in Amendment 5 to  
9 herring. I don't think they have an alternative that  
10 would deal with those two species as stocks in the  
11 fishery. I'm not sure of that, but that's my  
12 understanding. But they will deal with it on a  
13 bycatch basis. So we're going in parallel fashion to  
14 deal with shad and river herring in the context of  
15 the Magnuson Act. Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Thank you, Joel. Any other questions for Joel on his  
18 report? Okay. Seeing none, we're adjourned, and  
19 we're going to go ahead and start our listening  
20 session. We are scheduled for a 5:30 listening  
21 session. I don't know that that's going to take very  
22 long, but we'll go ahead and do that, and then  
23 hospitality, as Chris said, will be in Building 7,  
24 Room 7031. So Building 7, Room 7031. And after that

1           we'll convene tomorrow at 8:30 in the morning.

2

3           WHEREUPON:

4

5                   THE MEETING WAS SUSPENDED AT 5:37 P.M.

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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 29th, day of January, 2011.

\_\_\_\_\_  
PAUL T. WALLACE. Notary Public  
My Commission Expires

October 8, 2015

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Pages: 1-146

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

COUNCIL MEETING

13-15 DECEMBER 2011

at

Kingsmill  
1010 Kingsmill Road  
Williamsburg, VA 23185

THURSDAY DECEMBER 15, 2011

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1 [8:14 a.m.]

2  
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS: The  
5 New England Liaison Report if you will, please

6  
7 NEW ENGLAND COUNCIL LIAISON REPORT

8 ERLING BERG: Thank you, Mr.  
9 Chairman. This is for a council meeting that was  
10 held in Newport Rhode Island November 15th, 16th,  
11 and 17th. The Council set a bunch of priorities for  
12 2012 and also addressed the issues that related to  
13 groundfish, herring, monkfish, spiny dogfish and  
14 scallop management. In groundfish the priorities  
15 are as follows: coordinate action on the Habitat  
16 Omnibus AM to include possible modification to the  
17 groundfish closed areas, a framework adjustment to  
18 modify sector rules based on the lessons learned  
19 from the October 2011 sector workshop, a framework  
20 adjustment to respond to new assessment information  
21 for nine of the stocks in the groundfish complex,  
22 the development of options to move unused ACE or  
23 annual catch entitlements between scallop and  
24 groundfish fleets and between commercial and

1 recreational fleets.

2 The Amendment 18 ended up at the  
3 bottom of the groundfish list, but it's still there.

4 There was also some discussion on excessive shares.  
5 This is a big issue up there.

6 Monkish is continue to develop  
7 Amendment 6 to consider catch shares in that  
8 fishery. We had that discussion the other day.  
9 There was also a motion to discontinue work on  
10 Amendment 6, which you also had the other day, but  
11 that was withdrawn. The Council also approved  
12 Amendment 6 goals and objectives.

13 Scallops. Prepare the Framework  
14 Adjustment 24 to set specs for 2013 and 2014 and  
15 develop (inaudible) allocations for 2015 that will  
16 be updated in the subsequent framework.

17 Herring. Continue work on Amendment  
18 5, which includes catch monitoring requirements,  
19 river herring bycatch mitigation measures, and  
20 criteria for access to the groundfish closed areas.

21 And then at the request of our council, the New  
22 England Council's voted to include a river herring  
23 catch cap in Amendment 5. They had taken this out  
24 before. This option would establish a mechanism for

1 the implement catch caps in the herring fishery once  
2 a river herring stock assessment is completed. If  
3 adopted in Amendment 5, the New England Council will  
4 establish catch caps either through a framework  
5 adjustment or herring specification process.

6 Dogfish. That got interesting. The New  
7 England Council voted to retain the Mid-Atlantic  
8 commercial quota of 35 1/2 million pounds, but they  
9 adopted a trip limit of 3,000 pounds. So now we  
10 have three different scenarios on dogfish. And Pat  
11 told me she's going to do it. So that's that.

12 The Council also approved a draft  
13 visioning statement and strategy to guide the  
14 overall management process. There's a lot more  
15 material behind Tab 13. But that's all I had. And  
16 I also wanted to inform the people that do travel up  
17 to New England for committees or whatever that  
18 they're now serving coffee at their meetings. Thank  
19 you. That's all I have, Mr. Chairman.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Thank you, Erling. You recall at the last meeting  
22 of the Council when we were discussing the  
23 management of river herring interactions in the  
24 herring fishery as well as the mackerel fishery we

1       were trying to achieve a coordinated outcome with  
2       New England because they have management  
3       responsibility for sea herring and so Amendment 5 is  
4       the amendment to that FMP that would deal with river  
5       herring interactions, and the only management  
6       alternative they had at this point in their document  
7       was one for relatively small scale area-based  
8       management, and so we had sent a letter to New  
9       England requesting that they add back the option of  
10      catch cap.

11                   And Erling, it sounds like they've  
12      added that option in, but it would still sort of  
13      require another step after the development of the  
14      FMP. Is that correct? It would be a specification  
15      measure or framework. Is that how you described it?

16                   ERLING BERG: Yeah. And also in the  
17      motion there was after an assessment was done. So  
18      that was a caveat there. There was a lengthy  
19      discussion on this issue. But this is how it ended,  
20      was that motion. Dave Pierce I think is the one  
21      that put that in.

22                   COUNCIL CHAIRMAN RICHARD ROBINS: I  
23      think we'll still have a fair amount of work in  
24      front of us then to try to achieve the coordinated

1 outcome. But I would suggest that at some point we  
2 try to as we go forward try to have some  
3 collaborative discussion between the committee  
4 leadership and also the PDT and FMAT because there  
5 were significantly different outcomes from the PDT  
6 and FMAT evaluations of those questions.

7 ERLING BERG: Yeah. There hasn't  
8 been any herring meetings lately. They were having  
9 quite a few for a while. It seems like it's on the  
10 back burner right now. So I don't know what --  
11 there's none scheduled that I know of.

12 COUNCIL CHAIRMAN RICHARD ROBINS:  
13 Okay. Thank you, Erling. Peter.

14 PETER deFUR: Thank you Mr. Chairman.  
15 Yeah. I was wondering about that same question  
16 about what's the next step in subsequent to trying  
17 to get some coordination over the river herring  
18 issue. You had sent a letter. Obviously, they're  
19 taking some measures. But it looks like we're still  
20 pretty far apart.

21 COUNCIL CHAIRMAN RICHARD ROBINS: I  
22 think that's fair to say. Again, I think we'll need  
23 to have some communication between Council and  
24 committee leadership and also on the technical side

1       between the FMAT and PDT. Maybe if we can set up  
2       some sort of dialogue between them, that would be  
3       constructive. Lee.

4               LEE ANDERSON: Erling, I saw on the  
5       agenda that there was a two-hour discussion on the  
6       Touchstone report and what the Council is doing to  
7       react to that. Maybe Pat and Frank want to jump in  
8       to help. But I'd like to know a little bit more  
9       about that especially the draft operating agenda  
10      they're talking about and more importantly how is it  
11      going to affect the Mid-Atlantic Council.

12             COUNCIL CHAIRMAN RICHARD ROBINS:  
13      Pat.

14             PATRICIA KURKUL: So the agenda I'm  
15      trying to remember exactly. The agenda didn't start  
16      as sort of a general overview of where we are with  
17      the response to the management review. We had done  
18      that in June and again in September, and so this was  
19      really more to talk a little bit about some of the  
20      specifics, and for example, the Council moving  
21      forward with ecosystem management as part of their  
22      response. From the region's perspective and the  
23      Center's perspective, we did give a brief update on  
24      some of the things that we've had the lead on. And

1       you mentioned specifically the operating agreement.  
2       We think this is an important part of the response  
3       to the issues that the regional office had the lead  
4       on.

5                       But, as I may not have said here, but  
6       said in our discussions at the New England Council  
7       meeting over the last few times, that although each  
8       of us has been taking the lead on some of the  
9       recommendations in the report, we are all working  
10      together on all of them. So the RO has the lead on  
11      the operating agreement and also on the  
12      communications plan that we've been working on. And  
13      the operating agreement is intended to respond  
14      directly to the recommendations that had to do with  
15      rules and responsibility clarifying roles and  
16      responsibilities and being more transparent to the  
17      public on how the process works and when their input  
18      into the process can be most effective. And so we  
19      did draft an operating agreement -- George Darcy did  
20      -- really based on one that we had been working on  
21      with the Councils five or six years ago that never  
22      came to fruition.

23                      And so the approach we had taken was  
24      to first circulate the operating agreement to

1 council staff, New England Council staff, and so to  
2 get their okay on it. Then we took it to the  
3 Council's executive committee, and then we took it  
4 to the Council seeking their comments. And what we  
5 had planned on doing was trying to get through that  
6 process and then share it with the Mid-Atlantic  
7 Council staff and go through a similar process in  
8 the Mid-Atlantic because the hope is that we'll sign  
9 a similar agreement with the Mid-Atlantic in the  
10 future as well. So we did get to the point where we  
11 shared it with Chris and the council staff here in  
12 the Mid-Atlantic.

13 I think George and Chris had a  
14 conversation that sort of generally you don't have  
15 any real problems with it; there may be some word  
16 tweaking that we need to do. Since then the New  
17 England Council staff has decided they don't like it  
18 after all, and so we're in some ways back to square  
19 one on that agreement in New England. So I think  
20 we're going to try to -- we've been promised some  
21 final comments from the New England Council. I  
22 think we're going to try to see where we are with  
23 New England. But at some point in the near term I  
24 think it would make sense to bring the operating



1 agreement to the Executive Committee here and then  
2 the Council here to get your input into it before we  
3 go too much further along. Does that answer your  
4 question?

5 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
6 other questions of Erling from his report? We'll go  
7 ahead and take a couple more reports now if we can.  
8 Vince, could I ask you to give the ASMFC Executive  
9 Director's Report, please.

---

10  
11 ASMFC EXECUTIVE DIRECTOR'S REPORT

12 VINCENT O'SHEA: Thank you, Mr.  
13 Chairman. Good morning. The Atlantic States  
14 Commission met last month up in Boston. It was our  
15 annual meeting, and a summary of that meeting is in  
16 your briefing book behind Tab 12. And thank you,  
17 Dr. Moore, for including that. I won't go through  
18 the whole thing, Mr. Chairman, but just hit some of  
19 the highlights. The Lobster Board has finally  
20 adopted an addendum to initiate rebuilding of the  
21 Southern New England stock, and the first step is  
22 going to be a 10 percent reduction in exploitation.

23 Part of the challenge there is we have certain  
24 areas of Southern New England that we know

1 production has fallen way off.

2 It also includes an area offshore of  
3 New Jersey and Delaware, and the problem there is  
4 trying to implement conservation measures to help  
5 one area without overly constricting another area.  
6 That needs to be worked out. We met with the  
7 Commission. The Special Ad Hoc Committee met with  
8 the Massachusetts Marine Fisheries Commission, the  
9 instate entity for an exchange of views. There was  
10 no specific objective other than it was an  
11 opportunity for the two bodies to meet. And I think  
12 folks on both sides agreed that was a good meeting.

13 The Atlantic Striped Bass Board  
14 received a new stock assessment on striped bass, and  
15 the details are in my report. But it is showing a  
16 decline in the recreational catch, but the stock is  
17 still determined to be not overfished; overfishing  
18 is not occurring, and the spawning stock biomass  
19 remains above the target.

20 In our world, Mr. Chairman, 20 or 30  
21 letters on an issue is a big deal for us, and the  
22 Atlantic Menhaden Board had to consider setting new  
23 reference points. We have over 90,000 comments on  
24 that. We held a series of public hearings up and

1 down the coast, and the result was that the Board  
2 set new reference points for the maximum spawning  
3 potential for Atlantic Menhaden at 15 percent for  
4 the threshold and 30 percent for the target. Put  
5 that in perspective. We're fishing right now at  
6 about 8 percent. So, in order to reach those new  
7 reference points, there needs to be some adjustments  
8 to the fishery and reduction in the fishery is  
9 estimated to take about 75 percent of the harvest,  
10 and bait fishery up and down the coast takes about  
11 25 percent.

12 So the Commission staff is in the  
13 process of developing a public information document  
14 with a range of alternatives of how to implement the  
15 restrictions to achieve the new reference points.  
16 And we're going to bring that back to the Board in  
17 February, and then based on approval of that, that  
18 will lead into development of an amendment to  
19 implement that. The other thing I wanted to  
20 mention, Mr. Chairman, we've certainly heard in the  
21 press a lot about enforcement and concerns that  
22 folks have had about enforcement problems up in New  
23 England. But the Atlantic Striped Bass Board  
24 received a sort of update report from the Interstate

1 Watershed Task Force which is led by the Department  
2 of Justice. And this has to do with the striped  
3 bass harvest in the Potomac River, and the case  
4 started back in 2003. But the summary of it, the  
5 end result, was there was over 1.6 million dollars  
6 in fines levied against 19 individuals and 3  
7 corporations that were essentially convicted of  
8 harvesting more than a million pounds of striped  
9 bass over the period of time of the investigation.

10 These, of course, were Virginia  
11 Marine Resources, Maryland Natural Resources  
12 employees, NOAA Fisheries, and U.S. Fish and  
13 Wildlife, as well as the Department of Justice all  
14 cooperated on that. But these cases were prosecuted  
15 by the Department of Justice as opposed to going  
16 through NOAA general counsel. So I know there are  
17 some concerns about the fairness of the NOAA system,  
18 but the Commission was pleased to hear of the  
19 results of this task force and hopes that will be a  
20 deterrent to others that have problems complying  
21 with striped bass regulations.

22 The other thing of interest, Mr.  
23 Chairman, is the South Atlantic Board has decided to  
24 initiate a fishery management plan for black drum.

1       There's no federal management plan, ASMFC plan, but  
2       we're going to move forward with that at the request  
3       of the states.

4               Many people in this room know Pat  
5       White. He's been a long-time commissioner at ASMFC.

6       He had been the executive director of the Maine  
7       Lobstermen Association. The Commission awarded him  
8       the David Hart Award. That's a highest level award  
9       in recognition of his contributions, lifetime  
10      contributions, to fishery management and to the  
11      Commission and to the states. Pat was also one of  
12      the two commercial fishermen on the Pew Ocean  
13      Commission and traveled all over the country  
14      listening to fishery problems and helping develop  
15      recommendations to improve U.S. ocean fishery  
16      management.

17              Paul Diodate was elected our new  
18      chair. He's the director of marine resources for  
19      Massachusetts, and Dr. Louis Daniel from North  
20      Carolina was elected as vice chair. I think that's  
21      -- oh, the other thing, Mr. Chairman, the last one  
22      was -- and I'm glad Erling mentioned this -- but the  
23      Coastal Shark Board voted for a 30 million pound  
24      quota for spiny dogfish for the 2012 season. That's

1 considerably below what the Technical Committee  
2 recommended. And my sense was the reason for that  
3 included sort of two part concerns, but one was the  
4 processors were there at our meeting expressed  
5 concerns about being able to swallow such a -- being  
6 able to sell such a large quota, 35 million pounds,  
7 due to market issues and market problems in Europe.

8 Then the other thing to keep in mind  
9 is Dr. Rago keeps warning us about the five or six  
10 years of poor recruitments. So we know that there's  
11 that bubble in the pipeline. I suspect that that  
12 was part of the reason as well that the Board  
13 decided to go with a more conservative quota.

14 And finally I want to acknowledge an  
15 old friend, Dr. William Carp, who's going to be the  
16 acting -- you've already announced that he's the  
17 acting Science Director up at Woods Hole. But we've  
18 known each other and worked together for 20 years  
19 when we were both out in Alaska together. And he  
20 had a really tough job running the Alaska Observer  
21 Program. He did a terrific job on it. We count a  
22 lot at the Commission on the Northeast Fishery  
23 Science Center, and I'm just so please that he'll be  
24 there at least for the interim. So thank you very

1 much, Mr. Chairman, for your hospitality. I'm very  
2 glad to be here.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thank you, Vince. And for your report, one thing  
5 you didn't mention was the fact that the Bruins won  
6 Thursday night, one of the other highlights of the  
7 annual meeting I believe. Vince, what sort of time  
8 line might we expect or do you anticipate on the  
9 development of a menhaden amendment? I know the  
10 debate was focused largely on the reference points.

11 Those have been adopted. But as you move forward  
12 and develop a management plan to achieve those, what  
13 sort of timeline do you have in view?

14 VINCENT O'SHEA: Well, you know, we  
15 had had this discussion about whether to go with an  
16 addendum or an amendment, and the Board decided to  
17 do an amendment. And, of course, the PID thing,  
18 development of that is going to take some time. So  
19 the bottom line is I think they're trying to effect  
20 the fishing season in 2013, so we would get our work  
21 and amendment in place by 2012. There is a concern  
22 with the Commonwealth of Virginia in that changes  
23 for the menhaden fishery need to be worked through  
24 the legislature. So that's another time line that

1 even if we finished in 2012, that the legislature  
2 would need to act to implement, and that wouldn't  
3 become operational until 2013. So I think the  
4 expectation is 2013, Mr. Chairman for the  
5 operational regulations to take place. The  
6 amendment would be ready for final approval in '12.

7 Thank you.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thank you, Vince. And, Pat, can I ask: Where does  
10 the Commission's decision leave the regional office  
11 with respect to the dogfish specifications. You got  
12 prerecommendations? I assume if the Commission goes  
13 with a lower number, that would be limiting in fact  
14 because those are being allocated to the states at  
15 least in the South. How would that play out?

16 PATRICIA KURKUL: Well, it felt a  
17 little bit like Groundhog Day on dogfish because  
18 that's how we started this whole management program  
19 with the three groups ending up in different places.  
20 So for us now it's we've got the same quota  
21 recommendation from the two councils. It's really  
22 just a question of deciding on the trip limit. And,  
23 honestly, I think we'll likely go with the lower  
24 number. So then that will leave the states with I



1 think a decision on how to go forward.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you, Pat. Any other questions for Vince on  
4 his report? Okay. Seeing none, can we do the  
5 federal enforcement report? Kevin.

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6  
7 U.S. COAST GUARD REPORT

8 KEVIN SAUNDERS: Thank you, Mr.  
9 Chairman. I handed out my report yesterday.  
10 Hopefully, you have it in front of you. For over  
11 the last two months, we were scheduled to have 60  
12 days of underway NEC time the medium endurance  
13 cutters that patrol offshore.

14 Unfortunately, we lost one of those  
15 vessels due to insurmountable mechanical failure.  
16 It's an indication of an aging fleet that we're  
17 dealing with. Luckily, most of these medium  
18 endurance cutters are going through what we call the  
19 mid-life recovery program, and it's going to help  
20 keep our fleets underway into the future, and  
21 hopefully this won't happen again. But we were able  
22 to maintain 30 days of underway time for the medium  
23 endurance cutters. In addition to that, we had our  
24 regular patrol boats and our station boats which

1 don't have the same sea legs that the medium  
2 endurance cutters have, but they're able to do  
3 patrols.

4 Of that time we had 92 boardings and  
5 one significant fisheries violation. The  
6 significant fisheries violation took place out of  
7 North Carolina. It was a Coast Guard member on a  
8 North Carolina marine patrol boat. The aim of the  
9 operation was the North Carolina marine patrol boat  
10 was to check the fisheries for the state regs and  
11 inside the gillnet, and then the federal employee  
12 was there to check to make sure the gear was in  
13 compliance with the take reduction plans that exist.

14 They found that the gear was not in compliance, and  
15 we worked with NOAA to follow up with that for  
16 prosecution. In addition to that, while they  
17 wouldn't be significant violations, we did do a lot  
18 with the early closure of the Hudson Canyon for  
19 general category scallop vessels. A number of  
20 vessels had reported via VMS that they intended to  
21 fish in that area. And it's kind of an educational  
22 things. We were able to reach out and work with  
23 NMFS to touch several of those vessels before they  
24 made it into the area, educate them about the recent

1 closure; and they complied, turned around, and went  
2 back to the pier. So that's another success that  
3 wouldn't otherwise be accounted for you see in front  
4 of you.

5 We had two marine protected species  
6 supports. One of them because of the weather and  
7 resources we weren't able to help out with was a  
8 deceased whale in the Chesapeake Channel, and the  
9 second one was a deceased dolphin off North Carolina  
10 that we were able to assist with. This is the time  
11 of year when we have two major ops. in effect,  
12 Operation Striper Swiper, which if you remember last  
13 year, it kind of bore the vast majority of our  
14 violations for the whole fiscal year, and Operation  
15 Right Speed, which is an operation aimed at  
16 enforcing the special management areas to protect  
17 the right whales as they migrate around the ports  
18 for the Mid-Atlantic. Where that didn't result in  
19 any violations, it did help educate mariners about  
20 the importance of slowing down their speed to 10  
21 knots if they're 65 feet or above. And we feel it  
22 did reduce the number of strikes that would have  
23 occurred if we hadn't been enforcing that.

24 On page two you'll see the new graph

1       that we're supporting for you. It's the boarding  
2       target attainment by fishery. And if you look at  
3       it, what we did here is we used numbers to develop  
4       targets for each fishery. What you see in front of  
5       you is the target of that fishery for a two-month  
6       period. And the dark gray you see is the target,  
7       and the light gray that overlays the dark gray is  
8       how well we came to attain that fishery. I know  
9       it's with the fishery like surfclams and ocean  
10      quahogs -- a hundred percent attainment. Most of  
11      the fisheries we didn't do that well in, and you can  
12      see fisheries where we weren't able to accomplish  
13      any boardings in that fishery. So part of the story  
14      is resources. Part of the story is -- this is  
15      something I couldn't capture in this graph -- but  
16      not every fishery is active every time of the year.

17      And the other part of the story is a lack of  
18      information about the number of active vessels in a  
19      particular fishery.

20                So this is going to be a continually  
21      refined process, but I think it's going to give you  
22      a little more indication of our efforts on the water  
23      per fishery for the Mid-Atlantic region. So  
24      hopefully, you guys like this better than the

1 previous graph. If you don't, please come talk to  
2 me. And I'm more than willing to entertain any  
3 thoughts and ideas you have on how to improve this  
4 'cause it's a service we're providing for you. I  
5 put everything in percentages, so you could compare  
6 each fishery by fishery and how we're attaining our  
7 goals.

8 The safety. We conducted 83 dockside  
9 boardings, and we completed only two underway safety  
10 terminations, which is a 2.1 percent termination  
11 rate. So, in general, we're being consistent with  
12 our previous year. The last thing I want to point  
13 out is Mustang Survival Systems is having a recall  
14 on one of their PFDs because of a CO2 cartridge  
15 malfunction. So, if you could relay this  
16 information out to the fleets in your areas to check  
17 out their labels and make sure it's not one of the  
18 PFDs that are required recall. Thank you very much,  
19 Mr. Chairman. If there are any questions, I'm happy  
20 to entertain them.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Thank you, Kevin. Any questions for Kevin of his  
23 report? Erling.

24 ERLING BERG: Yeah. Earlier in your

1 report you mentioned you had a problem with one of  
2 your vessels. Is there any program with the Coast  
3 Guard to replace those 210 footers? I mean they're  
4 getting pretty old. They're probably around 40  
5 years old, give or take a few. Is there some kind  
6 of a program to replace those vessels?

7 KEVIN SAUNDERS: Yes, sir, there is.

8 These medium endurance cutters are going through  
9 mid-life recovery programs, which will extend their  
10 hull lives. In general the whole Coast Guard fleet  
11 is being recapitalized very slowly. The first  
12 cutters out were the 87. They came out a number of  
13 years ago, and we're continuing to move up. So it's  
14 a slow process. We're going to get there.  
15 Everybody's excited about the new cutters coming on  
16 line. But, unfortunately, this vessel just wasn't  
17 able to keep working for us because of an  
18 insurmountable issue that it had that hopefully will  
19 be corrected by the Mid-life Recovery Program for  
20 them.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Erling.

23 ERLING BERG: Thank you, Kevin. One  
24 other thing: We're having a problem in our area, in

1 Cape May -- I'm sure we're not unique -- Coast Guard  
2 inspection safety, safety stickers. I don't know if  
3 you're aware of what is going on. And trying to  
4 schedule these stickers, it's not impossible, but  
5 it's getting close to it. Is there any program to  
6 make more Coast Guard personnel available for these  
7 safety stickers? Because if you are taking an  
8 observer, you have to have an updated sticker on the  
9 vessel. So it's -- what I get on the waterfront in  
10 my area, it's going to be quite a problem.

11 KEVIN SAUNDERS: That's a great  
12 question. And I think the answer is that if you  
13 notice about a year ago we shifted from a one-year  
14 requirement to renew your underway safety  
15 examination decal to two years. So that was aimed  
16 at relieving some of the burden in the interim  
17 period while we can hire and train up new commercial  
18 fishing vessel safety dockside examiners. So it's a  
19 slow hiring process. I would hate to see any  
20 vessels being held up because of the sticker  
21 program, and if they are, please talk to me off  
22 line, and I'll see what I can do. There are plans  
23 in place to hire more people, to train more people,  
24 to try to meet this requirement that the fishing

1 vessels are going to have. In the interim period,  
2 just come talk to me about specific instances in  
3 your area. And if other ports are having similar  
4 problems, please let me know because that is a  
5 problem that we need to try to rectify with you.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Peter deFur.

8 PETER deFUR: Thank you, Mr.

9 Chairman. Thank you, Kevin. A very good report. I  
10 do like your new Figure 1. Would it be too hard to  
11 add at the end of each column the total number of  
12 targets? And I know it varies quite a bit. So a  
13 suggestion might be just to put a single number at  
14 the end of that. And then is there any way for us  
15 to get you the information so that you can asterisk  
16 those fisheries that are not active in a two-month  
17 period? That would require the states or who to get  
18 you that information, right, so you could at least  
19 indicate that? And you'd have that knowledge then.

20 Right?

21 KEVIN SAUNDERS: Yeah. That's a  
22 great suggestion to add the total column. As far as  
23 getting the active number of vessels in a particular  
24 fishery, I notice from NOAA's report that they've



1 put forth that they've done some of that research.  
2 It's just a matter of me breaking it down per state.

3 But I appreciate the offer to lean on any of you  
4 all states to get more accurate information. It's  
5 an uphill battle for the Coast Guard as far as  
6 trying to refine our information, and we want to be  
7 as accurate as possible when we're determining these  
8 fleet size because that's how we allocate our  
9 limited resources and unfortunately, our political  
10 regs as necessary. Thanks.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Vince.

13 VINCENT O'SHEA: Thank you, Mr.  
14 Chairman. Thank you, Commander, for your report.  
15 The ASMFC just hired a new law enforcement  
16 coordinator, Mark Robson. I think you may have met  
17 him up in Boston. But I'd offer our Commission as a  
18 resource as well to help you fit in the pieces of  
19 when fisheries are active from the state  
20 perspective. And, please, feel free to contact us  
21 any time. I think that would be a great job for our  
22 coordinator to work with the states and help funnel  
23 that information to you if it would be helpful to  
24 you. Thank you.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Kevin, please pass along our appreciation to your  
3 Admiral for his participation in yesterday's joint  
4 meeting. Thank you. And we're joined today by  
5 Logan Gregory and Bruce Buckson. Bruce Buckson is  
6 the new head of NOAA law enforcement, and Logan is  
7 now the Director of the Northeast region law  
8 enforcement for NOAA. And just wanted to say we  
9 appreciate you all being here with us during this  
10 whole meeting and also look forward to working  
11 closely with you going forward. Logan.

12  
13 NMFS LAW ENFORCEMENT REPORT

14 LOGAN GREGORY: Thank you, Mr.  
15 Chairman. I believe our fiscal year report is in  
16 your binder. First and foremost, I'd like to call  
17 your attention to the first page 'cause there is an  
18 error on the first page.

19 So, at the top of the first page the  
20 second sentence where it says: The number of federal  
21 permits landing fish has increased, that's not  
22 correct. It has decreased by 612. It hasn't  
23 increased by almost a thousand. We had some  
24 fluctuations in some data while we were pulling

1 this, and I think we fixed the graph and forgot to  
2 fix the statement. So just so you know that that's  
3 what the real story is there.

4 As you can see also on page one, the  
5 number of cases open has declined from 9 to 10 at a  
6 pretty regular rate. We're hoping that that will --  
7 it's not necessarily a bad thing. I'd have to  
8 compare that to our number of incidents that we've  
9 received, actual complaints. And I think that would  
10 draw a better picture for that graph. So I think in  
11 the next report, we will be adding not just the  
12 number of cases, but the number of actual complaints  
13 and other boardings and inspections incidents we've  
14 had to paint a better picture as to the number of  
15 boardings we do and the number of cases we actually  
16 fine from those.

17 On page three, again, every Council  
18 meeting I like to take the opportunity to talk about  
19 observer harassment and the fact that we take it  
20 very seriously. Mr. Kusak was found guilty of  
21 observer harassment. It was a criminal offense.  
22 And the reason I tend to harp on this is because  
23 this is an area where people can get hurt, not just  
24 physically but mentally and emotionally, and we take

1       it very seriously. And we're going to continue to  
2       do so. And it's not always female observers. It  
3       does include male observers as well. And there has  
4       been some push-back by industry because of this  
5       conviction where some folks are refusing to take  
6       female observers on their boats. And, again, that's  
7       not allowable either. It doesn't matter whether an  
8       observer is male or female; they should be treated  
9       the same. They're there to do a job. Whether  
10      they're male or female has nothing to do with it.

11               On Tuesday at about four o'clock I  
12      hosted a stakeholder call for our draft enforcement  
13      priorities. The call went pretty well. We had I  
14      think close to a dozen or more people that called  
15      in. I think maybe five or six of those were actual  
16      industry members. I took a couple of questions  
17      afterwards. Everybody seemed very supportive of  
18      enforcement on the call. We didn't have any negative  
19      feedback on the call. Some of the questions  
20      revolved around whether or not we're going to  
21      include intent as part of how we enforce violations.

22      And basically the intent part comes in at the phase  
23      where they determine what the penalty's going to be.

24      All these regulations obviously are a strict

1 liability. There's no intent required, but intent  
2 does go to knowledge, and why they're doing what  
3 they were doing. And the why is what's going to  
4 help us with our response and general counsel on how  
5 they're going to prosecute these cases. You know,  
6 is it because it was a mistake? Is it because it  
7 was intentional? Did the boat hide the catch?  
8 Those things go to intent and to the why they're  
9 committing a violation. And it is an important  
10 aspect of what we do and the discretion that we have  
11 as to whether to issue a warning or to issue a  
12 violation on scene. So I just wanted to add that as  
13 well. And that pretty much concludes my report.  
14 I'd like to turn it over to Director Buckson so he  
15 could say a few words.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Thank you, Logan, and again, welcome to Bruce.

18 BRUCE BUCKSON: Thank you, Mr.  
19 Chairman. I appreciate that. I will be brief. I  
20 mentioned to the chairman this morning; I  
21 complimented him; he's keeping this crew on  
22 schedule, and this is an awful big room to make that  
23 happen. So, again, my compliments, Mr. Chair, on  
24 making that work, and I'll try not to ruin your

1 record so far for this meeting. I'll move as  
2 quickly as I can.

3 I haven't had a chance to meet you  
4 all, and I apologize for that, but part of my goal  
5 is to get to these Council meetings and sit with you  
6 and listen to the process, and I've been able to do  
7 that the last couple days and see how you function  
8 and move forward. And so it's always interesting.  
9 I participated in a Gulf council, the South Atlantic  
10 Council, for several years and visited the New  
11 England and Pacific Council and will be working my  
12 way around to the other councils. There are  
13 similarities in all of them with issues, different  
14 species quite often, but the process seems to work  
15 quite often the same.

16 And part of the reason I attend these  
17 meetings is because I think that law enforcement  
18 plays a critical role in the management process not  
19 just after the regulations are made, but I think we  
20 are critical in the management process itself, and  
21 that's why we want to be available during the time  
22 that the regulations are being created, so that we  
23 have the opportunity to let you know, let the  
24 council members know where we're able to go or where

1 we may not be able to go from an enforcement  
2 perspective with regard to regulations. So I think  
3 it's critical that we stay engaged, and we intend to  
4 do that. You have my commitment on that. We  
5 certainly will have the special agent in charge or  
6 their designee at the council meetings if for no  
7 other reason than to answer questions at break. So  
8 we definitely want to be participants.

9 I think we all probably, the managers  
10 and the industry and law enforcement have the same  
11 goal posts that we're heading at. We're looking for  
12 sustainable fisheries. We have same goal posts. We  
13 have different missions in getting there with every  
14 one of us. And I think one of the strong messages  
15 that Eric Schwaab has passed on, and I think is  
16 critical for us as well is there needs to be good  
17 science, good management and compliance. And the  
18 compliance part's where we fit in. I also think we  
19 fit in -- we'll never claim to be scientists; we'll  
20 leave that to you folks, the experts. But I think  
21 in the management process we also fit in but clearly  
22 on the compliance end of things is where it's  
23 critical for us to be engaged.

24 And I just want to hit on a couple of

1 general comments. I have a couple other specific  
2 comments as well. But general comments,  
3 partnerships are critical to us. And I'll be very  
4 candid. Our staff is roughly the number is 137  
5 nationwide. That's investigators and officers, and  
6 that's not a lot of folks to accomplish the mission  
7 we need to gain compliance. So without a very  
8 vibrant partnership with our federal partners in the  
9 U.S. Coast Guard and our state partners at all  
10 different levels, we won't accomplish that mission  
11 of gaining compliance with these regulations and  
12 ultimately the sustainable fishery. So that is  
13 critical to us.

14 And just a couple other specific  
15 comments. Logan did mention the enforcement  
16 priorities. We are interested in having the Council  
17 members or individuals, members outside the Council,  
18 comments on those enforcement priorities. We have  
19 one final call next Monday, a nationwide call where  
20 I'll do the pitch and request for comments either on  
21 the phone or written. Of course we prefer written  
22 because we will be compiling those being able to put  
23 those in some sensible order. The calls we've been  
24 doing recently have been recorded, so we're able to



1 transcribe that, so we do get those comments. So  
2 feel free. Not just feel free, I encourage you --  
3 any contacts you have with other stakeholders to  
4 please encourage them to make at least that last  
5 call. We're done for the East Coast I believe. We  
6 may have the Pacific Islands or Alaska yet to go  
7 this week on calls, but we'll certainly be  
8 interested in having the comments on Monday.

9 One other specific comment there was  
10 mention of the recapitalization program for the U.S.  
11 Coast Guard vessels -- last week I had the  
12 opportunity to sit with a large group of folks. It  
13 was kind of information gathering, it was 8  
14 different agencies DOD, there were scientist, there  
15 was other obviously Admiral here from Coast Guard.  
16 This was basically a large room, a large group, and  
17 they were mostly looking for information just  
18 understanding how all these different agencies  
19 interacted with the U.S. Coast Guard. It was about  
20 their core missions and this capitalization program.

21  
22 I sat in for Eric Schwaab and past on  
23 the exact same message how critical those offshore  
24 vessels are to meeting our mission. There's a

1 strong emphasis on international fisheries now and  
2 the Coast Guard is the only one who can accomplish  
3 it. At this point we are the one who has the assets  
4 to do that. It was all very clearly budget related  
5 and nationally we were dealing with budget issues  
6 and there is competing forces for those assets. The  
7 scientist are interested in having ice breakers for  
8 the poles. We clearly understand that but we have  
9 other issues as far as fisheries go; so that is  
10 moving forward and (inaudible) are here and the  
11 Admiral did a great job of presenting how critical  
12 it was for them to begin to -- not to begin but to  
13 continue with that recapitalization program.

14 That's it Mr. Chairman. That's  
15 really my speel for you today and I do make myself  
16 available -- my business cards and my cell phone and  
17 I would encourage you if you have any comments or  
18 questions we are certainly interested in hearing  
19 them.

20 I've been involved in the fisheries  
21 management and on the conservation law enforcement  
22 for over 29 years, and it's a passion of mine, and  
23 I'm looking forward to where we are headed.

24 I usually brief folks in the very

1 beginning and tell them I'm really not interested in  
2 discussing the past, it is what it is, it's been  
3 created by whoever; and we need to look to the  
4 future because we still got the fisheries to manage,  
5 and there are some law enforcement actions to take.

6 Thank you again Mr. Chairman, I appreciate it.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you, and again we look forward to working with  
9 both of you in your new roles.

10 Any questions of the report. Vince.

11 VINCENT O'SHEA: Thanks, Mr.

12 Chairman. Not so much a question, but comments.

13 The first is, welcome, Bruce. For the benefit of  
14 the Council, Bruce is -- we've known each other for  
15 a long time, and he was a deputy director of the  
16 Florida Marine Patrol, over 750 officers down in  
17 Florida enforcing both commercial, recreational,  
18 protected species, and boating safety laws; so I'm  
19 convinced he has a very sound foundation of  
20 experience and expertise in natural resource  
21 enforcement and is a perfect fit for this job.

22 He was active in our Commission Law  
23 Enforcement Committee when he was with Florida, and  
24 he received an award of excellence from the ASMFC

1 back in I think 2005, Bruce, and we were just so  
2 pleased when he was selected and agreed to take the  
3 job.

4 But the other thing, Mr. Chairman, I  
5 want to let you know that he was endorsed by all  
6 three interstate fishery management commissions, his  
7 appointment to this. So I think reflecting on the  
8 great credibility that he has. And, Logan, just  
9 welcome you as well. And I wanted to thank you for  
10 the case. You didn't brief it here, but you sent  
11 around information about the charter boat striped  
12 bass cases that you're making down in Virginia.

13 And one in particular, Mr. Chairman,  
14 was a passenger was prosecuted for impeding and  
15 lying to investigators regarding fishing in the EEZ  
16 and whether it was directed fishing for striped  
17 bass. I think the penalty that was assessed was a  
18 thousand dollars. But I sent that out to our ASMFC  
19 constituent group as well as all our commissioners.

20 And I think getting the word out on things like  
21 that is going to go a long way to put a damper on  
22 that activity 'cause I'm getting an ear full from  
23 the honest charter boat guys complaining about that  
24 type of stuff. So my view, you're going right down

1 the right track, and I hope to see more of that.

2 Thank you, Mr. Chairman.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thank you Vince. Logan, what is the time line  
5 expected on some of those cases playing out on the  
6 striped bass enforcement in Virginia?

7 LOGAN GREGORY: That's a good  
8 question. I don't have a specific time line. Some  
9 of that investigation is still ongoing, so I'm  
10 hoping within the next few months we can start  
11 wrapping some things up, but like I said, there are  
12 some things that are ongoing.

13 Going back to Vince's comment about -  
14 - you know, getting an earful, and this kind of  
15 falls in line with our priority setting. Even  
16 though like we've mentioned in the meeting today,  
17 striped bass is not overfished. It's a pretty  
18 healthy stock, and it wouldn't be high on the  
19 priority list for sustainable fisheries enforcement.

20 It is high on a priority list economically because  
21 there was a huge disadvantage by the law-abiding  
22 fishermen who were losing charters because of the  
23 number of charter boats that were more than willing  
24 to go out and fish for these fish in the EEZ. So I

1 appreciate Vince's comments on that.

2 COUNCIL CHAIRMAN RICHARD ROBINS: And  
3 I appreciate your attention to that issue. It's not  
4 a fishery we manage, but it's one that's important  
5 to I think all of us around the table. John  
6 McMurray.

7 JOHN MCMURRAY: Thank you, Mr.  
8 Chairman. A couple of things. First, I just want  
9 to point out that there seems to be a lot of  
10 enforcement emphasis on fishing in the EEZ for  
11 striped bass in the southern areas of the range, but  
12 it's pretty well known at this point that that's  
13 really happening all along the coast, and I would  
14 urge you guys to really take a look at the  
15 Northeast, particularly New York and Massachusetts.  
16 I'd love to see some enforcement cases there.

17 Second, I'd like to welcome Bruce as  
18 well. And I would agree that ensuring compliance is  
19 a very critical part of the management process. In  
20 that respect, I'd like to bring up an issue. I've  
21 recently become aware that there's a lack of staff  
22 in the northeast general counsel office due to the  
23 fact that three attorneys were let go as a result of  
24 the IG investigation. And my understanding is that

1 these attorneys were critical. They handled a  
2 hundred or so cases a year, and those cases are now  
3 getting kicked down to headquarters who really just  
4 can't deal with the volume.

5 So I discussed this a little bit with  
6 Law Enforcement Committee. I passed around a letter  
7 that I had drafted, and I'm hoping we'd maybe take a  
8 look at it today. And the letter is essentially  
9 urging the secretary to fill those attorney  
10 positions. Jan, can you put that up, please.  
11 Actually, I think you passed it around.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Yeah. I think everybody has a copy.

14 JOHN MCMURRAY: Everybody has it up  
15 front. Rick, would you like me to read this into  
16 the record?

17 COUNCIL CHAIRMAN RICHARD ROBINS: If  
18 you would, please. Thanks.

19 JOHN MCMURRAY: The letter is  
20 addressed to John Bryson, Secretary of Commerce.  
21 [Reading] "Dear Mr. Secretary, The Mid-Atlantic  
22 Fishery Management Council Law Enforcement Committee  
23 has recently become aware of current staffing  
24 shortage within NOAA General Counsel's Office in the

1 Northeast Region. There is concern that such a  
2 staffing shortage may be adversely affecting the  
3 ability of NOAA Fishery Service to litigate cases  
4 brought forth by both federal and state enforcement  
5 partners and that the current situation can be  
6 undermining the deterrent effect of enforcement  
7 efforts.

8 "The recent lag in prosecuting cases  
9 has likely not escaped the attention of those who  
10 would choose to disregard important laws and  
11 regulations designed to protect and sustain the  
12 economically important commercial and recreational  
13 fisheries the Mid-Atlantic Fishery Management  
14 Council manages.

15 "On behalf of the Mid-Atlantic  
16 Fishery Management Council, I would urge the  
17 Department of Commerce to take the necessary steps  
18 to correct the staffing shortage within NOAA general  
19 counsel's office. The Law Enforcement Committee  
20 wishes to express a strong support for the  
21 continuing efforts of federal enforcement agencies  
22 and NOAA general counsel's office."

23 I'd like to move that we send this  
24 letter to the Secretary of Commerce.



1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, John. We can do that without a motion I  
3 think. Is there any objection to that? Vince.

4 VINCENT O'SHEA: Certainly not an  
5 objection, but I think it's important that you sign  
6 the letter, Mr. Chairman. And just to let you know  
7 that our commission directed me to send a letter,  
8 and that's already gone out on the same topic saying  
9 the same thing. So this would be consistent with  
10 the position the Commission has already taken.  
11 Thank you.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 That's what I just whispered to Chris Moore next to  
14 me, that I would propose to co-sign a letter to  
15 express the Council's concern as well in addition to  
16 the committee. How is the Agency if we can hear  
17 anything at this point; is the Agency seeking to  
18 address those capacities already? Bruce or Joel.  
19 Joel.

20 JOEL MACDONALD: Since I'm the  
21 section chief for the northeast regional office, I  
22 should probably address this. Just for the record,  
23 those three attorneys were not let go. They were  
24 reassigned within the Office of General Counsel, one

1 of whom was assigned to the general counsel office  
2 for natural resource damages, and the remaining two  
3 were assigned to me, the reason being there was no  
4 wrongdoing found by the IG, and it was more of a --  
5 I don't want to say a political decision, but at  
6 least a deliberative decision to sort of calm the  
7 waters, if you will, and, as Bruce says, let's look  
8 to the future and go forward in a positive fashion.

9 The implication of their reassignment is there are  
10 no vacant positions in the Office of General  
11 Counsel. And I think the letter is appropriately  
12 phrased because we really need someone from the  
13 department to assign some more slots to the Office  
14 of General Counsel if we're going to make up that  
15 shortfall. Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Joel, thanks for that clarification. I think the  
18 letter then would be appropriate. Is there any  
19 further discussion on the matter? All right.  
20 Seeing none, any other questions of the reports that  
21 we had? Peter.

22 PETER deFUR: Thank you very much,  
23 Mr. Chairman. And welcome to both of you. I know  
24 that some of the Council members also get the same

1 questions that I do from members of the public about  
2 enforcement and expenses and budget.

3 You've got these questions available  
4 about what is the positive financial ramification of  
5 effective enforcement and compliance so that we know  
6 that we're not only protecting the stocks itself but  
7 also that there's a cost saving in there, there's a  
8 financial benefit to appropriate compliance.

9 Is there somewhere online that we can  
10 get some information about that? I know that you  
11 guys are probably developing it as you go through  
12 budget cycles.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Go  
14 ahead, Bruce.

15 BRUCE BUCKSON: Thank you, Mr. Chair.  
16 I don't believe that there is anything online  
17 available right now. I can do some research and  
18 find out. I apologize.

19 COUNCIL CHAIRMAN RICHARD ROBINS:  
20 Thank you. Okay. Our next item is the Ricks E.  
21 Savage Award. So I'll go up to the other mic.

---

22  
23 RICKS E.SAVAGE AWARD

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1       Once a year the Council has an opportunity to issue  
2       the Ricks E. Savage Award.

3               The Savage award is the Council's  
4       highest award, and it's an award with which we  
5       acknowledge the contributions of one individual to  
6       the Mid-Atlantic Council's management process and  
7       contributions to the management of the natural  
8       resources within the region.

9               When the Magnuson Act was  
10      reauthorized, it included important new provisions,  
11      many of which were challenging to the councils  
12      around the country.

13              For us some of those were not as  
14      difficult as they were for other councils in terms  
15      of the fact that we already had output controls on  
16      our fisheries and so to go from an output control to  
17      an annual catch limit was not that great of a step;  
18      and yet the act also included an important new  
19      institutional provisions whereby the SSC would be  
20      integrated into the decision-making process in a  
21      very significant and important way. And in that  
22      integration the SSC would be providing the Council  
23      with quota setting advice. That was a very  
24      important change in the process and one that has

1 challenged and confounded some of the councils  
2 around the country.

3 I think our experience has been  
4 unique. It's been quite successful, and I think  
5 it's fair to say that we can attribute a lot of that  
6 success to the leadership of Dr. John Boreman.

7 Dr. Boreman has made very significant  
8 contributions to the management of our resources  
9 through his leadership for the SSC. He's been  
10 extremely responsive to the needs of the Council.

11 He's been supportive of council  
12 programs and initiatives by providing leadership at  
13 the SSC level. He has put together a number of  
14 subcommittees whom he's tasked with specific charges  
15 to help us make progress on accounting for  
16 scientific uncertainty.

17 He put together the subcommittee to  
18 help us with the development of ecosystem level  
19 goals and objectives. He continues to provide  
20 outstanding and professional leadership there at the  
21 SSC. And prior to that, John, as you know, was  
22 director of the Northeast Fishery Science Center.  
23 His leadership there was also invaluable to the  
24 region. He helped put together the team of

1 scientists that helped contribute to the development  
2 of the NEMAP survey, which fills a critical role in  
3 the region and I think has done a lot to build  
4 confidence in the development of science. It's  
5 bridged an important gap between the industry and  
6 the management community, and he made very important  
7 contributions to that survey.

8 He also when he was at LST did a  
9 tremendous job in terms of the response to the  
10 National Academy of Sciences review of the MRFS  
11 recreational data collection program. And in  
12 response to that study, he provided leadership in  
13 developing a plan to respond, and now he's providing  
14 a very active leadership role in the ongoing reforms  
15 of the MREP program.

16 So he's made extensive contributions  
17 to the region's fisheries, their management, the  
18 science by which they're managed; and he continues  
19 to provide us with excellent leadership at the SSC.

20 I think he's done a great job of  
21 striking a balance between helping us to account for  
22 scientific uncertainty and being responsive to the  
23 needs of the Council. So I think our experience  
24 with that committee has been a success in large part

1       due to his leadership. So at this point, it's my  
2       pleasure and privilege to recognize Dr. John Boreman  
3       as the recipient of the Ricks E. Savage Award on  
4       behalf of the Council.

5                       [Applause.]

6               JOHN BOREMAN: What a surprise. I  
7       wish I had a little heads-up. I would have had my  
8       wife here. But she's back in the room packing to  
9       get out of town. This is really an honor for me,  
10      but I think it represents the whole SSC.

11               We had a great group of scientists,  
12      dedicated, really interested in improving the  
13      fishery management process recognizing limitations  
14      and the frustrations of scientific uncertainty.

15               But I also want to acknowledge the  
16      leadership of Rick and Lee and Chris and Rich  
17      Seagraves and Jessica, all the staff and as well as  
18      the Council members.

19               I mean it could have been pretty  
20      nasty coming to a Council meeting and delivering bad  
21      news or news that people weren't hoping to hear.  
22      But in the long run, I think we're all working in  
23      the same direction.

24               I appreciate the support from each

1 and every one of you and hope to continue. It's  
2 been sometimes frustrating where I just wanted to  
3 walk away, which I thought about more than once, but  
4 I'm glad I'm sticking it out, it's been productive.

5 And believe it or not, after the national SSC  
6 meeting, I think our Council is leading the way for  
7 the country, too, in terms of addressing the ABC and  
8 ACL issue. So I think you should all be proud of  
9 the job that you're doing here. And thank you very  
10 much.

11 [Applause.]

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Ingrid, are you ready for your presentation? Okay.  
14 Great. Go ahead.

15 \_\_\_\_\_  
16 FISHERY MANAGEMENT COUNCILS: DECISION MAKING,  
17 COMMUNICATION, AND SOCIAL FACTORS ASSOCIATED WITH  
18 ECOSYSTEM-BASED FISHERIES MANAGEMENT

19 INGRID BIEDRON: Thank you, Mr.  
20 Chairman, and thank you everyone for giving me time  
21 to talk today about my work. I'm Ingrid Biedron,  
22 and I'm a Ph.D. candidate at Cornell University.

23 And some of you may have seen me at  
24 prior meetings. I've been coming to Council



1 meetings for about the last year. And today I'll be  
2 talking with you about my dissertation project, and  
3 it's about I work with the Mid-Atlantic and New  
4 England Fishery Management Councils and looking at  
5 how the councils are making decisions about  
6 ecosystem based fisheries management.

7 So today I'm going to just give you a  
8 brief overview of my research goals and the next  
9 steps in my research process and how they relate to  
10 the Council. So one of the aspects of my work would  
11 be to identify potential challenges to the Council's  
12 moving toward EBFM. And ultimately, my conclusions  
13 will come from what I hear from you, but right now  
14 I've made a list of some potential barriers based on  
15 my observations over the last year. So it seems  
16 that some potential barriers could be related to  
17 institutional support related to government  
18 direction, legislative mandates enforcement  
19 monitoring and budgetary resources, also scientific  
20 guidance. So what is the availability of data  
21 related to EBFM and what's available.

22 Communications. What are the avenues  
23 for communication and information exchange between  
24 council member, SSC members, government agencies and

1 stakeholders. And then finally experience. So what  
2 is the prior experience of councils and stakeholders  
3 with EBFM.

4 So I'd like to emphasize that one of  
5 the highest priorities for my project is that the  
6 work I do is actually relevant to real conservation  
7 needs, and so, if at any point during the process  
8 you have recommendations on how my work can be more  
9 relevant to what you're doing or more useful to your  
10 decisions, I would really like to hear what you have  
11 to say.

12 And also my project is open to being  
13 tweaked to being more useful, so if you have  
14 recommendations that would be really helpful. So  
15 overall my broad research goal is to identify social  
16 factors that influence the Mid-Atlantic and New  
17 England Councils approaches toward EBFM. And then  
18 more specifically I'd like to characterize social  
19 factors that influence decision making processes  
20 about EBFM.

21 I'd like to characterize the  
22 communication processes that exist between council  
23 members, council staff, SSC members and stakeholders  
24 related to EBFM.

1                   And then finally, I have to identify  
2                   the types of social science data that would be  
3                   useful for the councils as you start to think about  
4                   a transition from single-species management to EBFM.

5                   So there are several theoretical  
6                   concepts that are providing the foundation for my  
7                   research questions, and these address the ideas of  
8                   the planning table and workable agreements and also  
9                   communication and co-orientation.

10                  So Council at the planning table  
11                  refers to work done by (inaudible) Wilson, and it's  
12                  basically a metaphor for the idea of who's at the  
13                  table, so what stakeholder groups have a say in  
14                  management decisions and how did those people get to  
15                  those positions?

16                  And then the workable agreement  
17                  concept is related to work done by Forrester, and it  
18                  deals with the idea that if you have parties that  
19                  are working together to make management decisions  
20                  but they have differences in goals and objectives  
21                  and interests, then those parties need to first  
22                  actually address their differences and then work  
23                  toward a common solution from there.

24                  And I'm also interested in the idea

1 of communication and so looking at how the council  
2 staff, council members, SSC members and stakeholders  
3 are communicating with each other about EBFM. And a  
4 tool I'll use to try to measure communication is  
5 under co-orientation model.

6 And I know that figure is too small  
7 for you to see, but basically that idea of the co-  
8 orientation model is that you have different  
9 stakeholder groups and the co-orientation model  
10 tries to measure what the different perspectives of  
11 the different groups are on issues and compare if  
12 those perspectives are similar or different and if  
13 each group understands the perspectives of the other  
14 group.

15 And I'll be looking at several  
16 stakeholder groups. I'll be looking at the Council  
17 members and staff and SSC attitudes, and then I'll  
18 also be looking at commercial fisheries,  
19 recreational fisheries and environmental NGO's  
20 perspectives. So I'll talk about my research  
21 methods. I'll be using a mixed methods approach.  
22 So this means that I'll be using both qualitative  
23 data, so more descriptive data, and also  
24 quantitative data, so more numbers based data. And

1 my research began last January and will be  
2 continuing through January 2013. So there are  
3 several types of qualitative data I'll be using.

4 The first is an information review.  
5 So, as of now, I've looked at all the council  
6 documents I can find related to EBFM, and these  
7 include white papers, agendas, reports, and  
8 presentations, and the Council's website has been  
9 very helpful in providing access to these documents.

10 I've been observing meetings, so some  
11 of you may have seen me at prior meetings. And by  
12 coming to both Mid-Atlantic and New England meetings  
13 since last spring, I've been able to learn about the  
14 council procedures, meet some of the members and  
15 staff, and understand your rules better and also  
16 observe opportunities for public input and hear any  
17 presentations related to EBFM.

18 Also during these meeting  
19 observations, I've had an opportunity to briefly  
20 introduce myself and have informal conversations  
21 with many of you about the work that you do.

22 And the next step in my research  
23 process is to conduct longer in depth interviews  
24 with individual council members, council staff and

1       SSC members. And I'll be contacting you by phone or  
2       e-mail in early 2012 to ask you if you'd be willing  
3       to participate in these interviews. The  
4       quantitative component of my research will be mail  
5       surveys, so next fall I'll be contacting you again  
6       and asking you if you'll be willing to participate  
7       in a mail survey.

8               So I'll be sending out surveys to  
9       council members, council staff, SSC members, and  
10      stakeholders from the commercial fishing industry,  
11      recreational fishing industry and maritime NGOs to  
12      ask questions about EBFM.

13             So then I'd like to emphasize that  
14      it's very important to me that this work is  
15      applicable to real time management concerns, and so  
16      here are some of the examples of the types of  
17      products I hope come out of this work.

18             And the first would be an outline of  
19      recommendations based on what I hear from you about  
20      the types of social science data that the councils  
21      would find useful as they work toward EBFM.

22             The next would be to provide  
23      suggestions for opportunities to facilitate  
24      communication associated with the council decisions

1       about EBFM.

2                       And then finally, I hope this work is  
3       useful to the other councils as they also make  
4       decisions about EBFM. And as I mentioned before,  
5       early next year I'll be contacting you to ask you if  
6       you'd be willing to participate in one-on-one  
7       interviews about EBFM, and then I'll be contacting  
8       you again later in the year with the mail survey.  
9       So thank you for listening today, and I would like  
10      to thank both the Mid-Atlantic and New England staff  
11      and members for their ongoing support of my project  
12      and also thank my funders.

13                     And please feel free to contact me at  
14      any point with any follow-up questions, and I plan  
15      to be at future meetings, so you can talk to me then  
16      as well. Thank you.

17                     COUNCIL CHAIRMAN RICHARD ROBINS:

18      Thank you, Ingrid. And your timing is impeccable.  
19      We are obviously having discussions now about  
20      ecosystem management, and the Council's been laying  
21      a lot of groundwork on that issue over the last year  
22      and a half.

23                     Later today we'll be having a  
24      presentation from Rich Seagraves about our proposed

1 next steps on that issue. So look forward to  
2 working with you on that too. Thank you.

3 INGRID BIEDRON: Thank you.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
5 questions for Ingrid of her project? Okay. Seeing  
6 none -- Chris.

7 CHRISTOPHER ZEMAN: I was going to  
8 say the Council would also appreciate it if you have  
9 any insights on our path toward ecosystem-based  
10 management if you've done research on what other  
11 councils are doing that would be very helpful.

12 INGRID BIEDRON: Definitely. Thank  
13 you.

14 CHRISTOPHER ZEMAN: Thanks.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Any  
16 other questions? Okay. Thank you, Ingrid.

17 INGRID BIEDRON: Thank you.

18  
19 EXECUTIVE COMMITTEE REPORT

20 COUNCIL CHAIRMAN RICHARD ROBINS: The  
21 Executive Committee met on December 1st in  
22 Baltimore, and we covered a couple of areas in our  
23 discussion. We covered next steps on ecosystems-  
24 based management. We also discussed draft



1 priorities for 2012. We had one issue related to  
2 stocks.

3 Some of those are going to be  
4 addressed through the Executive Committee report.  
5 Others are going to be included in Chris Moore's  
6 presentation, which is the Executive Director's  
7 report.

8 But I'll go ahead and start with the  
9 Executive Committee report, and I'm going to ask  
10 Rich Seagraves if he would present to us the  
11 proposed next steps on ecosystem-based management  
12 that the Executive Committee is recommending. This  
13 step would essentially build on the foundation that  
14 we've been laying. Again, over the last year we've  
15 been working with the subcommittee of the SSC to  
16 begin to develop goals and objectives to allow us to  
17 make short-term, intermediate term and longer term  
18 progress on this issue. So this would essentially  
19 frame up a course of action for the Council. I'm  
20 going to ask Rich Seagraves if he would go ahead and  
21 present the results of that meeting.

22 RICHARD SEAGRAVES: Thank you, Mr.  
23 Chairman. There are several handouts that would go  
24 along with my Powerpoint today, and as the chairman

1 has indicated, we had this discussion at the  
2 Executive Committee meeting about a week and a half  
3 ago, and Chris had asked me to put together a brief  
4 white paper that kind of frames the issues.

5 So you have that as the Mid-Atlantic  
6 ecosystem-based fishery management policy background  
7 paper. It's a short one-pager. There's a draft  
8 purpose, a needs statement that follows that as well  
9 as a draft time line that we put together that was  
10 requested at the Executive Committee meeting.

11 But the chairman had asked me to kind  
12 of briefly review the presentation that I gave to  
13 the Executive a week and a half ago. And so the  
14 first slide, as you recall, in this very room  
15 actually, we hosted, the Mid-Atlantic Council hosted  
16 the fourth national SSC workshop, which had two  
17 themes, progress and laying the groundwork for  
18 ecosystem-based fishery management and social and  
19 economic considerations in the process. It gave us  
20 a big advantage in that we drafted the agenda and  
21 set the tone for the meeting, and it was really a  
22 chance for us to see what other councils were doing  
23 around the country with respect to ecosystem-based  
24 fisheries management.

1                   And so I'm going to give you a brief  
2                   tour of what we heard and what we concluded based on  
3                   the presentations that we received at that meeting.

4                   Okay. I'll start off with the North Pacific.

5                   They're really the pioneers in the  
6                   ecosystem-based fishery management. They've been  
7                   involved in it at some level since the early 1990s.

8                   They were the first to develop an ecosystem-based  
9                   management policy for the groundfish FMPs, and they  
10                  have included the development of eight policy goals  
11                  that I think are definitely worth considering.

12                 They establish a system level OY cap  
13                 for their Bering Sea, Aleutian Island Gulf of Alaska  
14                 groundfish fisheries. That system level cap is  
15                 operational, and it was based on a sum of 85 percent  
16                 of the MSYs for managed species.

17                 They also are incorporating an M2  
18                 terms for predation in their stock assessments.  
19                 They have accommodated trying to have adequate  
20                 forage levels for star sea lions and Alaskan pollock  
21                 by increasing their biomass thresholds. They have  
22                 an ecosystems consideration report that they append  
23                 to each of their groundfish and crab save documents,  
24                 and they've also developed fishery ecosystem plans

1 for the Aleutian Islands as well as the Arctic  
2 system. Moving on. So they were the real pioneers.

3 The other councils -- and I'm going  
4 to finish with the Pacific because that's a -- I'll  
5 cut to the chase -- recommendation as we really like  
6 their model. They followed behind the North Pacific  
7 and basically used the trail that the North Pacific  
8 laid.

9 But I'm going to quickly go through  
10 what the other councils are doing. The West Pacific  
11 Council is taking a multi-step, multi-discipline  
12 approach. They've held a number of workshops over  
13 the last year and a half to help them understand the  
14 sorts of information and analyses necessary to  
15 develop a fishery ecosystem plan, and they're  
16 currently in a process of transitioning from single-  
17 species FMPs to fishery ecosystem plans, but  
18 basically they're still stock oriented.

19 So there's name change in their  
20 plans, but they really haven't moved into an  
21 ecosystem-based approach as of yet. They've also  
22 established a regional Ecosystems Advisory Committee  
23 to coordinate management with outside entities.

24 The South Atlantic Council has been

1 working on ecosystems management for about three  
2 years. The first step was develop the fishery  
3 ecosystem plan which was a source document for  
4 initial and subsequent plan amendments. The first  
5 part is the comprehensive ecosystem based amendment  
6 they call CB1, and this essentially deals with  
7 identification of fish habitat, essential fish  
8 habitat, etcetera.

9 The second part they're currently  
10 developing will be the actual implementation of some  
11 form of EBFM, but they're in the early stages. The  
12 New England Council at their September meeting --  
13 it's a little bit smaller read; I apologize -- they  
14 developed the strategy based on a three-phase  
15 approach.

16 First, in Phase 1 in the first year,  
17 they've established their goals and objectives and  
18 also established, which is critical to us 'cause  
19 they certainly are partners in sharing the  
20 ecosystems, the fish and critters that we manage  
21 live in.

22 So the establishment of these  
23 ecosystem production units are going to be pretty  
24 critical. In Phase 2 they will identify management-

1 specific and scientific requirements to implement  
2 their strategy and entertaining the idea of  
3 combining their multi-species groundfish, skate, and  
4 monkfish FMPs to account for both biological and  
5 technological interactions of those fisheries, and  
6 they're considering the development of new reference  
7 points based on their new modeling efforts for the  
8 species complexes. And that would take about two  
9 years. The third phase is where they'll actually  
10 implement EBFM. And what their strategy basically  
11 that they're entertaining is to implement quota-  
12 based management for all the designated EPUs or  
13 ecosystem production units.

14 And so in November they voted to  
15 adopt this approach and to begin with Phase 1 for  
16 next year in establishing their goals and  
17 objectives, define the EPUs and then start  
18 development of an FEP or ecosystem-based FMP. They  
19 will report out appropriately after Year 1, revisit,  
20 and then kind of reconnoiter at that point.

21 But I think in stark contrast I'm  
22 going to move on to the Pacific Council is I think  
23 the New England approach has been pretty aggressive.  
24 They've embraced the idea of system level caps.

1 And once they define these EPUs -- certainly there  
2 are a lot of questions we have relative to  
3 governance, relative to allocation of whatever  
4 quotas that they're talking about for the different  
5 units and how this will play out especially in  
6 relation to other councils and their managed  
7 species.

8 So the Pacific Council reported at  
9 the national meeting. They launched their EBFM  
10 effort in 2009. The first thing they did was  
11 establish an ecosystems plan development team, which  
12 consists of scientists from National Marine Fishery  
13 Service, the states. They have tribal interests as  
14 well. And they formed an advisory sub panel of the  
15 stakeholders.

16 And I think the first thing that we  
17 like about their approach is it's very deliberative  
18 and they point out early on in the process that  
19 they're interested in an evolutionary process rather  
20 than a complete revolution immediately.

21 In June of 2011, they approved a  
22 draft purpose and needs statement. It was developed  
23 by their ecosystems PDT. And most recently last  
24 month they endorsed their draft fishery ecosystem

1 plan for the Pacific coast which essentially is for  
2 the California Current ecosystem.

3 Their purpose is to enhance existing  
4 FMPs with ecosystem science and broader ecosystem  
5 considerations and management policies. So it's  
6 drafted in a way such that it acts as a framework  
7 for considering policy choices and tradeoffs as they  
8 affect both the species they manage and the broader  
9 ecosystem. So it's sort of an umbrella approach.

10 The next slide. So it provides  
11 coordination for consideration of ecosystem factors  
12 across their FMPs, and also importantly it  
13 consolidates their priorities across their FMPs to  
14 deal with outside entities in the broader ecosystem-  
15 based management arena. It's a nonregulatory  
16 document initially, but it's been developed such  
17 that it could be rapidly converted to a regulatory  
18 document when the Council's ready for that step.

19 So that lead us up to the discussion  
20 at the -- this was presented to the Executive  
21 Committee, and staff recommendation is that we  
22 should consider development of a guidance document,  
23 ecosystem-based fishery management policy guidance  
24 document, along the lines of what the Pacific has



1 done. So it would be a framework or umbrella  
2 document.

3 We think it's critical that we  
4 establish some sort of mechanism because, as Rick  
5 has already pointed out, we've been talking about  
6 developing an ecosystem-based approach for about a  
7 year and half, but we think if we consolidate that  
8 approach in some sort of document, it will provide  
9 structure and guidance.

10 The timing of this is such that --  
11 one of the issues that was discussed at the national  
12 SSC that was paramount in terms of success is  
13 involvement of stakeholders. And since we're  
14 engaged in a visioning process, the timing is pretty  
15 good here. So, if we develop a document, we would  
16 hope that it would be in concurrence with or lagging  
17 the visioning process so we could take advantage of  
18 all stakeholder input that we will be getting in  
19 that process. And regardless of what we do, one of  
20 the things we kind of overlooked in this process,  
21 and Chris Moore has asked me this several times; he  
22 says, why are we going ecosystem-based; why are we  
23 thinking about this?

24 We failed to really establish and

1 articulate what our purpose and need is. So we  
2 definitely need to do that. But the staff  
3 recommendation is to go forward with the development  
4 of what we're calling at this point an ecosystem-  
5 based fishery management guidance document.

6 It would be a nonregulatory document  
7 initially, which like the Pacific approach, would  
8 provide coordination across our FMPs. It would  
9 allow for the systematic development of a Council  
10 policy with respect to ecosystem-based management in  
11 a step wise fashion such that it will be in  
12 concurrence with the development of the science to  
13 support it.

14 That's a critical factor here is that  
15 we don't want to create expectations about what  
16 ecosystem management things we could accomplish if  
17 the science isn't there to support it. And we would  
18 expect that we would definitely need a broad-based  
19 stakeholder input. So, at this stage of the game,  
20 this recommendation was made to the Executive  
21 Committee. There was a motion to move forward with  
22 this to accept the staff recommendation. So at this  
23 point, we need full council approval. And also as I  
24 noted, there was discussion about a time line, so we

1 committed to developing a time line.

2 And so we see the next steps. And if  
3 you go to the time line handout, assuming that the  
4 Council does approve the Executive Committee motion,  
5 so then if we get approval, we definitely need to  
6 form a technical working group, which would be  
7 similar to one of our FMATs.

8 We would want to consider formation  
9 of an advisory group; although, this is somewhat  
10 confounded by the fact that we are also in the  
11 process of reforming our advisory panels, and so we  
12 have to kind of see how that plays out and work with  
13 the chair to determine exactly what the AP group  
14 would look like for this exercise.

15 As I've already stated, we want to  
16 synchronize it or lag it with the current visioning  
17 process. And so the time line itself assuming that  
18 we adopt this today we would form a working group,  
19 establish some sort of advisory committee during  
20 January, begin meetings.

21 And I'll just step back a little bit  
22 and say that this doesn't supersede anything that  
23 we've already done. What we're thinking about is  
24 that all the things that we've done would just be

1 kind of folded into this document. We've got an  
2 ecosystem subcommittee that's been given terms of  
3 reference. We've been working on foraged  
4 definitions, goals and objectives, all these things.  
5 So this would just come under the umbrella of this  
6 document.

7 So, over the first six months, we  
8 would be working on the draft purpose and needs  
9 statement, which I have a draft already that I  
10 shamelessly stole basically from the Pacific Council  
11 and adopted.

12 I think they've really done a lot of  
13 work out there. They've blazed the trail for us,  
14 and we really like their approach. Hopefully, the  
15 Council will as well. And I think they have done a  
16 lot of work for us.

17 One of the advantages of having them  
18 gone through this, they followed the North Pacific  
19 Council. They utilized all the progress they made.

20 And we're in position to take advantage of their  
21 experience, and using our visioning process, I think  
22 we can come up to speed pretty quickly with this  
23 process.

24 And so by June 1, we would have our

1 first progress report back to the Council and over  
2 the next 12 months, so June of 2013, have a document  
3 in front of the Council, EBFM guidance document.  
4 Now, the idea here is that we would utilize the  
5 current FMPs to actually implement whatever measures  
6 come out of the guidance document. So this is an  
7 umbrella planning document that is nonregulatory,  
8 and as we proceed forward, actions would occur  
9 through the individual FMPs.

10 Another possibility would be to  
11 convert this to a regulatory document which the  
12 Pacific Council is considering. But that pathway  
13 will have to be determined.

14 But right now the path of least  
15 resistance and what makes the most sense of the  
16 discussion so far is to work through the regulatory  
17 aspect, through the current FMPs either through the  
18 specifications process or if there is an amendment  
19 where this could be put in. So that's where we left  
20 off from the Executive.

21 There was endorsement of the concept.

22 They asked for a time line. We've got a time line  
23 of about a year and a half. I did show it to Jason  
24 Link because Jason's the chair of our Ecosystems

1 Subcommittee and he has seen this, and had asked me  
2 to provide more time early on to develop some of  
3 this stuff. So a year and a half is pretty  
4 ambitious, but the Pacific Council did it in about a  
5 year. I think a year and a half we certainly could  
6 get the job done. So that's my presentation, Mr.  
7 Chairman.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Rich, thank you for that presentation. I think one  
10 of the questions is going to revolve around the  
11 actual implementation of any actions that might  
12 follow from this.

13 So just for example, I think this  
14 would include -- if we follow the Pacific model, it  
15 would include a comprehensive description of the  
16 regional marine ecosystem.

17 That would take significant support  
18 from the Science Center in order to get that done,  
19 but I think that's an important element of this  
20 approach.

21 But if we develop policies that  
22 follow from the objectives -- for example, if one of  
23 the objectives is to preserve ecosystem structure --  
24 I'm not trying to manipulate it back to the

1 condition it was in when Captain John Smith was here  
2 -- but if one of the goals was to preserve ecosystem  
3 structure and function and we were to develop  
4 technical methods based on SSC advice for example  
5 and incorporate those from a policy perspective into  
6 our practices, how would that actually be  
7 implemented?

8 In other words, can we simply bring  
9 that to bear through one of the existing FMPs as a  
10 specification implementation, or does that actually  
11 require a regulatory modification to that existing  
12 FMP? I mean I think that's one of the questions  
13 that we still need to understand to determine  
14 whether this is in fact likely to remain a guidance  
15 document or is it going to necessarily morph into an  
16 FMP or some other regulatory document.

17 I mean I think we need to work out an  
18 understanding of that. I've talk a little bit with  
19 Joel about it. I know we had in the Executive  
20 Committee some discussion about how things would be  
21 implemented and whether they'd be implemented simply  
22 through specifications.

23 But, again, if we're introducing a  
24 new concept in terms of how we're setting a quota,

1       for example, can we simply do that under the  
2       latitude that I thought we established in the  
3       Omnibus where we talked about OY considerations and  
4       making sure that we could adjust a quota based on  
5       economic ecological considerations, the things that  
6       are identified in National Standard 1.

7               RICHARD SEAGRAVES: Yeah. I think  
8       that, as you pointed out, the discussion that we had  
9       at the Executive Committee was the original intent  
10      would be to implement this policy, manifest it  
11      through the current FMPs, and so we wouldn't be  
12      subjected to NEPA requirements and so forth in the  
13      guidance document, but when the rubber meets the  
14      road in terms of actually implementing this policy  
15      if it occurs through an FMP or through the  
16      specifications process, it would be NEPA analyses  
17      and all the things that we normally do required. So  
18      this thing as it's initially proposed is how to  
19      develop that overall policy guidance, for instance  
20      in the forage issue.

21              One of the things I'll note is we did  
22      talk at length at the national SSC about this issue  
23      of how to define forage species and then what sort  
24      of special management they would require, and we are



1 making progress on that.

2 But one of the things that became  
3 obvious to me in the way the Pacific handled it they  
4 referred to the group as low trophic level species  
5 because you get into the argument about, well,  
6 everything's forage for something else at some  
7 point. Very few things in the ocean --large whales  
8 get eaten by killer whales. Mako sharks they exert  
9 predation on their siblings in the womb. So, at  
10 some point, everything is prey.

11 And we talked about this at the SSC  
12 meeting. So really the issues are what species are  
13 at low trophic levels that are important conduits of  
14 primary and secondary productivity that then cascade  
15 up through the ecosystem, and there's lots of  
16 literature that would suggest if you do overshrink  
17 their their stocks, you could cause some serious  
18 changes in the ecosystem, cascading effects,  
19 etcetera. So the definition that they are looking  
20 at in the Pacific Council is low trophic level  
21 species. But when we get into that, we could  
22 implement that through the squid, mackerel,  
23 butterfish FMP, develop the general policy looking  
24 at all FMPs, figure out what low trophic level

1 species issues are significant, and then provide  
2 planning guidance on approaches to dealing with  
3 that. Then it could either be if we were to make  
4 this regulatory document, it would have to have the  
5 NEPA analysis to go along with it and so forth.

6 If we just said, well, here's the  
7 guidance, and then the committee, basically Squid,  
8 Mackerel, Butterfish Committee, would then consider  
9 changes either to the FMP or specifications and the  
10 NEPA analysis would occur there. But I could defer  
11 to Pat or Joel as to the interpretation of that.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Pat, do you have any comment in terms of the  
14 approach to the development of the document and how  
15 it might be implemented?

16 PATRICIA KURKUL: No. I think Rich  
17 has done a good job of characterizing the way we  
18 talked about it at the Executive Committee and the  
19 way I would understand it. You know, I don't know  
20 if Joel heard that or not, but I think his input  
21 would be helpful too.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Well, I think what we could do if we view this as a  
24 starting point, obviously it's going to trigger a

1 lot of subsequent steps, but as we begin to move  
2 forward, I think we can try to further refine  
3 exactly what understanding we have about how the  
4 implementation would occur. And if, in fact, it's  
5 going to require any plan amendments, we would want  
6 to at least have that requirement in view up front  
7 so that we could consider how to implement things in  
8 a timely way because you wouldn't want to go 18  
9 months to develop a policy and then say, all right,  
10 now we got to go another two years before we can  
11 implement any of the policies. So if there needs to  
12 be any concurrent development on the regulatory  
13 side, I would think that we'd want to have that in  
14 our sights early on in the process. Questions for  
15 Rich? John.

16 JOHN BOREMAN: Just a comment.  
17 Several meetings ago we had a presentation by Dr.  
18 Jonathan Phinney to the SSC, and he was representing  
19 the offices of sustainable fisheries at  
20 headquarters, and he talked about developing  
21 integrated ecosystem assessment which is not really  
22 a fishery ecosystem plan, but it's a way to organize  
23 data on the ecosystems that we're dealing with to  
24 see how everything's related, where the tender spots

1 are in the ecosystem, identify those and data sets  
2 and so on. And he was encouraging the Mid-Atlantic  
3 Council to take the lead on this. He thinks that  
4 our Council is in the best position of any of the  
5 eight councils to move forward based on the data  
6 that we have available to us; and offered assistance  
7 of sustainable fisheries in headquarters to help us  
8 with that. So in putting together this team, this  
9 working group, we might want to consider inviting  
10 somebody from sustainable fisheries in headquarters  
11 to be on the group as well.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you, John. Rich.

14 RICHARD SEAGRAVES: Yeah. Just one  
15 other note. The FEP that the Pacific Council  
16 adopted last month I sent an e-mail this morning and  
17 attached the document. So if Council members want  
18 to take a look at it. It's really not that long  
19 given the job that they're trying to do. It's about  
20 80 pages or something. But I encourage you to take  
21 a look at that. And, again, that formed the basis  
22 for our recommendation, looking at that plan. There  
23 was significant resources applied, brought to bear,  
24 to develop that document from the regional science

1 centers, both the Southwest and the Northwest  
2 Science Centers. So they got a significant brain  
3 trust in a bunch of people and resources that were  
4 committed to develop that document beyond certainly  
5 the council staff was largely the ecosystem  
6 description and so forth was done by the science  
7 center folks. So I would point out that we would  
8 definitely need the commitment from the ecosystems  
9 branch of the Science Center to help us develop our  
10 document.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Rich, do you mind going back? I think you had a  
13 motion from the Executive Committee on this issue.  
14 Is that part of your presentation?

15 RICHARD SEAGRAVES: I don't have a  
16 motion, but I think we can -- I guess we'd have to  
17 have Jan bring it up.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Well, the recommendation of the Committee was that  
20 we initiate the development of the document, and we  
21 had I think a motion to that effect. It didn't  
22 necessarily need to be more descriptive than that.  
23 But I would bring that on behalf of the Executive  
24 Committee for consideration by the Council. So Rich

1 has modified the description of the document, and  
2 now he's describing it as a Mid-Atlantic Fishery  
3 Management Council ecosystem-based fishery  
4 management guidance document. So the motion would  
5 be to initiate a Mid-Atlantic Fishery Management  
6 Council ecosystem-based fishery management guidance  
7 document. What's the pleasure of the Council?  
8 Peter.

9 PETER deFUR: Thank you, Mr.  
10 Chairman, for those members of the Council who are  
11 just catching up to this who were not part of the  
12 Executive, this is long overdue, and we are well  
13 poised to undertake this step. It's a good idea.  
14 The Ecosystems Committee is very enthusiastic about  
15 this and looking forward to playing a role as it is  
16 appropriate. So I think that we ought to go  
17 forward.

18 COUNCIL CHAIRMAN RICHARD ROBINS:  
19 Thank you, Peter. Steven.

20 STEVEN SCHAFER: Thank you, Mr.  
21 Chairman. Is the purpose of the guidance document  
22 evolution into an FEP?

23 COUNCIL CHAIRMAN RICHARD ROBINS:  
24 Chris -- Steven rather, I think what we choose to

1 describe it or how we choose to describe it in the  
2 future will probably depend on some of those  
3 implementation considerations and whether or not it  
4 evolves into a regulatory document. I think at that  
5 point the title of the document may need to change.

6 But I think the concept of the fishery ecosystem  
7 plan or ecosystem-based fishery management document  
8 is really at the heart of this. It's starting out  
9 as a guidance document. Rich has modified the  
10 language and description somewhat, but I think all  
11 those concepts are contained in it. Joel.

12 JOEL MACDONALD: Thank you, Mr.  
13 Chairman. As I mentioned to you in our sidebar  
14 conversation, I really haven't had a chance to look  
15 at this document. One of the things that -- you  
16 know, leaps to mind when you were talking about it  
17 is if we have an overarching document that directs  
18 the manner in which specifications are set to  
19 existing FMPs there has to be a method or a  
20 provision that allows for those external factors to  
21 guide the specification setting process; otherwise,  
22 there's a possibility that we make a challenge that  
23 we're using considerations that are not in the  
24 regulations.

1                   What I plan on doing is talk to my  
2                   counterparts in the northwest office who advise the  
3                   Pacific Council just to get a sense of what their  
4                   advice has been and what their expectations are with  
5                   respect to the evolution of this document. So I  
6                   will be -- you know, in touch with the Council's  
7                   executive folks, and as this process is ongoing.  
8                   But I don't see any reason to hold it up. It's just  
9                   something that -- you know, I have to consider and  
10                  provide advice on.

11                 COUNCIL CHAIRMAN RICHARD ROBINS:

12                 Thank you, Joel. And we look forward to those  
13                 follow-up discussions. I think that is important  
14                 that we understand exactly how any decisions or  
15                 policies that might be adopted in this document in  
16                 the future would actually be implemented or  
17                 otherwise have an impact on existing FMPs. So thank  
18                 you. Lee.

19                 LEE ANDERSON: Thanks, Rich, for your  
20                 report. I unfortunately missed the Executive  
21                 Committee. I was having a medical procedure. This  
22                 kind of brings me up to speed. But as far as where  
23                 the Council should go with this, I think this is an  
24                 excellent idea. Especially, it fits in with my view



1 of this, to start it out as a guidance document.  
2 It's a nonregulatory document. But it starts  
3 something out so we have something in print.  
4 Everybody gets to be literally on the same page and  
5 goes ahead. And if we all stick up and keep with  
6 the reading, I think it had the options to lead  
7 something. But we may not go with a regulatory  
8 thing, but I think that would be the plan. Let's  
9 start out that way. So I certainly encourage the  
10 Council to adopt this.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Jim.

13 JAMES WEINBERG: Just I think I may  
14 have said this before to the other council. But  
15 just as you go forward, just be sure to communicate  
16 with the Science Center not only the ecosystem  
17 scientists, but also the population dynamic  
18 scientists to make sure that there's some  
19 coordination and enough support for any of the work  
20 that is proposed for implementation. And I realize  
21 this is sort of in the long-term planning stage  
22 right now, but if we recognize that right now, I  
23 think we should do that right from the start.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Jim, I appreciate that. And, as I said earlier, I  
2 think in the Pacific document that description of  
3 the regional ecosystem is really a critical  
4 component. They had extensive support from I think  
5 two science centers on the West Coast, and so they  
6 had a lot of input into that from a technical  
7 standpoint. But I would concur with that, and we  
8 will certainly follow up in that manner with the  
9 Science Center.

10 Other discussion on the motion? Is  
11 there any objection to the motion? Seeing none,  
12 it's approved by consent. Thank you all.

13 The next item we considered in  
14 Executive Committee was the draft 2012 priorities,  
15 and I'll ask Chris Moore to go through those with  
16 us.

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17  
18 EXECUTIVE DIRECTOR'S REPORT

19 CHRISTOPHER MOORE: Thank you, Mr.  
20 Chairman. Behind Tab 14 is about five pages in. It  
21 is a document that has the title, Mid-Atlantic  
22 Council Priorities 2012 Draft. So, if I could call  
23 everyone's attention to that particular document.  
24 This is the document that was provided to the

1 Executive Committee on December 1st. The purpose of  
2 the document was to basically lay out for the  
3 Executive Committee all of the things that I thought  
4 we have identified to date were Council priorities  
5 for 2012. Does everyone have a copy of that  
6 document?

7 So the first things on the list  
8 relate to all of our amendment developments. So  
9 these are amendments that have already been  
10 initiated and have been ongoing in 2011 for the most  
11 part and will continue into 2012. They include  
12 Amendment 3 to spiny dogfish, Amendment 14 to Squid,  
13 Mackerel, Butterfish, Amendment 15 to surfclams,  
14 Amendment 17 to summer flounder. And also we have  
15 some involvement with monkfish, as we discussed on  
16 Tuesday of this week. So we will continue the  
17 development of all those amendments. Some of those  
18 amendments will result in DEIS's being drafted in  
19 2012 for result in public hearings and subsequent  
20 actions. Some of them will not be completed in 2012  
21 unless some of the issues that are identified in  
22 those particular amendments are taken out by the  
23 committees and the Council.

24 So, for example, looking at Amendment

1       3 to spiny dogfish, talking to the folks that are  
2       involved with that. The primary purpose of  
3       Amendment 3 to spiny dogs it to bring it into  
4       alignment with some of the state activities.  
5       There's also issues that address limited entry in  
6       that particular document. The alignment issues are  
7       ones that we could probably handle in 2012. As we  
8       get involved in some of the limited entry provisions  
9       of Amendment 3, that may make it a little bit longer  
10      in terms of the process. So, again, those are the  
11      amendments that we have agreed to work on in 2012.

12               The other thing that takes up a lot  
13      of our time, and I think everyone knows this, is our  
14      annual specifications. So we have annual  
15      specifications for all our species. In 2012 we have  
16      tilefish added to the list, and we need to deal with  
17      tilefish not because of any regulatory requirement,  
18      but because of our Omnibus amendment. So we're  
19      going to bring that into the framework of the  
20      omnibus. And we'll be dealing with tilefish early  
21      in 2012 with the specification process that's  
22      familiar to all of you, the same specification  
23      process that we use for the other species.

24               A new thing that we added to the list

1 in 2011 are the fishery performance reports. And we  
2 plan to do those for all the species. Remember that  
3 we had one done for squid, mackerel, butterfish in  
4 2011 that was well received. It was well done.  
5 Jason Didden, staff, was the one that was involved  
6 in that. I think that went very well. And now  
7 we're looking to do those performance reports for  
8 all the species. So that's going to be a  
9 significant work load for us.

10 Remember at our Council meeting in  
11 New York we had presentations from the State of  
12 Delaware regarding special management zones around  
13 five artificial reefs in federal waters, and we  
14 agreed to proceed with that process basically to  
15 evaluate that request and provide a recommendation  
16 to the Service as to whether or not we think that  
17 SMZs are important for those particular reefs. So  
18 that's going to require some work.

19 We started the RSA program review.  
20 We hope to have that completed in 2012 and move  
21 forward with that particular program in terms of at  
22 least some initial implementation of what we decide  
23 to do with that particular program.

24 The next issue on the list is scup.

1 Remember that we initiated a contract to look at the  
2 allocation of scup between the commercial and the  
3 recreational fisheries and also the allocation  
4 within the commercial fisheries. That analysis is  
5 ongoing. We expect that that's going to be  
6 available to the Council at the February Council  
7 meeting. We're going to get a draft of the report  
8 in January. Once we see the report, we'll decide as  
9 to how we want to have that reviewed, but certainly  
10 that report will be made available to the Council at  
11 its February meeting. It's uncertain as to what's  
12 going to happen once we get the report. So this  
13 report may actually trigger some action on the part  
14 of the Council and the Commission to initiate some  
15 more amendment action related to scup or not. We'll  
16 see.

17 We've talked about the visioning  
18 project. We expect to complete the survey portion  
19 of the visioning project sometime in February, and  
20 as a result of that Touchstone will be developing a  
21 visioning document and analysis for us to review,  
22 comment on. We'll finalize that document, and they  
23 can begin the process of taking information that we  
24 got from the visioning project and the development

1 of a strategic plan. So, again, we expect that  
2 that's going to start -- the strategic planning  
3 development's going to start in 2012. And we expect  
4 -- at least the time line that we have now is that  
5 we complete the development of that strategic plan  
6 in 2012. So, again, significant workload associated  
7 with the visioning project and the strategic plan.

8 Rich just talked about the ecosystem-  
9 based fishery management guide plan document. It's  
10 yet to be determined in terms of the actual name  
11 that we're going to go with, but he's indicated that  
12 -- I think he's given you excellent background on  
13 that. As we just did, we approved that for work in  
14 2012, so we'll initiate that.

15 We have an advisory panel governance  
16 work group that you may or may not remember. But  
17 they have been involved with Jessica. We were  
18 delayed because of the additional summer flounder  
19 and scup specs we had to work on. So we expect that  
20 report to be presented to the Council at its  
21 February council meeting. This is an important  
22 document because we are ramping up the way that we  
23 use our advisors as relates to those fishery  
24 performance reports. So as soon as we get that

1 report, we'll initiate action to actually do the  
2 things that the Council approves as a result of that  
3 governance work group.

4 The next thing on the list is a  
5 comprehensive research priority plan. Rich is  
6 working on this for me basically to integrate all  
7 the research priorities that we talk about. So  
8 there's RSA research priorities. There's SSC  
9 research priorities. There's FMP research  
10 priorities. So I've asked Rich to bring all that  
11 together into one research priority plan that the  
12 Council can look at.

13 On the flip side are some of the  
14 other things that we've also identified for  
15 priorities for 2012. The first one on the list is  
16 communications. We need to develop a comprehensive  
17 communications plan. We'll be doing that. That  
18 basically upgrades our communications functions and  
19 details exactly what we plan to do in 2012. One of  
20 the things that we plan to do is complete our web  
21 redesign. The website has been and is well  
22 received. It contains a lot of information, but  
23 it's a little clunky. It's been the website that  
24 we've had in place for almost 12 years, so it's time



1 for a redesign, something to freshen that up. And  
2 we'll get that done in 2012.

3 We have a Twitter account. We'll  
4 continue to manage that. We're beginning to collect  
5 a number of photos that we're going to be using for  
6 our communications stuff. So we're going to have a  
7 photo library. We're also thinking about an online  
8 newsletter similar to some of the newsletters that  
9 the other councils do and some of the other trade  
10 associations do as well. So we'll be telling you  
11 more about that as that develops.

12 We heard this week from Peter about  
13 the Ecosystem and Ocean Planning Committee and their  
14 meeting that they had recently and what they have  
15 decided to do there. We expect that there's going  
16 to be some committee projects involved with that  
17 particular committee. We're going to continue our  
18 involvement with Coastal Marine Spacial Planning,  
19 BOEM. It used to be BOEMRE. Now it's BOEM. We'll  
20 continue our work with them. Deep sea corals,  
21 MACOORA and some of the other groups that we're  
22 currently involved with.

23 The other thing that we need to do is  
24 EFH updates. And we've agreed to do EFH updates for

1 bluefish, summer flounder, scup, and spiny dogfish  
2 in 2012 working with the Service. We expect at  
3 least four SSC meetings. Probably will be more  
4 given the work load, at least four.

5           The next thing on the list is vessel  
6 baseline regulations. Remember we have regulations  
7 in place that basically limit the ability of someone  
8 with a permit to upgrade their vessel or increase  
9 their horsepower. This is something that we talked  
10 about a little bit at the last Council meeting.  
11 There may be some possible action there. The last  
12 time we got involved in this particular issue we  
13 developed a consistency amendment that was  
14 consistent across the two councils, New England and  
15 Mid-Atlantic. And it might be possible that the  
16 same thing happens again. But that may be an issue  
17 that we have to work on in 2012.

18           There's a small project that we're  
19 involved in as a result of the habitat workshop that  
20 we had last December basically involving what we're  
21 calling voices of the fisheries project. It's a  
22 habitat project that we're working with Bonnie  
23 Hawkins on to identify some of the important habitat  
24 areas off the Mid-Atlantic coast.

1                   And then there's a bunch of other  
2           stuff there. MREP. So this is the Marine Resource  
3           Education Program, MREP. And Rick and I have talked  
4           about the fact that we need to ask them to change  
5           their acronym because it's too close to MRIP. And  
6           several people have said that I pronounce MREP and  
7           MRIP the same, so we do have to change it. The  
8           Marine Resource Education Program kickoff committee  
9           happened last week, and we do have funding to do  
10          that, to initiate both a management and a science  
11          module in the Mid-Atlantic. We're thinking that  
12          that might happen in April if all goes well. This  
13          is program that's occurred up in the New England  
14          area for the last, what, Frank, 10 years? Frank has  
15          been involved with the program, and John's been  
16          involved with the program. And we're looking  
17          forward to having that come to the Mid-Atlantic.  
18          People are very excited about it, and I think it's  
19          going to be something that's going to be very useful  
20          to us. In the past, Paul Howard has used the MREP  
21          program to help educate his advisors. And, again,  
22          it's something that's been very helpful.

23                   We continue our involvement with  
24          ACCSP primarily through Jessica. I'm on the

1 executive -- I think it's called the executive  
2 board. It meets I think once a year. But Jessica  
3 has been involved more directly through an  
4 operations team, and she'll continue that  
5 involvement. We expect that we'll continue our  
6 involvement with MRIP, M-R-I-P. And specifically we  
7 proposed -- I think you'll remember -- a number of  
8 projects that were actually funded to help support  
9 MRIP. One is a Wave 1 sampling project. That's  
10 basically going to be an online workshop to identify  
11 some of the issues that we heard yesterday about  
12 that first wave in terms of what's going on in terms  
13 of the fisheries. If you remember the discussion  
14 yesterday, there's uncertainty as to how many fish  
15 are landed in those waves in terms of our important  
16 species. So that online workshop is a good thing,  
17 and it will be useful to us.

18 We also have a volunteer angler  
19 survey workshop. That's scheduled for February 2nd  
20 in Baltimore. That particular workshop is focused  
21 on volunteer angler surveys. A number of the states  
22 do volunteer angler surveys. They're useful to the  
23 states as they set the regulations for summer  
24 flounder and scup and maybe black sea bass in terms

1 of identifying bag size and season limits when they  
2 get into those consistencies.

3 And then the other thing is an online  
4 workshop to recruit for higher registry, and that's  
5 more of a techy or technical workshop. Again,  
6 that's going to be online. We also have involvement  
7 with partnership for Mid-Atlantic Fishery science.  
8 John's involved with them just 'cause of all the  
9 (inaudible).

10 We have a protogynous hermaphrodite  
11 workshop that is tentatively scheduled for July of  
12 2012. This is something that they've been talking  
13 about for a while. It may nor may not happen, given  
14 some funding constraints, but at least Jessica's  
15 involved in the planning of that. Protogynous  
16 hermaphrodite references a number of species  
17 including black sea bass, and there's issues related  
18 to management of protogynous hermaphrodites that  
19 hopefully will be identified in the workshop and may  
20 actually help us in the management of black sea  
21 bass.

22 We have some involvement with the  
23 Chesapeake Bay goal implementation team. Again,  
24 that's something that I was on. Jessica is now on

1 that team. They address issues that are relevant to  
2 the Chesapeake Bay. We have a specifications  
3 concision work group which you may or may not know  
4 about. This is an internal work group of council  
5 staff and regional staff basically to help make the  
6 process for us much more efficient as it relates to  
7 the documents that we submit that contain the  
8 Council's recommendations. So these are the  
9 specification documents that you guys rarely see.  
10 They're available to you, but these are the  
11 documents that go into the Service after we have  
12 meetings like the one we had this week.

13 We also have an NRCC operational  
14 assessment and ACL working group that Rich serves  
15 on. We're involved with that through NRCC. We have  
16 protected resources take reduction meetings. We  
17 have to do the SBRM redo as a result of a court  
18 order. Rich is involved in that. He serves on the  
19 work group is it or Technical Committee?

20 RICHARD SEAGRAVES: It's and FMAT.

21 CHRISTOPHER MOORE: FMAT. That's  
22 right. We also have through NRCC a governance  
23 working group that Rick, Lee and I serve on to  
24 basically identify overlap between the New England

1 Council and the Mid-Atlantic Council that relates to  
2 some of the projects that we're working on,  
3 specifically ecosystem-based fishery management  
4 plans.

5 At the meeting we talked about an ACT  
6 working group or an ACT meeting basically to discuss  
7 how ACTs should be developed and what they mean  
8 relative to ACLs. And that's something that we'll  
9 continue to explore as we get into 2012. Finally,  
10 there's another thing that popped up last week. We  
11 had regional recreational plans that were released  
12 by the Service. I'm not sure exactly what those  
13 entail as they relate to staff involvement, but  
14 those are the documents that are out there now.  
15 They do identify some of our priorities as things  
16 we'll discuss within some of the working group  
17 meetings, within some of the focus group meetings  
18 that they plan to have as a result of these regional  
19 recreational plans.

20 So a long list. These are all things  
21 that I could identify. This list was endorsed by  
22 the Executive Committee as things that they would  
23 like to get done in 2012 or at least things we'd  
24 like to do in 2012. One of the questions at the

1 Executive Committee meeting was: Do I have enough  
2 resources to get all these things done in 2012? And  
3 the short answer is no, I don't. So what I plan to  
4 do is do address all of these but not with the  
5 existing resources as they relate to the people that  
6 I have now. So, for example, if you look at the  
7 fishery performance reports for all species, we've  
8 had an offer from some folks to help us with that  
9 through Duke, and we're going to continue to explore  
10 that possibility and hope that that actually results  
11 in them doing most of the work for those fishery  
12 performance reports. So we hope that will happen.

13 It's also likely that I will have to  
14 pick up an additional staff person in 2012, and that  
15 person would be someone that would help Rich in the  
16 development of ecosystem-based fishery management  
17 plan and also someone that could transition into a  
18 plan coordinator role as some of the folks think  
19 about retiring from Council staff. So that's a  
20 likely occurrence in 2012.

21 Also, I may rely on contractors to  
22 help us with some of these other issues. Once  
23 contractor that I recently signed was to do the web  
24 redesign. We're not doing that in house. A



1 contractor is going to be doing that for us. Last  
2 but not least we talked about an issue yesterday.  
3 And it's apparent that -- it's more than one issue -  
4 - it's apparent that we have a number of issues  
5 related to recreational specifications, and this is  
6 a discussion that I've had with Steve and others.  
7 Basically, we're in a situation now where the  
8 information is not available to really address  
9 alternative bag size, season limits as it relates to  
10 coastwide management measures.

11 When Jessica and I had the  
12 discussions about this meeting and the package that  
13 she was putting together to convey some of the  
14 information that she had I asked her for some  
15 alternatives related to summer flounder coastwide  
16 management measures. In other words, I thought that  
17 given what I was looking at in the tables that she  
18 presented yesterday, that we may be at the point  
19 where we can come up with some consistent coastwide  
20 regulations that would make everybody's life a  
21 little more easier as it relates to that particular  
22 species. She told me that she couldn't evaluate any  
23 coastwide management measures. So I think at this  
24 point we're in a very complicated and somewhat

1 confused situation as it relates to the recreational  
2 management of those three species. And I think as  
3 the executive director that we should as a council  
4 develop some of our resources to that particular  
5 issue in 2012 so that we can have some change as we  
6 get into the specification process for 2013. With  
7 that, Mr. Chairman, I'd be glad to answer any  
8 questions.

9 COUNCIL CHAIRMAN RICHARD ROBINS: So  
10 that's all we're doing next year?

11 CHRISTOPHER MOORE: That's all.

12 COUNCIL CHAIRMAN RICHARD ROBINS: And  
13 you've got an offer from Duke to provide some  
14 graduate students to help you with the performance  
15 reports?

16 CHRISTOPHER MOORE: Yes.

17 COUNCIL CHAIRMAN RICHARD ROBINS:  
18 Okay. Vince.

19 VINCENT O'SHEA: I have two comments,  
20 Mr. Chairman. I'll take the easy one first, and  
21 that has to do with communication plan and the re-  
22 torquing of that, which I support. And I suggest we  
23 might want to consider a vision of that end point  
24 being a strong relationship between the Commission's

1 outreach and the Council's outreach in view of the  
2 joint plans that we have and the joint constituents  
3 that we both interact with so that at the end of the  
4 day we take care to make sure that the message going  
5 out from the ASMFC reinforces what you all are doing  
6 and visa versa. So I would implant that as a  
7 suggestion. (Inaudible) has been around we all know  
8 for at least 15 years. And I think the relationship  
9 we have between Jessica and Toni, for example, in  
10 running the joint plans, I think to me that sort of  
11 suggests a model of what we ought to be on outreach  
12 as well, have that kind of interaction.

13 The second issue is the scup study.  
14 I want to ask a question and make a comment. And  
15 the question's going to be: You're going to get the  
16 report -- you know, the economic analysis thing, and  
17 if the Council decides to go forward, to react to it  
18 would probably require either framework or an  
19 amendment; so does that then go to the bottom of the  
20 hopper again, or would there be capacity implied in  
21 your priority list to take management action should  
22 the Council decide to do it? And then I want to  
23 make a comment.

24 CHRISTOPHER MOORE: So we expect that

1 report at the end of January, as I think I said, and  
2 we'll look at it and decide how to proceed in terms  
3 of a review and Council and Commission action. If,  
4 in fact, that document contains information that the  
5 Council wants to react to right away, then the  
6 Council's going to have to decide what's a priority.

7 So, for example, they may decide, you may decide as  
8 a council that that issue, that scup allocation  
9 issue is the most important issue now in the summer  
10 flounder, scup and black sea bass plan. As a result  
11 we'd move that to the top of the list and decide to  
12 work on that instead of continuing work with the  
13 black sea bass recreational measures. That's one  
14 possibility.

15 Or you decided that we need to get  
16 black sea bass and scup done, incorporate scup into  
17 Amendment 17, we'd continue to work with both those  
18 species at the same time, which would delay the  
19 ultimate decision on black sea bass, but again may  
20 increase our efficiency in getting some of those  
21 things done. So those are possibilities.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Vince, the other question about that, too, is  
24 whether that report needs to be reviewed, and if so

1 at what level can we gauge our SSC, for example, to  
2 review that if you're going to use that for a basis  
3 for moving forward with changes to the management  
4 plan. Vince.

5 VINCENT O'SHEA: Thank you, Mr.  
6 Chairman. That's helpful, and that's a good answer.

7 I'm glad to hear that. For the benefit of the  
8 other Council members, just to make sure, we didn't  
9 discuss this during the joint board/committee  
10 meeting yesterday, but this past -- first of all,  
11 there's a high level of frustration with current  
12 scup allocation relative to commercial and  
13 recreational for some ASMFC states, and one of the  
14 challenges we have is that three of those states  
15 don't sit on this council. So their frustration I  
16 think was manifested this fall when they  
17 unilaterally decided to deviate from the fishery  
18 management plan and extend the recreational scup  
19 fishery this fall, which created a problem with  
20 ASMFC.

21 But I also think it's indicative of  
22 the importance that these states place on this.  
23 And, again, I think one of the possibilities may be  
24 that while we're very concerned about ASMFC and the

1 Council staying aligned on these different species  
2 and the management plans, one of the options, quite  
3 frankly, available to them is to go ahead and try to  
4 stake out a chunk of the scup fishery and set up  
5 different rules for the state management of that.  
6 That obviously isn't an ideal situation. But some  
7 of these states feel that it's been three years  
8 they've been trying to get relief on this issue, and  
9 it's not being registered by this council, and the  
10 fact that they took action outside the ASMFC process  
11 I think is sort of a shot across the bow that says  
12 they're concerned about this. So that's why I raise  
13 it.

14 I would encourage us all to think  
15 carefully about it. I can see a scenario quite  
16 frankly where everybody realizes that the federal  
17 process potentially moves a bit slower than the  
18 state process, that they may make a calculated move  
19 to be out of sync with the Council for a year or two  
20 in the expectation that in time you would catch up  
21 with an amendment that would bring the two  
22 management plans into alignment. Obviously, it  
23 would be much better if we moved together. But I  
24 just want to make everybody aware at the table,

1 around the table, about this concern at ASMFC.

2 Thank you.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Well, and, Vince, I would certainly agree that is  
5 important context for this council to be aware of.  
6 I would point out that we've made a major investment  
7 in this allocation study in response to those  
8 concerns that we've heard around the table in the  
9 joint meetings, and so we are moving forward as  
10 quickly as we can with a detailed look at that  
11 question, and we've set it up I think in our draft  
12 priorities for 2012 such that we could respond to  
13 it. And as, Chris says, that may become the top  
14 priority within the summer flounder, scup, black sea  
15 bass plan if, in fact, the information that comes  
16 back to us is compelling. So that's how I'm looking  
17 at that.

18 But I appreciate you sharing that  
19 additional concern. And we are hearing similar  
20 concerns about representation and things like that  
21 as we go through the visioning process and meet with  
22 constituents in southern New England. This has come  
23 up already in some of those meetings. So it builds  
24 on that concern that we've heard at the ASMFC.

1 Vince.

2 VINCENT O'SHEA: Thank you, Mr.  
3 Chairman. You know in trying to encourage people to  
4 work I guess I want to say in a more productive way,  
5 I've also encouraged these states to reach out to  
6 Jack Travelstead who chairs the committee for this  
7 council to talk about ways that this reallocation  
8 issue could be examined and what might be a  
9 reasonable way to proceed so that -- I'm going to  
10 try to do everything I can to get those states to  
11 work through the process and try to keep us linked  
12 up and coordinated as opposed to acting  
13 unilaterally. But the flip side of that is that  
14 they're going to certainly want to look for an  
15 interested audience and engagement by this council  
16 to hear what their problems are, and quite frankly,  
17 get some relief from the Council. Thank you.

18 COUNCIL CHAIRMAN RICHARD ROBINS:  
19 Thank you, Vince. Howard.

20 HOWARD KING: Yeah. This would be to  
21 Vince. If no one objects, could Council members be  
22 added to the ASMFC interested parties list to  
23 support communication?

24 COUNCIL CHAIRMAN RICHARD ROBINS:



1 Vince.

2 VINCENT O'SHEA: Yeah. Certainly.  
3 It's a good idea.

4 COUNCIL CHAIRMAN RICHARD ROBINS:  
5 This issue of communication was a major focal point  
6 of the recreational workshop we had in Baltimore  
7 just a couple of weeks ago, and we got a lot of  
8 excellent response, I think very detailed  
9 suggestions from those participants about how we  
10 could improve Council communication with the  
11 recreational public. And I would anticipate that to  
12 the extent that we can, we'll be incorporating those  
13 recommendations as we move forward with the overhaul  
14 of the communications plan. One of the suggestions  
15 that was also offered there was that the Council do  
16 more to interact and leverage the existing state  
17 communication programs through the different state  
18 agencies that are represented around this council.  
19 And so that I think just builds on Vince's  
20 suggestion about being better coordinated with ASMFC  
21 on the communication side too. But I think there a  
22 lot of opportunities that we can do to make sure  
23 that we are getting the word out and keeping the  
24 public informed. Jim.

1 JAMES WEINBERG: Yeah. I want to  
2 move on to a different topic. So, if you --

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
4 it still on priorities?

5 JAMES WEINBERG: It's on tilefish.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Go  
7 ahead.

8 JAMES WEINBERG: I just wanted to  
9 raise a cautionary flag about beating this drum  
10 about staff support, but it's my job to bring this  
11 up because I am representing the Center. And we  
12 want to support the Council, of course, but when I  
13 came to this meeting, this was the first time that I  
14 heard that the Council needed an analysis of  
15 tilefish in the next month or so, and in the  
16 assessment along the lines of an assessment update.

17 Maybe other people knew that, but I didn't.

18 Most of the people at the Center are  
19 very actively engaged on doing updates on the New  
20 England groundfish right now, and that work is  
21 ongoing and will be reviewed in February. It sounds  
22 like this is coincident in time with that, and Paul  
23 Mitchky is the head tilefish assessment person, and  
24 he's also the head of the New England Groundfish

1       Assessment Group. They're doing about almost a  
2       dozen updates right now. So he's probably more than  
3       fully occupied doing that. So I just wondered if  
4       you could clarify for me what the expected level of  
5       analysis is and your time frame, and then we can try  
6       to have a discussion about what can be done.

7                   COUNCIL CHAIRMAN RICHARD ROBINS:

8       Chris.

9                   CHRISTOPHER MOORE: Low and short.

10       So we have very little -- we're not asking the  
11       Center for much as it relates to tilefish. And the  
12       situation with tilefish is this: The plan says  
13       basically that we're not going to change the quota  
14       for tilefish until we have a new benchmark  
15       assessment. So that's why we haven't really looked  
16       at tilefish over the last couple years. I think the  
17       last one was in 1999. Rich?

18                   RICHARD SEAGRAVES: The last  
19       assessment was 2008 I think.

20                   CHRISTOPHER MOORE: I'm sorry. 2008.

21                   RICHARD SEAGRAVES: So, after that we  
22       set the specs for tilefish, and we haven't done  
23       anything with them since. We need an ACL for  
24       tilefish. And we should be able to use the existing

1 information and the SSC to accomplish that  
2 relatively easily based on the information that I  
3 have right now. As I understand it, we don't have a  
4 situation with tilefish that is one that we have to  
5 react to. There doesn't seem to be any problems  
6 with the fishery or with the stock. We will ask  
7 Paul through the Center -- we'll ask the Center and  
8 it will eventually get to Paul to maybe help us with  
9 some additional information that we can provide to  
10 the SSC. So it would be maybe some updates and some  
11 catch-up for information. So that's it.

12 JAMES WEINBERG: Thank you for that.

13 COUNCIL CHAIRMAN RICHARD ROBINS: All  
14 right, Jim. Any other questions on the draft  
15 priorities? The Executive Committee moved to  
16 approval of the 2012 priorities, and I will bring  
17 that to the Council. Is there any discussion on the  
18 motion? Is there any objection to the motion? All  
19 right. Seeing none, that's approved by consent.  
20 Thank you. Chris, would you like to continue with  
21 the other elements of your report?

22 CHRISTOPHER MOORE: Yeah.

23 COUNCIL CHAIRMAN RICHARD ROBINS: We  
24 also need to take a Council photo. I don't think we

1 have much to go through, so unless anybody's getting  
2 ready to leave right now, we can go ahead and finish  
3 Chris's report I think. Chris.

4 CHRISTOPHER MOORE: Thank you, Mr.  
5 Chairman. So going back to the material behind Tab  
6 14, there's another issue that came up in the  
7 Executive Committee and I'm going to talk about that  
8 as it relates to my report. Just quickly moving  
9 through the first couple of pages, again, this is  
10 just to give you an indication of where we're at  
11 with FMPs and our specifications. Again, related to  
12 the specification packages we submitted,  
13 specification packages for bluefish recently. Jim's  
14 working on the spiny dogfish specification package,  
15 and we expect that to be submitted in January. And,  
16 of course, we'll begin work on the recreational  
17 specification package that we talked about  
18 yesterday.

19 The next document is just a listing  
20 of some of the things that we did in November as it  
21 relates to visioning. We'll talk about that in a  
22 little bit. One thing of note, November 28th Rick,  
23 Lee and I met with Eric Schwaab in Silver Spring to  
24 talk about a number of issues that are important to

1 the Council including summer flounder. That meeting  
2 included some other folks from headquarters  
3 including Sam Rouk and Alan Risenhoover. The  
4 meeting went well. Eric was receptive to a number  
5 of things that the Council is doing and very  
6 supportive of those as well. He's very interested  
7 in the visioning project and very interested in what  
8 we are doing specifically with some of our  
9 recreational fisheries.

10 We also had a new council member  
11 training. Warren attended that along with Mary. As  
12 I understand it, things went very well. It was a  
13 good training session. The next page. We had a  
14 recreational focus group meeting that we talked  
15 about quite a bit about yesterday, that was well  
16 organized, well attended, We had around 30 fishermen  
17 from Massachusetts through North Carolina that we  
18 invited to the focus group meeting, and again, it  
19 was an excellent meeting thanks largely to the host  
20 and fisheries forum. And Loftus Consulting set up  
21 that particular meeting.

22 Also on December 8th, I've already  
23 indicated that we had a kickoff meeting for MREP,  
24 and I'll be providing some additional information as

1 we continue work on that particular project.

2 The next the document in the briefing  
3 book is a memo from Mary to me on the visioning  
4 project. Things are going very well. This is an  
5 update that's dated November 30th. Things have  
6 changed since then.

7 At this point, we have at least 700  
8 survey responses. So we're doing very well. Our  
9 target was a thousand. So to get 700 by the end of  
10 December we're doing extremely well. Most of those  
11 responses are from recreational folks.

12 And a lot of the species-specific  
13 survey responses relate to summer flounder. So it's  
14 interesting as you go through those to see who is  
15 actually responding to our survey request.

16 We don't have a lot of survey  
17 responses from commercial fishermen, so the  
18 importance of the small group meetings has really  
19 been highlighted or increased. These small group  
20 meetings have been held up and down the coast.  
21 They've been very popular with the folks that attend  
22 the meetings are very supportive of the fact that  
23 the Council is taking the time to come out and  
24 actually meet with them.

1                   And I think at every single meeting  
2                   that we've been at, they've indicated that they  
3                   would like the Council to do more of these small  
4                   group meetings. So that's a likely outcome from the  
5                   visioning project that, in fact, we will have more  
6                   of those.

7                   We'll continue to plan some more of  
8                   those. Rick was recently at a couple up in New  
9                   England, one in New Bedford and one in Stonington.  
10                  The Stonington, Connecticut one happened because we  
11                  got a letter from an individual in Stonington who  
12                  indicated that he was very interested in having us  
13                  attend and talk about Mid-Atlantic Council  
14                  activities.

15                  He was surprised that we actually  
16                  showed up and just amazed. In fact, within two days  
17                  of receiving his letter, we responded back to him  
18                  and set the meeting up. So we're getting a lot of  
19                  folks that are very appreciative of our efforts with  
20                  the visioning project and in particular these small  
21                  group meetings. We've had a couple articles that  
22                  have been published. One was written by Rick was in  
23                  Commercial Fisheries News. If you haven't see that,  
24                  let me know, and I'll get you a copy. We're going



1 to have something in National Fishermen. We've had  
2 a number of articles in a number of other papers up  
3 and down the coast.

4 Staff is also doing a personal  
5 outreach campaign that involves calling folks and  
6 asking them to fill out the survey. We also sent  
7 out a letter to all the commercial permit holders to  
8 ask them to in fact fill out the survey as well.

9 In Mary's memo to me, she says the  
10 survey will remain open at least until January 31,  
11 so at least until the end of January, but my  
12 expectation is that we may keep it open through mid-  
13 February or so just to accommodate some of the  
14 recreational meetings that we're going to need to  
15 have, and there's some important shows and events on  
16 the East Coast in February. So we may continue to  
17 get survey responses through February.

18 And, as Mary says, given the  
19 importance of this project to the Council's future,  
20 I highly encourage all council members to  
21 communicate about this opportunity to their networks  
22 and contacts so that we can ensure complete and  
23 accurate coverage of Mid-Atlantic stakeholders in  
24 this process. So, again, we're asking council

1 members to reach out to folks. And if you need  
2 anything from us, if you run into folks that want to  
3 have small group meetings or need hard copies of the  
4 surveys, please let us know.

5 The next issue in the briefing book  
6 is a letter that I got from Pat basically asking us  
7 to look at something that was recently published in  
8 the Federal Register, a proposed rule on federal  
9 American lobster management. And, if in fact you  
10 want a copy of that draft EIS or draft environmental  
11 assessment -- it isn't EIS -- draft environmental  
12 assessment, I can provide that to you. So we've had  
13 some interesting lobster management, not a lot at  
14 the council level. Some of the state guys are more  
15 involved with lobster management than us.

16 We've talked about the priorities.  
17 Before I get to the next document, the SOPPs, are  
18 there any questions about visioning or scheduling or  
19 priorities?

20 Okay. So now we have to have a  
21 two-hour discussion about SOPPs. Not really.  
22 There's a lot of material in the back of Tab 14.  
23 This is something I characterize it as a  
24 housekeeping issue that we really haven't addressed

1 to date.

2 Back in September of 2010, there was  
3 a Federal Register notice basically indicating that  
4 there were changes to the regulations that addressed  
5 the operations and administration of the regional  
6 fishery management councils, and these changes were  
7 detailed in that particular notice. When you looked  
8 at our existing SOPPs compared to this notice, we  
9 really didn't have to change too much.

10 A lot of the things we were already  
11 doing. Some of the things just weren't in the  
12 document that should have been. So, if you look at  
13 the next page, this is the cover of our state  
14 organization practices and procedures.

15 The document is highlighted in green  
16 and red, not because of the holidays, but because  
17 those are the colors that we had available. The  
18 green are the changes that we made recently in 2010.

19 The red changes are the ones that we've  
20 incorporated into the document in response to the  
21 Federal Register notice.

22 So these red ones begin on page five.

23 So I'll just quickly walk through the document. If  
24 you see anything that we need to stop and talk

1 about, please stop. Basically, what we're looking  
2 for at the end of this discussion is an endorsement,  
3 approval by the Council to submit the SOPPs to the  
4 National Marine Fishery Service for approval.

5 So on page five, Council functions  
6 and responsibilities I don't think there's anything  
7 that would surprise anyone there. Next page, page  
8 six and page seven, the Council organization, it  
9 talks about our composition, what our jurisdiction  
10 is, who our voting members are, who our nonvoting  
11 members are. None of these things were included in  
12 our old SOPPs, so we've added these.

13 Page eight has the oath of office  
14 that you all took when you became council members.  
15 Talks about terms of appointments, how nominations  
16 are made and how people get appointed to the  
17 Council.

18 On page nine we talk about rules of  
19 conduct. Lobbying is something that we needed to  
20 have in our SOPPs that we didn't have before. On  
21 page 10 and 11, we talk about financial interest and  
22 the financial interest forms that you all have to  
23 fill out when you become council members, and it  
24 talks about those.

1                   Page 12 continues with just some  
2 paragraphs on security assurances as well as council  
3 member training. And then we don't have any red for  
4 about -- let's see. I'll stop. On page 16, page  
5 17, we talk about ABCs, and that was something we  
6 had to add as a result of the Omnibus Amendment.

7                   Page 19 we talk about who can get a  
8 stipend for supporting council activities as it  
9 relates to the SSC. On page 21 is acknowledgement  
10 that we have a Council Coordination Committee. It's  
11 been in existence for a while. It just talks about  
12 that briefly. Page 22 we're talking here on this  
13 page about council meetings and hearings. It talks  
14 about notices that we have to give relative to our  
15 meetings. We just upgraded that a little bit. Page  
16 24 there's some upgrade there in that top paragraph  
17 related to financial interest.

18                   On page 24 as well is a discussion  
19 about what we need to post on our website and how  
20 we're supposed to make those documents available to  
21 the public. So that paragraph is there.

22                   And, again, these are things that we  
23 largely are already doing as a council. The next  
24 little change occurs on page 34. This is in green.

1 Just as a reminder, this has come up a couple times  
2 over the last year. We approved it back in 2010,  
3 how are folks compensated for webinars.

4 So, if you've forgotten about this,  
5 you should take a look at that. Basically, if a  
6 webinar lasting one to four hours, compensation is  
7 paid at 50 percent. Full compensation is paid for a  
8 webinar lasting more than four hours. This is  
9 something that we agreed to previously as a council.

10 On page 35 this is something that  
11 didn't make a lot of sense. I talked to Rick about  
12 this. It talks about how if you're an employee of  
13 the Council, you're only allowed to carry over 240  
14 hours of annual leave for whatever reason, you're  
15 tasked with too much work, and you haven't been able  
16 to take leave and you haven't been able to use all  
17 your annual leave, then I, in fact, can allow  
18 rollover of some of that annual leave into the  
19 following year. So it said before -- the top of  
20 page 35 -- the Council chair or his or her designee.

21 We're replacing that with executive director,  
22 basically because the council chair doesn't get  
23 involved with leave issues generally.

24 And then the next thing that you find

1 is page 44. So page 44 acknowledges the situation  
2 that is basically in paragraph D, checks may be  
3 drawn on the sole signature of the executive  
4 director, administrative officers, except checks  
5 greater than 15,000.

6 Replacing that with 30,000, largely  
7 because we've been writing bigger checks for  
8 contracts, health care, that kind of thing, and this  
9 just makes things a little more efficient. I can  
10 never write a check to myself, so don't worry.

11 The next thing in the document is on  
12 page 49, the last page, and this basically talks  
13 about how amendments are made to our SOPPs. So,  
14 again, a lot of housekeeping things. You've seen  
15 our SOPPs before. We give copies of the SOPPs to  
16 council members when they're appointed to the  
17 Council. Last but not least is the issue that we  
18 discussed at the Executive Committee meeting, and  
19 this is a handout that you have in front of you.  
20 It's council pension contribution comparison on one  
21 side and then some text on the other. So I brought  
22 this up at the Executive Committee by basically  
23 saying that this was something that I'd like to do  
24 for the council staff.

1                   Currently the Council contributes 10  
2 percent to employees 401(k) funds, and if you look  
3 at the Council pension contribution comparison chart  
4 that Carol put together for me, there are other  
5 councils that only give 10 percent, but there's a  
6 number of others that have higher contributions than  
7 we do.

8                   And I would like for the Council to  
9 basically contribute an additional 4 percent to  
10 employees' 401(k) accounts depending on availability  
11 of funding. So, basically, this would increase the  
12 contribution only if the employee matched that  
13 additional 4 percent.

14                  And this would, again, depend upon  
15 availability of fundings. So, if we got into a  
16 situation where funding was limited, then it would  
17 revert back to the base 10 percent that we currently  
18 give now. And with that, Mr. Chairman, I'm glad to  
19 entertain any questions about the SOPPS or any of  
20 the other documents that we have behind Tab 14.

21                  COUNCIL CHAIRMAN RICHARD ROBINS:

22                  Thank you, Chris. And that one issue in the SOPPS  
23 with respect to the additional contribution did come  
24 before the Executive Committee for consideration.



1 The Executive Committee endorsed that request, and  
2 so that comes with the recommendation of the  
3 committee. But the recommendations Chris has made  
4 here more broadly than the SOPPs.

5 I mean you've got all that new  
6 language there in red. So we would need a motion to  
7 consider those amendments to the SOPPs. Is there a  
8 second to the motion? Seconded by Steve Linhard.  
9 Discussion on the motion?

10 Are there any questions for Chris  
11 regarding the proposed modifications to the SOPPs?  
12 Is there any objection to the motion? Seeing none,  
13 it's approved by consent. Thank you, Chris. Do you  
14 have any other business under your report?

15 CHRISTOPHER MOORE: No.

16 COUNCIL CHAIRMAN RICHARD ROBINS:  
17 Okay. We have two other committee reports I  
18 believe. One is the SSC. Or Rich, do you want to  
19 go ahead with the director's report?

20 RICHARD SEAGRAVES: Science report.

21 COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Yeah.

23  
24 SCIENCE REPORT

1                   RICHARD SEAGRAVES: Okay. Thank you,  
2                   Mr. Chairman. The Council refers to Tab 15. There  
3                   are two items in the science report. The first item  
4                   deals with the five-year research plan. The  
5                   Magnuson Act requires each council to submit a five-  
6                   year research priority plan. We developed this a  
7                   number of years ago. I think this is the third or  
8                   fourth modification to it. And I'm not going to  
9                   torture you by going through it line by line.

10                  Essentially, you'll see the yellow  
11                  parts of it, highlighted parts, represent changes.  
12                  Just a little bit of background: When we developed  
13                  this plan, the idea was to first identify general  
14                  research and information needs that kind of  
15                  transcend the various FMPs and species we manage and  
16                  other issues.

17                  In the first part there are no  
18                  changes to those. And then the specific changes  
19                  relate to the species-specific research needs. And  
20                  as you'll see for bluefish, there were some changes.

21                  These species-specific research needs  
22                  are lifted primarily from the assessment documents,  
23                  the stock assessment documents, as well as the SSC  
24                  committee report when they make an ABC

1 determination. We've added a research  
2 recommendation section to the report.

3 And by and large, most of the things  
4 you see highlighted in yellow are a result of ABC  
5 determinations that the SSC made over the last year.

6 So they have been recommended by the SSC. The SSC  
7 has reviewed this document. And so it represents  
8 basically the recommendations of the SSC. And so we  
9 need endorsement by the Council much like for the  
10 SOPPs document.

11 Generally, what we'll do is put this  
12 in the form of a letter to the Science Center  
13 director, Northeast Fishery Science Center, so that  
14 they then use this research priority list to develop  
15 their funding and various planning exercises for  
16 research in the future.

17 So the highlighted parts represent  
18 modifications as a result of the SSC deliberations  
19 this year. And they've approved that, so we need  
20 just approval by the Council on this document.

21 COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Rich, can you elaborate on what the follow-up  
23 mechanisms are with the Science Center?

24 RICHARD SEAGRAVES: Jim's still here.

1       There he is. Basically, I think they -- or even  
2       John. Of course, he was the Science Center director  
3       for a number of years. But they use this in their  
4       planning exercise and development of requests for  
5       funding and research development, etcetera.

6               So we have in the past sent the  
7       letter to Nancy Thompson. And I'll let Jim or John  
8       can fill in the details. I'm not that well versed  
9       in exactly that procedure. But essentially, they  
10      take the councils -- the New England Council would  
11      also be required to submitting the same sort of  
12      priority list, and then they would meld those  
13      together and use them in the development of their  
14      research plan.

15             COUNCIL CHAIRMAN RICHARD ROBINS:

16      Jim, can you elaborate on that?

17             JAMES WEINBERG: Actually, I don't  
18      have a lot to elaborate on it. That was handled  
19      more at the level of the director. And I know Nancy  
20      was pulling that action item together at the NRCC.

21             I know how these research  
22      recommendations are developed and how they tend to  
23      be folded into stock assessments and whether they  
24      tend to get done or not, but I really don't have

1 much to add related to your question.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Rich.

4 RICHARD SEAGRAVES: Yeah. I would  
5 just add that I would ask the Council to consider  
6 this as a placeholder. And as Chris already  
7 indicated, one of the initiatives that we're going  
8 to undergo in 2012 as part of the RSA program review  
9 is to revamp this so that it truly is a research  
10 priority list. We're looking for SSC involvement as  
11 well as we'll be working with assessment leads and  
12 so forth to pare this list down and actually  
13 prioritize it in 2012.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Yeah. It looks like we have an opportunity to  
16 strengthen that. It hasn't been clear to me exactly  
17 what the feedback loops are on these research plans,  
18 so I think that would benefit from some more work.

19 All right. Rich has requested that  
20 we approve the draft research plan. Can we have a  
21 motion to that effect? Moved by Jack. Seconded by  
22 Peter deFur. Any discussion on the motion? Is  
23 there any objection to the motion? Seeing none,  
24 it's approved by consent. Thank you.

1                   RICHARD SEAGRAVES: Thank you,  
2           Mr. Chairman. The other two items behind that tab  
3           are, first, a petition to list alewife and blue back  
4           herring as threatened species under the Endangered  
5           Species Act and also to designate critical habitat  
6           concurrent with a listing. And the petition was  
7           brought forth by the Natural Resource Defense  
8           Council.

9                   If you page back behind that, you'll  
10          run into a Federal Register notice, and this is a  
11          90-day finding on the petition to list. And NMFS  
12          announced in that finding, and the date on that,  
13          November 2nd, announced that there was substantial  
14          scientific information presented by the petitioner  
15          to consider listing of alewife and blue back under  
16          ESA as threatened and that action may be warranted.

17          And the NMFS will be conducting a review to make  
18          that determination I guess over the next year, but  
19          they are soliciting comments and will be accepting  
20          comments on this Federal Register notice until  
21          January 3rd, 2012. So this puts you on notice about  
22          that.

23                   After that I don't have anything  
24          behind the tab, just a couple of items. One we've

1 already talked about is that we will be scheduling  
2 it looks like March 21st, 22nd an ABC meeting to  
3 determine ABC for tilefish with the SSC.

4 We also have launched a peer review  
5 of the Management Strategy Evaluation Study that we  
6 contracted with the University of Maryland. Doctors  
7 Wilbert, Miller and Bideman have presented to  
8 fulfill their contract sent to us their final report  
9 in August of 2011.

10 And we feel it was really important  
11 that we get a peer review of this report, and so  
12 what we've set up is a journal style review. I've  
13 done this in the past with the SSC on a number of  
14 items and issues that we've had to address.

15 And so we formed a review panel. The  
16 three reviewers have agreed. We launched it on  
17 Monday actually. We have Andre Punt from University  
18 of Washington, really three experts in the field of  
19 population dynamics, management strategy evaluation  
20 approaches, really three of the top folks in the  
21 field and really in the world is Andre Punt, Steve -  
22 - is it Steve? Jim. Jim Burkson and Punt is also a  
23 member of the Pacific Council SSC.

24 Jim Burkson a member of the South

1 Atlantic and Caribbean SSCs and he's also just moved  
2 his shop. He's heading up the NMFS initiative, NOAA  
3 initiative to recruit and expand and to fill out  
4 the ranks of new assessment scientists. He's at the  
5 University of Florida.

6 And then Christian Gault from  
7 obviously the Fishery Science Center in the  
8 northeast, and he's also current chair of the New  
9 England SSC. Doug Vaughn is acting as review panel  
10 chair.

11 And we'll be giving those folks about  
12 a month to address the terms of reference they were  
13 given. And these were developed by John in  
14 consultation with the chair of the Council and the  
15 executive director.

16 And reviewers remain anonymous like a  
17 journal review. If there is significant  
18 disagreement relative to terms of reference or maybe  
19 a webinar, and then Doug's job will be to present a  
20 review panel report to the Council, to the SSC and  
21 then ultimately to the Council. So that's under  
22 way. And the other thing I bring up is we were  
23 successful in procuring funding through ACCSP  
24 jointly with the Atlantic States Marine Fisheries



1 Commission had an ongoing project that was designed  
2 to augment sea sampling, at-sea observer coverage in  
3 their fisheries, and we teamed up.

4 Melissa Pane I worked with her, and  
5 we were successful. I don't have anything official,  
6 and I don't know the exact number because I haven't  
7 received a letter yet, but it's somewhere I think  
8 between 100 to \$200,000 to increase at-sea sampling  
9 of our small mesh fisheries, principally Atlantic  
10 mackerel, squid and scup. And that concludes my  
11 report.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you. Questions for Rich? Yes. Vince.

14 VINCENT O'SHEA: Well, again, Mr.  
15 Chairman, no questions but two quick comments. One  
16 is relative to the river herring listing. The  
17 Commission's already submitted a letter to the  
18 Service in support of the decision to extend the  
19 information-gathering period, and we also advised  
20 them of the expected completion date of the ASMFC  
21 stock assessment on river herring and expressed hope  
22 that the assessment results would feed into their  
23 evaluation of the condition of the stock relative to  
24 the listing. The second point is just some insight

1       into the -- I sit on the coordinating council for  
2       ACCSP along with Dr. Moore, which is the group  
3       that's making the final decision on awarding grants,  
4       and I can tell you that just like we have questions  
5       within our own research set-aside program about  
6       prototype projects versus maintenance projects at  
7       RSA, we have that same issue at ACCSP.

8               So, while the very good news is that  
9       we succeeded in putting a joint proposal together on  
10      this observer coverage, I would just encourage the  
11      Council to think about going forward that that is  
12      not in my view a sustainable source of funding. We  
13      may get it for a couple of years, but it's not a  
14      sustainable source of funding and that we need to be  
15      thinking.

16             It's desperately needed. I saw  
17      Dr. Boreman shaking his head in approval that we're  
18      getting that coverage. But I think it's an integral  
19      part of the fishery management information that's  
20      needed for this council, and we need to focus on  
21      long-term funding for it. Thank you, Mr. Chairman.

22      And we're prepared to help you do that.

23             COUNCIL CHAIRMAN RICHARD ROBINS:

24      Thank you, Vince. Jim.

1 JAMES WEINBERG: A question for Rich.

2 On the Wilberg report that will be peer reviewed,  
3 could you explain just in a couple of sentences what  
4 the report is about? And also I wondered if we  
5 could get a copy of it or if you want to hold it  
6 until the review is completed?

7 RICHARD SEAGRAVES: No. It's a  
8 public document, so we certainly make that  
9 available. Basically, it's a management strategy  
10 evaluation. That's the name of the project, but  
11 really it's an assessment strategy evaluation.

12 And basically what they did is took  
13 species of slow, medium and fast life history.  
14 That's one part of it where they looked at different  
15 life history traits and then looked at what the  
16 performance of various control rules, ABC control  
17 rules, would be under various conditions.

18 They had limited conditions. They  
19 had data rich conditions, etcetera. And so really  
20 it was initially conceived to be a two-year project,  
21 and we didn't have the money for two years, so the  
22 kind of morphed into a one-year project, and they  
23 tried to do everything in one year. But  
24 essentially, it looks at the performance of various

1 control rules for ABCs under various information and  
2 assessment conditions.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thanks, Rich. Pat.

5 PATRICIA KURKUL: And to Vince's  
6 point on the river herring, we are looking at the  
7 possibility of extending the data collection period  
8 or whatever we're calling that part of the process  
9 that ends the beginning of January. And we  
10 certainly do intend to use the ASMFC's assessment.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Thank you. Any other questions for Rich or  
13 comments? Okay. Dr. Boreman, do you have an SSC  
14 report?

15 \_\_\_\_\_  
16 SSC COMMITTEE REPORT

17 JOHN BOREMAN: Just a very short one.

18 Rich already mentioned that at the end of March  
19 we're going to be looking at developing ABC  
20 recommendation for tilefish. Hopefully, we'll have  
21 some information from the Center to help us in that  
22 regard.

23 We're also going to be addressing two  
24 other issues at that meeting; one to go along with

1 Rich's comments about research priorities, we're  
2 going to be discussing development of criteria for  
3 developing a priority for research, so we don't have  
4 a laundry list, but we can evaluate what's more  
5 important, doing aging of black sea bass or stock  
6 identification of dogfish or whatever, what's  
7 involved in tradeoffs and how do we come up with  
8 let's say the five most important research  
9 priorities for the coming year across all species  
10 and issues associated with not only setting ABCs,  
11 but on the social science side as well.

12 And beyond that I've tasked the  
13 Scientific Uncertainty Subcommittee of the SSC to  
14 draft some criteria that we can consider as an SSC  
15 in setting multi-year ABCs for some species. We  
16 addressed this issue sort of ad hoc in our meetings  
17 as species by species, but I'd like to see a more  
18 standardized approach to doing that, as we discussed  
19 with summer flounder and scup the other day.

20 There are issues that may prevent  
21 some species from having multi-year specs, but other  
22 species we can do it. But at least we should be  
23 consistent in our recommendations. So those three  
24 topics will be addressed at the March meeting.

1 Thank you.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you, John. And I'll just share that we are  
4 hearing a lot of input as we go through the  
5 visioning project about trying to achieve regulatory  
6 stability, and so this notion of having more  
7 investigation into multi-year specifications I think  
8 would be at least one of the technical aspects  
9 related to that.

10 And I think we can try to build on  
11 that and then have more of those discussions between  
12 the SSC and staff about what sort of analyses would  
13 be necessary to support that type of decision  
14 making. So thank you. Any other questions for  
15 John? Okay. Seeing none, the Monkfish Committee  
16 has a report. Howard.

17 \_\_\_\_\_  
18 MONKFISH COMMITTEE REPORT

19 HOWARD KING: Thank you, Mr.  
20 Chairman. The newly configured ad hoc Monkfish  
21 Committee met on December 13th just prior to  
22 convening at this Council meeting, and at that  
23 meeting the Committee discussed the goals and  
24 objectives that were established by the joint

1 oversight committee at their November meeting in  
2 Philadelphia.

3 As a result of that meeting, we have  
4 developed a motion that would need approval by the  
5 Council. But in crafting that motion, the committee  
6 with much discussion talked about whether or not  
7 alternative management under Amendment 6 could be  
8 other than catch shares.

9 And so it was ultimately acknowledged  
10 by all the committee members that adopting these  
11 goals and objectives as part of the Amendment 6  
12 process did not confine management measures to catch  
13 shares and that some of the management measures  
14 could be satisfied outside of Amendment 6 and  
15 outside of catch shares.

16 And so if Jan would present that  
17 motion on the board. I'll read the motion. And the  
18 motion is: Move to approve the final set of  
19 subgoals and objectives for the future management of  
20 the monkfish fishery, recognizing that some of the  
21 objectives may be addressed through framework  
22 actions while others may need to be addressed in  
23 Amendment 6.

24 Now, these goals and objectives were

1 also approved by the New England Fishery Management  
2 Council at their November meeting. So they were  
3 established by the Oversight Committee and approved  
4 by New England, and it's our turn at bat.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you, Howard. And, again, thanks for your work  
7 on this and the committee's work. I think we'll be  
8 well served by slowing down and stepping back and  
9 really engaging with the industry to look at these  
10 concerns that we've heard.

11 There were a lot of concerns raised  
12 through the scoping process by Mid-Atlantic  
13 fishermen about how they might be potentially  
14 disadvantaged under the development of Amendment 6,  
15 and I think your efforts are going to serve their  
16 interest well and the Council. Howard. Thank you.

17 HOWARD KING: And as a follow-up,  
18 after we vote on this motion, there is another  
19 meeting January 10th in New England, which will be  
20 attended by our ad hoc committee members. And in  
21 anticipation of that meeting, they will be  
22 discussing a control rule for future management of  
23 the monkfish fishery accumulation limits. And we  
24 were in opportunity to add to that agenda, and I



1 will be in contact with Mark Alexander, the chair.

2 And the committee here has tasked our  
3 staff to provide us with some items that we can go  
4 forward with at the January 10th meeting. With  
5 that, if you could call for the motion.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thank you, Howard. Is there any further discussion  
8 on the motion? Is the Council ready for the  
9 question?

10 (Motion as voted.)

11 {Move to approve the final set of sub-goals and  
12 objectives for the future management of the  
13 Monkfish fishery, recognizing that some of the  
14 objectives may be addressed through framework  
15 actions while others may need to be addressed in  
16 Amendment 6.}

17 COUNCIL CHAIR RICK ROBINS: All those  
18 in favor please signify by saying aye.

19 (Response)

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Opposed like sign.

22 (No Response)

23 COUNCIL CHAIRMAN RICHARD ROBINS: The  
24 motion carries. Thank you. Thanks, Howard. Is

1       there anything else under monkfish? Thanks again  
2       for your committee's work.

3               Okay. We had the minutes distributed  
4       while we were here, and I haven't had an opportunity  
5       to review them yet, so I would suggest that we take  
6       those home and review them and approve them and  
7       consider them at the February meeting of the  
8       Council. Is there any new business to come before  
9       the Council? Chris.

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10  
11               NEW BUSINESS

12              CHRIS MOORE: So we have a flower  
13       fund, or we used to have a flower fund. So, in the  
14       spirit of giving, I'm putting out my annual appeal  
15       for donations to the Council's flower fund.

16              The fund is used to acknowledge  
17       important events in the lives of our Council family.

18       We've used it in the past, for example, to send  
19       flowers to Pete and his family when his mom died.  
20       We used it to send flowers to other folks over the  
21       years. It's something that we've been doing as a  
22       council I think probably since early 1980s. So I  
23       ran out of money when the last donation was made,  
24       and that was for Jule. In memory of Jule Wheatley,

1 we sent money to the hospice that took care of him.

2 And the money that I used for that  
3 was money from our hospitality fund. So the whiskey  
4 money went to acknowledge Jule, and I think he would  
5 have appreciated that.

6 But we're out of money, so if you're  
7 interested in donating to the flower fund, please  
8 give your money to Jan. She manages that for me.  
9 That's it, Mr. Chairman. Thank you.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Thank you. Pat.

12 PATRICIA KURKUL: Thank you,  
13 Mr. Chair. I asked that the Council not do any kind  
14 of event for me at this last meeting, but I couldn't  
15 pass up the opportunity to just say a couple of  
16 words and thank the Council and say goodbye.

17 I was appointed as Regional  
18 Administrator during the last century, 1999, and, of  
19 course, I've been a part of the council process a  
20 lot longer than that, and so I've seen this council  
21 morph and change and grow and progress over the  
22 years. And if you think back to the 1990s and where  
23 we were with fisheries and fisheries management, I  
24 think it's clear that you all have a lot to be proud

1 of. There's just tremendous progress toward healthy  
2 fisheries, and I'm grateful to have been part of  
3 that process in whatever small way. But, of course,  
4 you know better than me at this point that the  
5 work's not done.

6 Rebuilding stocks is sort of a  
7 foundation for everything, but you also want healthy  
8 fisheries, and so I also want to commend the Council  
9 for moving forward with your visioning project. I  
10 think that's a really important project and also a  
11 wonderful way to move into the next phase of your  
12 jobs and what you need to achieve over the next few  
13 years.

14 And so I certainly think with that  
15 project and with the strong leadership you have  
16 guiding that, that you'll be very successful. And  
17 so I just want to thank you all and wish you  
18 continued success and all the best. Thanks.

19 [Applause.]

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Thank you, Pat, and congratulations again on your  
22 retirement. Thank you. Is there anything else to  
23 come before the Council? Warren.

24 WARREN ELLIOTT: Mr. Chairman, as the

1 newest member here and now that I'm on the board, I  
2 actually made a motion today, I just want to thank  
3 my fellow council members. I lean on some of you  
4 rather heavily -- Mike and Howard and Peter and  
5 Rick, Mr. Chairman, for information, and I  
6 appreciate that. And I want to say I've been on a  
7 lot of boards, but the quality of this board is  
8 second to none.

9 The quality of this staff, all the  
10 staff, is impeccable. And having just come from the  
11 training down in Silver Spring, I'd put this council  
12 up against any other council being among the  
13 members, all great people.

14 But in terms of what we're doing here  
15 collectively and in terms of the way we operate and  
16 our skill set, I'm just really proud to be  
17 associated with all of you. And I wish you all  
18 happy holidays. Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Thank you, Warren. Is there anything else to come  
21 before the Council? I'd also like to take this  
22 opportunity to acknowledge the hard work of all the  
23 council staff over the last year and the excellent  
24 support they provided us with.

1                   When we met in the Executive  
2           Committee, we reviewed where we were in terms of  
3           achieving the 2011 priorities, and we've made  
4           excellent progress in those, and I think we're well  
5           positioned for next year. But the council staff  
6           just plays a really critical role. I'd also like to  
7           acknowledge and thank all of our management partners  
8           for their close support as well. So thank you all  
9           very much. We're going to adjourn, and then we'll  
10          go ahead and take our photograph. Where are we  
11          going to be -- out back? The ones I put up the  
12          other night?

13                   Well, thanks again for a very  
14          productive meeting and safe travels and have a great  
15          Christmas and holidays. Take care.

16  
17          WHEREUPON:

18  
19                   THE MEETING WAS CONCLUDED AT 11:34 A.M.  
20  
21  
22  
23  
24

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 31st, day of January, 2011.

\_\_\_\_\_  
PAUL T. WALLACE. Notary Public  
My Commission Expires

October 8, 2015

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