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MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

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COUNCIL MEETING

OCTOBER 9, 2003

at

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THURSDAY, OCTOBER 9, 2003

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1 [8:01 a.m.]

2 COUNCIL CHAIR RON SMITH: I'd like to  
3 welcome everybody here today. We have a difficult  
4 task before us, but I'm sure we can get through it.  
5 First I would like to introduce two guests that we  
6 have here this morning, Congressman Pallone from New  
7 Jersey, if he would stand up or -- he's out in the  
8 hall? And also Sam Rauch, who is the Deputy --  
9 there's Congressman Pallone, just walked in. Good  
10 morning, sir.

11 CONGRESSMAN FRANK PALLONE: Good  
12 morning.

13 COUNCIL CHAIR RON SMITH: And Sam  
14 Rauch, who is now the Deputy Assistant Administrator  
15 for Fisheries. Sam, do you have anything you'd like  
16 to say?

17 SAM RAUCH: I know that this is a  
18 difficult issue this morning that everybody is  
19 working on, and I appreciate everybody coming  
20 together in the spirit of trying to solve problems,  
21 and we look -- I look forward to working with the  
22 Councils over the long term and improving the  
23 relationship that NMFS has -- the longstanding  
24 relationship that NMFS has with the Councils, and

1 that's all.

2 COUNCIL CHAIR RON SMITH: And  
3 Congressman Pallone, did you have anything you wanted  
4 to --

5 CONGRESSMAN FRANK PALLONE: I was  
6 going to ask if maybe I could listen to the  
7 presentation on the summer flounder for a few minutes  
8 and then make a statement after you -- I guess your -  
9 - you've had your presentation for a half an hour or  
10 so. That's my understanding, there's going to be a  
11 presentation at 8:00? So, I'll listen to that and  
12 then make a statement, if that's okay.

13 COUNCIL CHAIR RON SMITH: Okay. That  
14 will work. Before I turn the meeting over to Rick  
15 Cole, who's Chairman of the Demersal Committee, I'd  
16 like to say I expect everybody to exercise good  
17 judgment, civil behavior, and we'll discuss this  
18 appropriately and come to whatever decision we come  
19 to. But remember this is a public body and we have  
20 to observe public decorum. Rick.

21  
22 2007 SUMMER FLOUNDER MANAGEMENT MEASURES

23 COMMITTEE CHAIR RICHARD COLE: Okay.  
24 Thank you, Mr. Chairman. Again we will follow the

1 same basic process that we followed yesterday with  
2 scup. As you all know, this is a joint meeting  
3 between the Council and the Atlantic States Marine  
4 Fisheries Commission Summer Flounder Board. The  
5 process that we try to follow is that we have  
6 concurrent motions before each group before we move  
7 into discussions on those motions. We can't always  
8 follow that process, but that's what we attempt to  
9 do.

10 The briefing material is behind Tab 3  
11 in your briefing book. There's the monitoring  
12 committee report is there, the staff memo with the  
13 staff recommendation is there, and there is also the  
14 findings from the stock assessment update on summer  
15 flounder.

16 But before we get into all that, I  
17 would ask Mark Gibson, who's Chair of the ASMFC  
18 Board, if there is any board housekeeping issues that  
19 need to be done before we get started.

20 BOARD CHAIRMAN MARK GIBSON: No.

21 COMMITTEE CHAIR RICHARD COLE: Okay.

22 Seeing none, what we'll do, the agenda has been  
23 passed out. It's again a similar format that we  
24 followed yesterday with scup, so everyone ought to be

1 familiar with it. Our responsibility here today,  
2 especially from the Council perspective, is to make a  
3 recommendation to the National Marine Fisheries  
4 Service on the total allowable landings for summer  
5 flounder 2007 fishing season. Of course as you all  
6 know there's a fairly tight time line involved with  
7 this recommendation, and we always schedule this  
8 quota setting meeting for August so that we can meet  
9 those time lines. So, it's imperative that we make  
10 that recommendation here today to the Service.

11 Now, there are going to be many other  
12 issues that are going to come up today, but I would  
13 like to first be able to get this recommendation  
14 finalized and then we can address some of these other  
15 issues, like the rebuilding schedule, concerns about  
16 the rebuilding schedule and that kind of thing.

17 As you all should know by now, the  
18 stock is not considered overfished. However,  
19 overfishing is occurring. That information is in the  
20 assessment summary that's in your briefing book. The  
21 issue that's driving the process now is the  
22 rebuilding schedule. We have to have the stock  
23 rebuilt by 2010. And we've still got a long way to  
24 go. We're just about at half BMSY right now.

1                   Given those -- given that kind of  
2 background, I'm going to ask Jessica to go through  
3 the staff recommendation and the monitoring committee  
4 findings to lay the background from the technical  
5 perspective of where we stand with the stock. And  
6 after her presentation we'll take technical questions  
7 of either her or Mark regarding the assessment and  
8 the status of the resource, and then we'll get into  
9 our discussions regarding the TAL. So, if there are  
10 no questions on process, I'll ask Jessica to go ahead  
11 and start the presentation.

12                   (No response audible)

13                   COMMITTEE CHAIR RICHARD COLE: Seeing  
14 none, Jessica, if you will, please.

15                   JESSICA COAKLEY: Yeah, thank you,  
16 Rick. As Rick pointed out, the information on summer  
17 flounder is behind Tab 3 in the briefing book. I  
18 want to just draw your attention to a couple of  
19 things in there. The first sheet is a summary of  
20 motions from the Summer Flounder Monitoring Committee  
21 meeting on July 18th and I'll refer to this sheet  
22 again once I'm further along in my presentation.

23                   The document immediately following  
24 that is the monitoring committee memo from myself to

1 the Summer Flounder Monitoring Committee, and on that  
2 first sheet there is a correction. It's the second  
3 paragraph -- actually, the last paragraph on the  
4 first page, the first sentence says that the Council  
5 and Commission recommended a TAL of 26 million pounds  
6 for 2006, 2007 and 2008. That is incorrect. The  
7 Council recommended that TAL. The Commission  
8 recommended a TAL of 23.59 million pounds in  
9 December. So, you may want to just note that  
10 correction in the document there.

11 Following the monitoring committee  
12 memo is the Summer Flounder Stock Assessment Summary  
13 for 2006, and this took place at Woods Hole. That  
14 document is included and then there are several  
15 projections of the summer flounder stock under  
16 different scenarios that follow that. I just wanted  
17 to make you aware of what is behind that tab.

18 So, in terms of where we've been for  
19 summer flounder management, the FMP came on line in  
20 1993, that being the first year that we had a quota  
21 put in place under that plan. This is just an  
22 abbreviated summary starting in 2000 of where we've  
23 been with our TAL, and our quotas and landings. The  
24 TAL in 2000 was 18.52 million pounds, and it varied

1 over the next few years of slightly lower, slightly  
2 higher, going up to 30.3 million pounds in 2005. And  
3 then in 2006 the TAL was set at 23.59 million pounds.

4 In terms of where the commercial  
5 landings have been relative to the commercial quota,  
6 which is Rows 3 and 4 in this table, in 2003 the  
7 commercial landings were slightly over their quota,  
8 as well as 2004. But in 2005 the landings were 17.14  
9 million pounds, which was less than the commercial  
10 quota of 17.9 for that year.

11 Now, recreational harvest limits since  
12 2003 have also varied going from 9.32 million pounds  
13 in 2003 up to 12.12 in 2005 and then dropping down  
14 again in 2006. The recreational landings were over  
15 in 2003 at 11.64 million pounds, but in 2004 and 2005  
16 the recreational landings came under the recreational  
17 harvest limit for those years.

18 The commercial fish size over the time  
19 period from 2000 has been 14 inches and similar  
20 minimum mesh size and gear requirements have been in  
21 place during that time period. So, moving into the  
22 stock assessment information, and where we are  
23 relative to the stock and fishing mortality rates,  
24 our catch is the solid line on this graphic and the

1 catch has decreased over the time period from the  
2 early '80s down to low value in 1990 and has  
3 increased slightly and there was a very small  
4 increase in landings from about 1993 up through 2005,  
5 that line looks relatively flat.

6 In terms of fishing mortality rates,  
7 the F rates have come down over the time period.  
8 That's the line with the dots on it, to keep track of  
9 that. The rates were about 1.32 in 1994 and they  
10 were as high as 2.0 in 1988, and in the most recent  
11 year, 2005, the fishing mortality rate was estimated  
12 to be 0.53.

13 Now in terms of total stock biomass,  
14 spawning stock biomass and recruitment over the time  
15 period from 1983 to present, the total stock biomass  
16 showed a decrease from the early '80s to a low value  
17 in 1988, but has shown a steady increase from that  
18 time period to about 2003. And it looks like 2003,  
19 2004 and 2005 it has leveled off.

20 Spawning stock biomass has shown a  
21 similar trend over the time period showing a decrease  
22 earlier in the time period to the late '80s and then  
23 showing a steady increase in -- over that time period  
24 from 1988 to about 2002, 2003, but the most recent

1 year it shows a slight down-tick in spawning stock  
2 biomass.

3 Recruitment over the time period is  
4 indicated by the bars on the graph; and, as you can  
5 see, recruitment earlier in the time series in the  
6 1980s was a bit higher and our recruitment values for  
7 recent years appear to be lower than the average over  
8 the time period and the most recent year's  
9 recruitment, the 2005 value, is the second lowest  
10 value in this time series with 1988 being the lowest  
11 value on this graph.

12 Now, in terms of where we are with  
13 respect to spawning stock biomass at age, if you look  
14 first at the solid bars at the bottom of the graph  
15 this is the percent -- percent of summer flounder we  
16 would expect to see in each age category under ideal  
17 conditions if we were fishing at our  $F_{max}$   $F$  target  
18 fishing mortality rate of .276. So, that would be  
19 the ideal that you would be going towards.

20 At the top of the graph, those bars  
21 indicate where the age distributions were in 1985,  
22 which show there were larger proportions of younger  
23 fish, but fewer older fish in the population at that  
24 time. In 1995 you see a shift to a few more older

1 fish at higher ages. And then the third set of bars  
2 down is where we are in 2005, and you'll see there  
3 are more fish at older age categories because as the  
4 stock has expanded the age structure has expanded.  
5 But if you'll note the age zero category, there are  
6 very few small fish in that category and that's a  
7 result of the -- a lack of inputs at this point, the  
8 lower recruitments that we've been seeing in recent  
9 years.

10 Now, this graphic is the spawning  
11 stock biomass recruitment relationship. It covers  
12 1983 to 2005 year classes. Basically what the figure  
13 tells us is what spawning stock biomass level in a  
14 given year produced what level of recruitment. So,  
15 1983, that high point at the top, for example, tells  
16 us that about 16 to 17,000 metric tons of fish in  
17 1983 produced a recruitment of about 80 million fish.

18 So, taking this graphic sort of to the  
19 next level in terms of information it can give us,  
20 the red line is the median recruitment level, which  
21 is 33 million fish. So, basically half of the  
22 recruitment points are above that red line on this  
23 graph and half are below.

24 Now, the green line is the median

1 spawning stock biomass. So, that line also splits  
2 half of the points on this figure to the right and  
3 half of the points to the left. So, I've split this  
4 into categories to think about what we would expect.

5 So, the bottom left category is our lower stock size  
6 and low recruitment events. So, those took place in  
7 1990, 1991, '89, '88. And as I pointed out, '88 was  
8 an extremely low recruitment event, the lowest in the  
9 time series.

10 But at lower stock size you could also  
11 have high recruitment. So, that's the top left  
12 quadrant and you see that we've had several years  
13 that have -- that at that low stock size levels we've  
14 seen high recruitment. What's concerning for the  
15 summer flounder stock at this point is the higher  
16 stock sizes we've been seeing and the low recruitment  
17 values in recent years. And that's the bottom right  
18 category. And if you look, 2000, 2001, 2, 3, 4 and  
19 5, have all fallen near median recruitment levels or  
20 below -- below average recruitment levels. So, at  
21 these higher stock size levels we've been seeing low  
22 -- lower than average recruitment.

23 Now in terms of the assessment itself,  
24 there are a lot of trawl survey indices that are

1 input into the modeling to give us an indication of  
2 what the stock is doing. One of those surveys is the  
3 Northeast Fisheries Science Center Trawl Surveys, the  
4 fall, spring and winter survey. I understand that  
5 this graph is pretty noisy, but just trying to get a  
6 big picture from it you can definitely see that  
7 there's a trend from the mid '80s upward in about  
8 2003 hitting peak values and then in recent years --  
9 in '04 and '05, there's a down-tick in terms of trawl  
10 survey indices.

11 This is the Massachusetts and Rhode  
12 Island trawl surveys and this shows a similar trend  
13 where throughout the '80s it appears to be relatively  
14 flat, but starting around 1990 you see an upward  
15 trend in trawl survey indices.

16 This is the Connecticut trawl surveys  
17 that are also input into the model. From again 1990  
18 you see the trawl survey indices increasing over the  
19 time period, peaking around 2003, but in the most  
20 recent years you see a down-tick there, as well. And  
21 for New Jersey and Delaware I don't know what's going  
22 on. They're going every which direction. But again,  
23 it's additional information that goes into this and I  
24 wanted to make sure all of the -- you got an idea of

1 what all the trawl surveys showed.

2 So, the bottom line from all this  
3 stock assessment information is in terms of our  
4 fishing mortality rates we've seen a decline. We've  
5 gone from a value of about 1.32 in 1994 to a value of  
6 0.53 in 2005, but we've never been below our fishing  
7 mortality target rate of 0.276 over this time period.

8 The total stock biomass has increased  
9 from the low levels in the late 1980s, but it's  
10 appeared to level off in recent years, and over the  
11 last few years we're not seeing that continued  
12 increase.

13 The spawning stock biomass has  
14 increased sixfold from the low 1980s levels, but in  
15 the most recent year there's been a slight downward  
16 shift in the spawning stock biomass. And recruitment  
17 for the stock has been at or below median recruitment  
18 levels since 2001. 2005 was the poorest recruitment  
19 we've seen since the 1988 low value for the time  
20 series. And this is important because our modeling  
21 projections assume an input of median recruitment  
22 over the time series, and we've been falling steadily  
23 below -- below that median recruitment level.

24 Now, one of the issues that's come up

1 with the summer flounder assessment model is a  
2 retrospective pattern. And basically what a  
3 retrospective pattern is, the model estimates for the  
4 most recent years change in a systematic way when an  
5 additional year's information is added. So, what's  
6 happening in the summer flounder model is -- at the  
7 average pattern over the last few years is when  
8 additional years are added, the fishing mortality  
9 rate typically increases by about 33 percent. The  
10 spawning stock biomass decreases by about 17 percent.

11 And the recruitment also decreases by about 10  
12 percent.

13 And what this actually means that for  
14 our most recent model year we're under --  
15 underestimating where we are in terms of  $F$ . So, for  
16 this past year, our actual  $F$  that we were fishing at  
17 was greater than our target  $F$ . We thought we were at  
18 0.276 for 2005. It turns out that we were at --  
19 fishing at 0.53. So, that's that 33 percent.

20 The spawning stock biomass and total  
21 stock biomass are overestimated, so in a given year  
22 we think our stock biomass is higher than what it  
23 actually is. And then when we get that additional  
24 year's data, those estimates are reset downwards.

1           The recruitment predictions are also  
2 overestimated, so we think we're getting better  
3 recruitment than what we actually are. And as I  
4 pointed out earlier, the projections assume median  
5 recruitment input. So, if the recruitment is below  
6 average, as it has been in recent years, our  
7 projections of where the summer flounder stock is  
8 going are overly optimistic. We're not getting the  
9 inputs in the system to get us where we are  
10 predicting we need to be in terms of stock biomass.

11           So, there were several projections  
12 that were presented to the monitoring committee  
13 meeting at the July 18th meeting, and I'm going to  
14 walk through each of these projections first. The  
15 first one is a projection that looks at a 50 percent  
16 probability of achieving our fishing mortality target  
17 rate of 0.276. So, this is the target F that we have  
18 in our rebuilding plan. This would result in a total  
19 allowable landings level of 19.89 million pounds in  
20 2007, but based on these projections we would not be  
21 rebuilt by January 1, 2010, which is the deadline in  
22 the rebuilding program.

23           Another projection that was presented  
24 to the monitoring committee was calling it a

1 retrospective reset, F equal 0.185, and what this  
2 0.185 is, it's a fishing mortality rate adjusted for  
3 that 33 percent retrospective pattern. So, taking  
4 .276 and multiplying it by .67 percent. So, it's 67  
5 percent of our fishing mortality rate target.

6 So, that would result in a total  
7 allowable landings level of 13.88 million pounds in  
8 2007, but that -- fishing at that rate based on the  
9 projections would not rebuild us by January 1, 2010.

10 Another projection that was done was  
11 at an F rate of .099, and this is the fishing  
12 mortality rate that is projected to just rebuild the  
13 stock to the biomass target of 204 million pounds by  
14 January 1, 2010. And this would result in a 2007  
15 total allowable landings level of 7.69 million  
16 pounds.

17 But this does not account for the  
18 retrospective pattern that we're seeing in the  
19 assessment. So, the next -- the next projection that  
20 was done was at an F of .066, which is adjusted for  
21 that retrospective pattern, so it's 67 percent of  
22 .099.

23 This would result in a TAL of 5.22  
24 million pounds for the 2007 fishing year, and it

1 would result in the stock -- it's predicted to result  
2 in the stock being rebuilt by January 1, 2010.

3 Now, these are two projections that I  
4 requested after the monitoring committee meeting. I  
5 asked Mark to take a look at these, and these are two  
6 constant harvest approaches which would be in place  
7 -- would need to be in place for three years, for  
8 2007, 2008 and 2009. The first would be at a TAL of  
9 10.04 million pounds for those three years, and it  
10 predicted, based on the projections, that that stock  
11 would be rebuilt by January 1, 2010, but that does  
12 not account for the retrospective patterns. So,  
13 there is still that risk that those F rates are going  
14 to go up, \*those biomass estimates are going to come  
15 down in the next year.

16 So, the next projection is a constant  
17 harvest strategy accounting for that retrospective  
18 pattern, which would be a total allowable landings  
19 level of 6.72 million pounds for 2007, 2008 and 2009.

20 And it's predicted that that would rebuild the stock  
21 by January 1, 2010.

22 So, this figure that I have here I've  
23 got here on the X axis and we've got total stock  
24 biomass on the Y axis, and there's a lot of things on

1 this graph. The dotted green line is our minimum  
2 biomass threshold, the one half BMSY level. And if  
3 you look at the points above the 2007 year, you'll  
4 see we're just above our minimum biomass threshold at  
5 this point. And then the projections start out from  
6 there.

7 The solid green line is our BMSY  
8 level, which is our rebuilding target of 204 million  
9 pounds, and the golden line is the first projection  
10 scenario I showed you, which would be fishing at the  
11 target F in the rebuilding plan, but if you follow  
12 that line out, we do not rebuild the stock anywhere  
13 on this figure. We never meet the solid green line.

14 And the deadline of January -- rebuilding the stock  
15 by January 1, 2010 would not be met.

16 The next line, the second from the  
17 bottom up, would be fishing at a rate of F equals  
18 0.185, which was the retrospective reset projection,  
19 resetting that target F rate. And that projection  
20 also indicated that we would not rebuild the stock by  
21 January 1, 2010, although it does appear that the  
22 stock may be rebuilt by 2012, based on these  
23 projections.

24 And some of those other lines, the

1 remaining four projections, the two constant harvest  
2 strategies, and the two rebuilding F rates of .099  
3 and .066, all four of those do indicate that we would  
4 cross the BMSY biomass target level by January 1,  
5 2010, but bear in mind that the two projections that  
6 do not include the retrospective reset -- we would  
7 run a risk that once we added an additional year's  
8 worth of data we may not be where we think we are,  
9 that the biomass estimates may come down, our F  
10 estimates may go up, and we may not in actuality  
11 cross the BMSY level.

12 So, the bottom line associated with  
13 each of the total allowable landings levels in each  
14 of the projection strategies is fishing at our target  
15 F at a TAL of 19.89 million pounds is not projected  
16 to rebuild us by 2010. Resetting that target F level  
17 of .185, which would be a TAL of 13.88 million  
18 pounds, would not rebuild us by 2010.

19 It does look like the following four  
20 projections, which range from 5.22 million pounds to  
21 10.04 million pounds under that three-year constant  
22 harvest strategy, would rebuild us by January 1,  
23 2010; but again I would caution that consideration be  
24 given to the retrospective pattern that we've

1 indicated can be an issue and that given the  
2 recruitment patterns we may not be where we think we  
3 need to be.

4 So, in terms of what this would look  
5 like in terms of commercial -- commercial quota, this  
6 table basically has the Maine through North Carolina  
7 percent allocations for commercial shares, and I've  
8 only put three of the projections up here, just to  
9 show a range of what the shares might look like.  
10 First, actually the third column over is fishing at  
11 the target fishing mortality rate .276 and shares  
12 could range anywhere from 55 pounds in New Hampshire  
13 to 3.3 million pounds of summer flounder allocated to  
14 North Carolina.

15 The next column over is an F of 0.185,  
16 which is actually the F that was recommended by the  
17 monitoring committee meeting, which I'll get to, and  
18 those shares could range from 38 pounds of summer  
19 flounder to 2.2 -- 2.2 million pounds of flounder  
20 allocated to North Carolina.

21 The last projection column here, which  
22 was an F of .066, this is the projection that would  
23 be expected to rebuild the stock in time and account  
24 for the retrospective pattern as well, shares could

1 range from 14 pounds of fluke allocated to New  
2 Hampshire to 859,000 pounds of fluke allocated to  
3 North Carolina. This is just to give you an idea of  
4 what the spread of allocations could look like under  
5 these scenarios.

6 Now, in December the Council will meet  
7 to talk about the recreational fishery, and at that  
8 time -- the Council and the Commission, and at that  
9 time they'll discuss whether they'd like to go with a  
10 coastwide quota or a state-by-state conservation  
11 equivalency approach.

12 Now, if a coastwide approach is  
13 selected, the very bottom column on this table  
14 indicates what the recreational harvest limits could  
15 look like under those three F scenarios, the .276,  
16 .185 and .066, which show the range.

17 Taking that coastwide quota in pounds  
18 I converted that to the next column above, to numbers  
19 of fish, assuming a mean summer flounder weight of  
20 2.5 pounds to look at what the allocation in numbers  
21 of fish could look like under a conservation  
22 equivalency system.

23 So, under the .276 scenario the  
24 allocations of fish could range anywhere from 96,000

1 fish allocated to Maryland or 3.2 million -- oh,  
2 excuse me, no, no one's getting 3.2 -- 1.2 million  
3 fish allocated to New Jersey. And as the F rates  
4 decrease and the allocations would decrease under the  
5 next two columns, you can see how those would be  
6 divided up across the states as numbers of fish.

7 So, the 2007 total allowable landings  
8 staff recommendation and the monitoring committee  
9 document was a recommendation for a maximum TAL of  
10 19.9 million pounds. This is the TAL associated with  
11 the .276 target F in the rebuilding plan and this  
12 projection is provided in the Demersal Working Group  
13 document, which as I pointed out earlier follows the  
14 monitoring committee document behind your tab.

15 In the Demersal Working Group  
16 document, there are special comments in there. Under  
17 that section it's stated that given the persistent  
18 underestimation of F, managers should consider  
19 adopting a lower TAL than indicated by the median  
20 projection. And as staff, I would echo the same  
21 caution, this TAL was put out there -- the 19.9  
22 million pounds as a maximum to be considered, but I  
23 would caution the retrospective pattern be taken into  
24 consideration, as well.

1 In terms of monitoring committee  
2 recommendations, the monitoring committee recommended  
3 a TAL of 13.88 million pounds. Now, this was at the  
4 TAL associated with the F rate of .185, which was the  
5 retrospective reset of the fishing mortality target  
6 rate in the plan.

7 This was more conservative than past  
8 recommendations that we've had from the monitoring  
9 committee, and it's consistent with the statement  
10 made in the previous slide by the Demersal Working  
11 Group document special comments that caution should  
12 be taken considering this retrospective pattern.

13 The monitoring committee also asked  
14 that an additional note be added that this  
15 recommendation was based on new information that  
16 became available. It's an attempt to move the stock  
17 rebuilding trajectory in the correct direction,  
18 recognizing that it may not rebuild by January 1,  
19 2010.

20 They also had some special comments  
21 they wanted forwarded on to the Council and  
22 Commission. They had concerns over the socioeconomic  
23 impacts, and impacts on social and economic  
24 infrastructure for many of the states. They

1 suggested that National Marine Fisheries Service  
2 consider additional observer coverage to monitor  
3 discarding if more restrictive measures were  
4 considered. They also asked that the ASMFC Technical  
5 Committee or similar group meet to discuss how to  
6 make both the recreational and commercial measures  
7 more effective so that we're getting the intended  
8 effect that we would like from the regulations.

9 So, the monitoring committee  
10 recommendations bottom line a TAL of 13.88 million  
11 pounds, a research set-aside up to three percent, and  
12 no change in the current mesh size requirements,  
13 minimum fish size, exemption programs or gear  
14 restrictions.

15 At this point I'd like to just call  
16 your attention to the actual monitoring committee  
17 meeting motions. It's the first sheet behind Tab 3  
18 in your briefing book and I just wanted to point out  
19 to the group that this was a very difficult decision  
20 that the monitoring committee made. There is not a  
21 single motion on this sheet as was for scup or will  
22 be for black sea bass. There were multiple motions  
23 that were made before the final motion of 13.89  
24 million pounds passed. And you can also read the

1 note under the final motion and the special comments  
2 that were forwarded on -- forwarded on from the  
3 monitoring committee.

4 Now, in terms of research set-aside,  
5 just as we discussed with scup yesterday, there is an  
6 issue. The maximum RSA of up to three percent of the  
7 TAL would only -- would only be met under the highest  
8 TAL scenario at this point. The 2007 conditionally  
9 approved projects are -- they requested \*567,062  
10 pounds of summer flounder for research, and the only  
11 -- the 19.89 million pounds would be the only TAL  
12 that would allow those projects to be fully funded.

13 So, I've listed in this table all the  
14 other TALs that are associated with the different  
15 projections and the RSA amounts -- the maximum of  
16 three percent that would be associated with each of  
17 those to be considered when the Council decides what  
18 they're going to do about research set-aside amounts.

19 And that is it for me right now, so we  
20 can move on to questions, if there are any.

21 COMMITTEE CHAIR RICHARD COLE: Okay.  
22 We'll take questions of Jessica regarding the  
23 technical side of this issue. First person I had was  
24 Pres

1                   PRESTON PATE: Thank you, Rick, and  
2 thank you, Jessica, for an excellent presentation. I  
3 have a couple of questions that are related to each  
4 other, first being did the monitoring committee  
5 continue to base their projections on the median  
6 recruitment levels?

7                   JESSICA COAKLEY: Yes. All of the  
8 projections that were conducted, the six that I  
9 presented, do assume median recruitment levels.

10                  PRESTON PATE: I noticed in one of the  
11 slides that you used where you split a graph up into  
12 quadrants showing the relationship between spawning  
13 stock biomass size and recruitment a disturbing trend  
14 in recent history of there being a poor -- or a  
15 negative relationship actually between SSB and  
16 recruitment, in that the SSB isn't producing the  
17 number of recruits that you would expect under normal  
18 circumstances.

19                  Did the monitoring committee discuss  
20 any of the factors that might be contributing to  
21 that? Because it seems to me that if there are  
22 factors out there that are affecting recruitment  
23 other than -- other than fishing, natural mortality  
24 coming from sources of predation \*\* also productive

1 nursery habitat, that is going to seriously confound  
2 any effort that we can make to rebuild the stock by  
3 2010.

4 JESSICA COAKLEY: The monitoring  
5 committee did talk about recruitment, and really I  
6 don't know that I necessarily have an answer for you  
7 or any of them do as to exactly why -- why we're  
8 seeing these average or below average recruitments in  
9 recent years at the higher stock size.

10 There could be environmental factors.

11 It could be related to perhaps the recruits aren't  
12 being produced. Perhaps they're not surviving.  
13 There are a lot of things that could play into that.

14 It could also be the luck of the draw.

15 In terms of recruitment, you know, this plot and the  
16 relationships are -- it's a probability, and maybe  
17 we've seen a few bad years in terms of recruitment  
18 and maybe the recruitment will improve. This graphic  
19 is only -- we've only got 23 points on this stock  
20 recruit relationship, which may sound like a big  
21 number, but in the scheme of plotting stock recruit  
22 relationships, that really isn't a lot of points and  
23 we haven't been at these higher stock size levels for  
24 that many years.

1                   So, as time goes on, this trend may  
2 change, but in terms of coming up with a specific  
3 reason why this is happening, I don't think there was  
4 anything -- any conclusions that the monitoring  
5 committee came to or the Demersal Working Group when  
6 they met in Woods Hole end of June came to, as well.

7                   COMMITTEE CHAIR RICHARD COLE: Okay.  
8 I had Dave Pierce next.

9                   DAVID PIERCE: Clearly the monitoring  
10 committee labored very long and hard over these  
11 particular decisions, and that's reflected in the  
12 votes where they were -- with the final vote it was a  
13 tie vote and the Chairman actually had to break the  
14 tie. So, that suggests to me that the science wasn't  
15 very strong, because all of these scientists were  
16 divided in terms of what they thought the right  
17 direction was for us to take. I had a question that  
18 Pres has already dealt with with that.

19                   The source -- the mortality that we  
20 have had recently, quite a bit above the target of  
21 .276, I believe for 2005 it was .5 something. I  
22 can't recall the exact number, but -- okay, .5. Did  
23 the monitoring committee reflect on the sources of  
24 that particular mortality? What caused that

1 mortality? Was it recreational catch? Was it  
2 commercial catch? Discards? I'm curious about that  
3 since it might help us focus on -- you know, what we  
4 actually need to do to get this mortality under  
5 control, since right now it's obviously not under  
6 control. So, did the monitoring committee draw any  
7 conclusions as to the sources of that particular  
8 mortality?

9 JESSICA COAKLEY: They did talk about  
10 that, and I'm going to hand the mike over to Mark  
11 Terceiro to talk about what -- the retrospective  
12 pattern and what types of mortality may be driving  
13 some of these patterns.

14 MARK TERCEIRO: The simplest way to  
15 answer that question is just to look at the relative  
16 proportions of the different fishery sectors,  
17 components of the catch at age that contribute to the  
18 total removals. For example, \* I scroll down through  
19 my many tables here to try and answer your question.  
20 And I'll use 2005 as an example.

21 JESSICA COAKLEY: You've got to get  
22 the mike closer to you.

23 MARK TERCEIRO: Okay. I'll be there  
24 in a second. For example, in 2005 the total catch

1 was 13.6 thousand metric tons. Of that, about half  
2 of it was commercial landings. About three percent  
3 was commercial discards. And about 34 percent was  
4 recreational landings. The remainder was  
5 recreational discards.

6 So, the major components are the two  
7 landings components, commercial fishery being number  
8 1 and the recreational landings being number 2,  
9 recreational discards are number 3 and commercial  
10 discards are number 4.

11 DAVID PIERCE: All right.

12 MARK TERCEIRO: So, on a percentage  
13 basis as to what contributes to the fishing mortality  
14 rate, those are the proportions.

15 DAVID PIERCE: All right, but we did  
16 -- okay, we did establish a TAL, a commercial quota,  
17 that we were led to believe would give us a  
18 reasonable probability of hitting the fishing  
19 mortality rate target, yet we did not do so.  
20 Consequently, again, what contributed to that error  
21 on our part?

22 MARK TERCEIRO: Not achieving the  
23 fishing mortality rate target?

24 DAVID PIERCE: Right.

1 MARK TERCEIRO: Was that your --

2 DAVID PIERCE: Right.

3 MARK TERCEIRO: That's your question?

4 Well, for the past several assessments we've seen  
5 evidence of this retrospective pattern, where when  
6 you add new data basically what happens is you don't  
7 realize the expected populations that you were  
8 projected to achieve, okay, because of the  
9 retrospective bias and retrospective reset in the  
10 analysis. So, when you look back in time we can see  
11 that we never achieved the fishing mortality rate  
12 threshold back in time.

13 DAVID PIERCE: Right. This  
14 retrospective bias, of course, is extremely important  
15 for all of us to consider, because whether it's the  
16 New England Council or the Mid-Atlantic Council,  
17 ASMFC, it's coming up time and time again in that  
18 it's there and we're now having to deal with it.  
19 Consequently, it would be helpful if you would share  
20 with us what the monitoring committee concluded -- or  
21 what you, Mark, what you've concluded relative to the  
22 sources of that particular retrospective error.

23 Is it discards that are occurring and  
24 we just don't know it? Is it unreported landings?

1 Can you elaborate a little bit? Because --

2 MARK TERCEIRO: Sure, I can.

3 DAVID PIERCE: -- this is such a key  
4 element of all of our discussions.

5 MARK TERCEIRO: Sure. It's not  
6 possible for us to tease out which component is  
7 causing the pattern. What we can do is run  
8 simulations on the assessment, and we typically do  
9 that. And typically the factors that we test for are  
10 an inaccurate estimate or assumption for the natural  
11 mortality rate, inaccurate estimation of the total  
12 removals from the stock, which can include all four  
13 components, or a changing or an inaccurate assumption  
14 about the constant relationship between the survey  
15 and the population as it's estimated in the  
16 assessment.

17 Of those three major factors that can  
18 usually produce a retrospective pattern in the  
19 direction that we've observed in this assessment, it  
20 seems that the most likely cause is an  
21 underestimation of removals from the stock. In other  
22 words, an underestimation of the removals of the  
23 catch. Okay? Now, that catch could be one of those  
24 four components.

1                   In this particular assessment, the  
2                   annual degree of error or the underestimation of the  
3                   catch doesn't have to be very large in order to  
4                   produce the pattern that we've observed. The  
5                   simulations I've run suggest an underestimation of  
6                   total catch on the order of five to ten percent per  
7                   year, year after year after year, can produce the  
8                   pattern that we've seen.

9                   And typically it's not the same in  
10                  every year. The retrospective reset between 2004 and  
11                  2005 was relatively small compared to the previous  
12                  two or three years. The 33 percent reset that we're  
13                  using is the average over the last five years, again  
14                  because we're trying to look to the future and trying  
15                  to give some realistic expectation of what -- how the  
16                  F might change as we move forward, how it might rise  
17                  as we move forward and do subsequent assessments.

18                 DAVID PIERCE: All right. So, we  
19                 really don't know, but it seems like it's unreported  
20                 -- it's unaccounted for catch.

21                 MARK TERCEIRO: Unaccounted for catch,  
22                 which could be underreporting of the commercial  
23                 landings, okay? And given the quota system, that  
24                 seems a reasonable possibility to me. It could be

1       underestimation of the commercial discards. That  
2       could occur if the observer data that we have aren't  
3       representative of typical fishermen's behavior; in  
4       other words, that they change their behavior when  
5       they have an observer on board and therefore maybe  
6       not go places where they might have high rate of  
7       discards. It could be a bias in the MRFSS estimates  
8       for both landings and discards \*if the MRFSS survey  
9       tends to systematically underestimate recreational  
10      fishermen's catch.

11                 DAVID PIERCE: All right. Thank you.

12                 MARK TERCEIRO: Could also be factors  
13      in the data such as the discard mortality rate that's  
14      used. Okay? If we assume a lower discard mortality  
15      rate, that results in a lower total catch.

16                 DAVID PIERCE: Okay. There are a lot  
17      of factors here.

18                 MARK TERCEIRO: There are a lot of  
19      factors and we've got some experimental work on some  
20      things like discard rates in the recreational fishery  
21      that have been done recently to address some of  
22      those. There are some issues like changes in natural  
23      mortality rate that -- changes in the natural  
24      mortality rate because it's a relatively small

1 component compared to the fishing mortality rate, the  
2 errors in M would have to be very large in order to  
3 produce the pattern that we're seeing.

4 I would also caution you not to use  
5 the term bias, and I fall into the same trap, too.  
6 We've been criticized in our peer reviews not to use  
7 the term retrospective bias because given the  
8 assessment as it is, there's been no real evaluation  
9 of whether it is in fact a bias or just a pattern  
10 that we're seeing develop. There's a distinction  
11 there that we've been criticized for -- I've been  
12 criticized for.

13 DAVID PIERCE: One final point, it's a  
14 follow-up on what you said, that it doesn't take much  
15 of unaccounted for catch to create a significant  
16 retrospective problem. Five to ten percent, I think  
17 you said?

18 MARK TERCEIRO: Right.

19 DAVID PIERCE: All right. That's  
20 interesting. Tell me if I'm interpreting this  
21 correctly now. Five to ten percent of unaccounted  
22 for catch can have rather dramatic effects on the  
23 estimates of spawning stock biomass, and I say that  
24 because -- and again correct me if I'm wrong --

1 Figure 3 in the report that shows the retrospective  
2 VPAs and it shows the spawning stock biomass over the  
3 years, I find it rather startling -- I'm not saying  
4 it's wrong, it's just startling, and we're seeing  
5 this with other fisheries, as well, like Georges Bank  
6 yellowtail flounder, that in this particular  
7 assessment the assessment indicates that in 2003 we  
8 had an SSB of 32,000 metric tons, but in 2003 when we  
9 were actually discussing what SSB likely was, it was  
10 considered to be about 48,000 metric tons.

11 So, we actually went from 48,000  
12 metric tons sitting pretty, being very confident  
13 about our SSB, to bang, it's 32,000 metric tons as we  
14 note now, retrospectively, looking back in time. I  
15 hope that in 2010 we don't look back in time and find  
16 out that -- you know, this line bends down so it's  
17 almost horizontal with the axis. This is a very  
18 frustrating exercise for all of us in terms of trying  
19 to figure out what the right decisions are, since  
20 this retrospective problem is haunting and daunting  
21 and I have yet to figure out how to deal with it in  
22 an effective way except to slash and burn  
23 recreational catch and commercial landings in order  
24 to achieve what we need to achieve. And obviously

1 that involves tremendous socioeconomic impacts.

2 So, Mark's not telling me that I'm  
3 wrong with my interpretation of what I see before me,  
4 so that's commentary with no correction from Mark.  
5 Okay. Thank you, Mr. Chairman.

6 COMMITTEE CHAIR RICHARD COLE: And as  
7 you know, Dave, the Demersal Working Group has  
8 cautioned us every year they've provided us with a  
9 report about this pattern associated with this  
10 retrospective issue. So, this is nothing new to the  
11 group. It's something we've been informed about  
12 every year.

13 DAVID PIERCE: That's true, except  
14 that now we find the rug pulled out from under us by  
15 Mother Nature or whatever, predation, who knows,  
16 where we now have less than median recruitment for  
17 the last three years -- two out of the last three  
18 years, and we've always assumed median recruitment or  
19 better and that's going to get us to our target, but  
20 that hasn't happened, and alarmingly the year class  
21 -- the most recent year class is second lowest in  
22 strength in the time series. It's abominable. And  
23 that has raised all sorts of concerns and it's been  
24 already alluded to by Pres, you know, our projections

1 are made using median recruitment and I have no faith  
2 now in those projections because they use median  
3 recruitment, and I suspect that we'll find out next  
4 year that we have another below average year class.  
5 That's what -- that seems to be the possible trend.  
6 Don't know for sure yet, but still if it happens then  
7 all these projections are wrong and all these numbers  
8 that we will discuss today, and one we will choose,  
9 will likely still be too high. So, that's the source  
10 of my frustration. \*No longer median recruitment and  
11 now we've got this extremely low year class that has  
12 seriously upset the apple cart.

13 COMMITTEE CHAIR RICHARD COLE: Okay.  
14 Congressman Pallone, do you have a comment you'd like  
15 to make?

16 CONGRESSMAN FRANK PALLONE: Thank you  
17 very much. \*\*\*\*\* with our economies and our  
18 fishermen. Thank you very much.

19 COMMITTEE CHAIR RICHARD COLE: Thank  
20 you, Congressman.

21 (Applause)

22 COMMITTEE CHAIR RICHARD COLE: Okay.  
23 Let's continue to focus our questions on the  
24 technical issues before we get into our discussions

1 on the TAL. And the next person I had on the list  
2 was Red. Were there some other hands here up on this  
3 side? All right. John, I got you. Red.

4 RED MUNDEN: Thank you, Mr. Chairman.

5 Jessica, in one of your latter slides you showed  
6 different harvest levels associated with different F  
7 rates, and toward the bottom of that slide you had  
8 two scenarios that involved constant harvest  
9 strategy. My question is whether or not the FMP  
10 allows us to use constant harvest for the management  
11 of summer flounder?

12 JESSICA COAKLEY: Yes. Actually,  
13 before I requested these two constant harvest  
14 strategies I did have a discussion with Joel as to  
15 whether it would be allowed. And the NRDC lawsuit  
16 specifically stated that we had to have a minimum 50  
17 percent probability of meeting the target F rate in  
18 the rebuilding plan, which was .276. And under these  
19 two constant harvest strategies the F rates  
20 associated with those would be much lower than the  
21 target fishing mortality rate in -- that's actually  
22 established in the plan.

23 So, that shouldn't be an issue for  
24 these two constant harvest approaches. The issue

1 last year, as you recall, with the 26 million pounds  
2 over three years was because the first year of that  
3 26 million pounds only would have had a 30 percent  
4 probability of meeting the .276. So, that was where  
5 the problem was. But these three year constant  
6 harvest strategies, those F rates would be far less.  
7 Okay?

8 DANIEL FURLONG: Rick, just for the  
9 audience benefit, remind people to speak into the  
10 mike so that we can get -- people back here can't  
11 hear what's going on at the table, so if you have a  
12 question, please speak in the mike.

13 COMMITTEE CHAIR RICHARD COLE: Okay.  
14 The next person on the list was Pat.

15 PAT AUGUSTINE: Thank you, Mr.  
16 Chairman. Excellent presentation, Jessica. Two  
17 questions. A follow-up on Red's comment whether or  
18 not constant harvest would be doable, and it sounds  
19 like it may be under the present circumstances. More  
20 importantly, you have the median weight of the fish  
21 at 2.5 pounds? Where does that number come from?  
22 Somebody has a mike on, I think. 2.5 was the median  
23 weight?

24 JESSICA COAKLEY: Yeah, the assumption

1 of 2.5 pounds, that was just a rough number I pulled  
2 last year. In the calculation to go from pounds to  
3 numbers of fish, the value was 2.52. So, I just took  
4 2.5, nice round number, just to give us an idea,  
5 because this is going to be addressed in December and  
6 then we'll be using the actual data to calculate the  
7 mean weight.

8 PAT AUGUSTINE: Thank you. And a  
9 follow-on to that. What would be the approximate  
10 size of a two and a half pound fish, 18 inches, 19  
11 inches? It's important.

12 MARK TERCEIRO: Two and a half pounds.  
13 2.5 -- that's probably an age three summer flounder,  
14 which is probably in the high 40s -- about an 18, 19-  
15 inch summer flounder.

16 PAT AUGUSTINE: Thank you for that.  
17 So, a follow-on question is an 18 or 19-inch minimum,  
18 and I think our minimum size for any of the states is  
19 I think New Jersey of 16 and a half, or maybe  
20 Virginia had \*some of that, also, but when we go back  
21 to your one chart that talks about the biomass --  
22 spawning stock biomass and our chart shows that our  
23 biomass total has stayed kind of level for the last  
24 two or three years. And if you go back to about 2002

1 or 2000 -- I guess in 2002 or 2003 when we had that  
2 real big cut, where states like New York had to go to  
3 18 inches and others went to 18 and a half, it seems  
4 rather obvious to me that as long as our minimum size  
5 stays above 16 and a half, theoretically you're never  
6 going to get your spawning stock biomass up because  
7 we're culling out, as Mr. Fletcher has said \*for many  
8 other species of fish, we're culling out all of the  
9 breeders. And so it just seems to me that we're on a  
10 track to failure. We can't win. I mean even if we  
11 went to a 5.2, that draconian measure, we still as a  
12 bycatch have a minimum size of somewhere between 18  
13 inches and whatever, and I think just the discards in  
14 total between commercial and recreational far exceed  
15 five million pounds.

16 So, it seems like there's something  
17 wrong here that I'm missing in this whole series.  
18 And when we finally get to a motion, I'd like to make  
19 one, Mr. Chairman.

20 COMMITTEE CHAIR RICHARD COLE: Okay.  
21 Mark Gibson was next.

22 BOARD CHAIRMAN MARK GIBSON: Thank  
23 you, Rick. A couple simple questions that might help  
24 me formulate comments later. But how is SSB computed

1 for summer flounder? I think I know, but I'd like to  
2 hear it stated.

3 MARK TERCEIRO: It's the stock size  
4 numbers at age times maturity proportions at age  
5 times mean weights at age.

6 BOARD CHAIRMAN MARK GIBSON: Sorry.  
7 Button problems. I think Mark Terceiro did that to  
8 me.

9 MARK TERCEIRO: The standard way we do  
10 SSB for every fish assessment.

11 BOARD CHAIRMAN MARK GIBSON: So, it's  
12 safe to say there are no sex ratio effects or female  
13 age structure effects incorporated into the  
14 computation?

15 MARK TERCEIRO: Not -- not yet. It's  
16 one of the interesting things that we've been picking  
17 up in the assessment is that as the mortality rate  
18 has come down, and even though we haven't hit the  
19 fishing mortality threshold yet, as the mortality  
20 rate has decreased by say a factor of three or so  
21 over the last 15 years or so, one of the interesting  
22 things we're seeing is that the sex ratio in the  
23 catch has been changing in both the catch and the  
24 surveys, and that we're actually seeing a lot more

1 males at larger sizes than we've historically seen  
2 going back to the early '80s.

3 So, one of the interesting patterns is  
4 that while mean weights at age seem to have been  
5 decreasing, and a lot of people try and attribute  
6 that to productivity and other kinds of environmental  
7 factors, what we're really seeing in the summer  
8 flounder assessment is that's due to a greater  
9 contribution of older males at age. Of course, males  
10 grow a little bit \*smaller \*than females grow slower  
11 \*and are\* smaller at age. So, we're seeing an  
12 interesting phenomenon where the mean weights on the  
13 mix of sexes at ages five and older is actually  
14 seeing a lot more males than we've ever seen before,  
15 presumably because now they're surviving. Of course  
16 they're slower-growing so they tend to get cropped  
17 off earlier at higher fishing mortality rates. So,  
18 one of the interesting things that we have been  
19 seeing pop up as we've been looking at the biology of  
20 the fishery year after year.

21 BOARD CHAIRMAN MARK GIBSON: Could I  
22 follow up for one more? On the -- this may be for  
23 Jessica. The landings projection graphs you showed,  
24 those are just -- yes, all those projections, are

1 those 50 percent probabilities? Each one of those  
2 lines has a probability envelope around them. I'm  
3 assuming that's the median projection from all the  
4 bootstrap realizations and the stochastic variation.

5 So, in your table where you have yeses and nos, does  
6 that mean when there's a yes it's a 50 percent or  
7 higher, and no it's less than 50 percent?

8 JESSICA COAKLEY: Actually, all the  
9 stock sizes and the F rates that are here are the 50  
10 percent probability rates. The table that I have the  
11 yeses and nos, that is associated with the 50 percent  
12 -- well, in the projections we have a 50 percent  
13 probability of achieving that target F, which is  
14 listed in the projection, and then that's the median  
15 50 percent stock size predicted to determine if we  
16 are rebuilt or not.

17 So, in the projections you have a  
18 probability distribution around your F rate. So, I'm  
19 looking at the 50 percent F rate. And then when I  
20 look at 2010 to see if we're rebuilt or not, there  
21 are probabilities around the stock size, as well.  
22 So, I looked at that 50 percent stock size and made  
23 the determination is it higher or lower than the 204  
24 million pounds. Does that make -- does that answer

1 your question?

2 BOARD CHAIRMAN MARK GIBSON: Yeah, I  
3 think it means that even in the case where there's a  
4 yes written there there is a **\*\*non-zero\*\*** and perhaps  
5 substantive probability that you won't exceed that  
6 biomass level. I would suggest that in those kind of  
7 tables it would be more informative to have the  
8 actual probability associated with those -- all those  
9 biomass projections. \*But we don't have that right  
10 now.

11 JESSICA COAKLEY: You do in the --  
12 behind the tab, for at least \*four of the projections  
13 the actual outputs are there. And I know it's kind  
14 of painful to try to read through those, but those do  
15 have the probability distributions, if anyone wants  
16 to take a look at those later. I can walk through  
17 them.

18 COMMITTEE CHAIR RICHARD COLE: Tony  
19 was next.

20 ANTHONY BOGAN: Thank you, Mr.  
21 Chairman. Actually a number of my questions were  
22 already answered. I just have one quick question for  
23 Jessica or Mark. I don't have the biology degree, so  
24 I need an answer to this one.

1                   If a stock is bouncing around between  
2 meeting or exceeding its carrying capacity, what are  
3 some of the likely trends that you would see in that  
4 stock? In other words, would you see a slowdown in  
5 recruitment? Would you see a slowdown -- would you  
6 see a downturn in spawning stock biomass? I'm not  
7 talking drastic, but once a stock reaches and is  
8 bouncing around between the maximum carrying capacity  
9 and bouncing over, under, what would be some of the  
10 likely trends you would expect to see?

11                   MARK TERCEIRO: You used the term  
12 carrying capacity, which to us is a level that would  
13 be -- conventionally would be twice the biomass  
14 target. In other words, that would be the level of  
15 biomass that the environment is capable of sustaining  
16 in the absence of fishing mortality, presumably.  
17 There'd be no fishing mortality. It would just be  
18 natural mortality. So, that would be basically four  
19 times what we are right now.

20                   Were that to happen, typically it  
21 depends on the nature of the stock recruitment  
22 relationship. Okay? For some species where there is  
23 an overcompensation and you have a phenomenon like a  
24 lot of cannibalism or a lot of reproduc -- diminished

1 reproductive capacity at very high stock sizes, you  
2 might over the long term expect to see recruitment  
3 depressed at larger sizes. You also might see slower  
4 growth rates and delayed maturity.

5 Under other stock recruitment  
6 relationships, and typically flatfish don't exhibit  
7 that kind of properties, you might expect to see what  
8 they call just compensation, where over the long term  
9 you realize some average level of recruitment over a  
10 long term. Typically, flatfish don't experience the  
11 orders of magnitude fluctuation in recruitment that  
12 things like haddock do or which very short-lived  
13 species might experience.

14 Typically, flatfish have a range of  
15 recruitment that's on the order of -- you know, plus  
16 or minus two or three times, and generally as the  
17 stock gets very large and approaches either BMSY or  
18 K, which is the carrying capacity, you tend to see  
19 just a level -- median or an average level of  
20 recruitment over the long term. Most of that  
21 information is based on long time series either from  
22 our stock assessments or the one in the \*ICCES arena  
23 in Europe.

24 ANTHONY BOGAN: Just a follow-up to

1 that, Mr. Chairman, based on some of the comments  
2 that you made, Mark. My reason -- one of my reasons  
3 for asking that is I understand you would have to see  
4 it over the long term. And of course if you had some  
5 kind of average recruitment over the long term, that  
6 doesn't mean it would be perfectly the same, it might  
7 be bouncing up and down, up and down, and you would  
8 average it out and say you're in a range.

9 The other reason that I wanted a  
10 follow-up on it is that I understand \* you're talking  
11 about the stock size, but that assumption four times  
12 the stock size we're at now assumes that the  
13 projected biomass target -- you said two times above  
14 the target biomass? Well, that makes an assumption  
15 that the target biomass is a correct number in the  
16 first place, which is not an assumption I'm willing  
17 to make.

18 I just wanted to clarify that. I  
19 wasn't looking for this stock size. I just wanted a  
20 generic this is what we typically see, which I think  
21 I got from you. Thank you.

22 COMMITTEE CHAIR RICHARD COLE: Joel,  
23 did you have something you wanted to add?

24 JOEL MACDONALD: I just had a

1 question, if I could ask it. When calculating the  
2 probabilities of a quota achieving its target, do we  
3 assume that the quota will not be exceeded and that  
4 discards will remain the same?

5 MARK TERCEIRO: The way the projection  
6 is configured is we assume a constant F rate out in  
7 the future. Okay? That gives us a distribution of  
8 realized landings and discards, assuming a constant  
9 proportion or a constant -- yeah, a constant relative  
10 amount of landings to discards over the length of the  
11 projection.

12 COMMITTEE CHAIR RICHARD COLE: Okay.  
13 Jim Ruhle was next.

14 JAMES RUHLE: Thank you, Mr. Chairman.  
15 Got several questions. Actually the first one came  
16 out in the discussion previous here, and it's  
17 directed at Mark.

18 Mark, you mentioned 13.6 million  
19 metric ton landings. You said that's what the  
20 landings were. Wasn't that for 2005? The total  
21 landings -- when you broke it down to --

22 MARK TERCEIRO: The total catch was  
23 around 13,600 metric tons, which is -- wrong way --  
24 around 30 million pounds total catch.

1                   JAMES RUHLE: That was the concern.  
2                   You never said that. You never said it was 30  
3                   million. But that was 2005. The target was 30.3  
4                   million. Why in the hell is 13.6 million metric ton  
5                   a problem? We didn't exceed the target. The way  
6                   that you emphasized that is like it was way over the  
7                   target, and it was not. It was under. The total  
8                   catch, or however you word it, when I calculate it  
9                   out come under the 30.3 million metric tons that we  
10                  had as a quota.

11                  MARK TERCEIRO: Well, I was just  
12                  trying to answer Dave's question, and that is that 30  
13                  million pounds is the total of the commercial  
14                  landings, recreational landings and the two sources  
15                  of discards.

16                  JAMES RUHLE: Okay. I understood  
17                  that.

18                  MARK TERCEIRO: And so if you break up  
19                  the realized F, which was about .5, the quick way to  
20                  do that, assuming approximately equivalent mean  
21                  weights in the catch in all those four components, is  
22                  just to use those relative proportions of the total  
23                  to break up the total F.

24                  JAMES RUHLE: I don't have any problem

1 with any of that, but it was easy to misinterpret the  
2 way you were stating that as it was some -- creating  
3 a problem or an overage as to what we had  
4 recommended. Which brings me to the next question or  
5 comment, I guess this one is, about some of the  
6 comments specifically that the Chairman made that we  
7 as a Council have been ignoring the scientific  
8 recommendations and have been told all along that  
9 this VP -- that this analysis that's taken place now  
10 -- the retrospective analysis that we could never  
11 reach our objectives in this plan, that we've been  
12 told all along that this couldn't happen, and that is  
13 totally incorrect. Totally incorrect.

14 If you look at the briefing book from  
15 2005 -- let's go back to 2004 and just so everybody  
16 knows that we've done what we were asked to do. And  
17 retrospective analysis is great. You look back and  
18 say geez, if I had this to do over, I'd do this.  
19 That's exactly what this group is getting ready to do  
20 today. All of us do that. I do it every day that  
21 I'm fishing. If I make a tow in 45 fathom and catch  
22 half of what somebody caught in 50 fathom, my  
23 retrospective analysis is you dumb ass, should have  
24 moved over. Simple as that. That's the way we do

1 it. We all react to actions. It's simple as that.

2 But the Council has done what it was  
3 charged to do. My biggest concern is the resource.  
4 I know the economics associated with significant  
5 reductions. If you don't have a healthy resource,  
6 everybody loses. There's no question of that. But  
7 2004, I'm going to read this comment, Mr. Chairman,  
8 because I think it's relevant.

9 In addition, the Council recently  
10 received a letter from NMFS indicating that the  
11 rebuilding time period for the summer flounder began  
12 with the approval of Amendment 12 to the FMP. As  
13 such, to comply with the Sustainable Fisheries Act  
14 the summer flounder stock should be fully rebuilt by  
15 2010.

16 Unfortunately, I have to mention the  
17 name. Mark Terceiro has provided long-term  
18 projections that indicate that the stock can reach a  
19 biomass target of 234 million pounds by 2010 based on  
20 the TALs associated with a 75 percent probability of  
21 achieving a target F 2005 through 2008 -- 9. That's  
22 2004.

23 2005, basically we've got a comment in  
24 there that says almost the same thing except the

1 number that we could reach with multi-year specs is  
2 204 million by January 1st, 2010.

3 So, the information provided to --  
4 it's there in the briefing book. I'm not making this  
5 up. It's there. We've made our decisions based on  
6 what was there. It's just bothersome to me that we  
7 were ignoring the recommendations. I'm having a lot  
8 of problems being a participant in the summer  
9 flounder fishery, not a major player, I do catch  
10 them, I target them, I'm not limited to my range.  
11 I'm mobile, go wherever the hell the fish are,  
12 anytime. But empirical information that I've  
13 gathered of this resource doesn't create a big  
14 concern about stock to me at this point. So, there  
15 is the basis for my questions.

16 This retrospective analysis it appears  
17 like now has changed everything. I can't understand  
18 how we got from a projected 30 million -- 33 million  
19 -- well, let's say 30, which by the way I believe was  
20 a mistake, I don't think we ever should have went  
21 past 26, but that's my own personal opinion. And  
22 multi-year specifications is by far the worst thing  
23 this Council has ever done with summer flounder  
24 because all's you do is create false hopes. It is

1 not a process that has got any guarantees. You don't  
2 need to be going out three years making three years  
3 worth of mistakes when you could do it one at a time.

4 And that's the way we need to deal with it, because  
5 there are just too many uncertainties.

6 So, the monitoring committee this time  
7 has looked at this retrospective analysis and, Mark,  
8 how far back have you actually been using it? The  
9 word -- the retrospective analysis, I can only find  
10 in 2005. I can't find it in 2004. I can't find it  
11 in 2003. I can't find it in 2002. Did you use it in  
12 those years or are you just applying it now back to  
13 those years, sir?

14 MARK TERCEIRO: We do the  
15 retrospective analysis every time we do -- turn the  
16 crank on the assessment. Summer flounder is one of  
17 the few assessments that we update every year to  
18 support the quota-setting process.

19 I'll try and address a couple of your  
20 points. The target -- biomass target, all the --  
21 both the biomass and fishing mortality rate reference  
22 points were the same during the 2002 through 2004  
23 assessment cycles. That's the 234 million pound  
24 target you're talking about.

1                   Those reference points were peer  
2 reviewed in 2005, last year, by SAW 41. Okay?  
3 That's why the fishing -- on updating it with new  
4 information on mean weights at age, selection at age  
5 by the fishery and the other factors that go into the  
6 calculation, including new stock recruitment data, a  
7 battery of stock recruitment models were reviewed,  
8 variations in the biomass per recruit estimation,  
9 what length of time series to use for the median  
10 recruitment, all of those issues were on the table  
11 and were reviewed by the SAW.

12                   And so as a result of that, they  
13 basically accepted the work that the working group  
14 did in 2005 and those reference points were updated,  
15 and that's why the number of the biomass target  
16 dropped from 234 to 204 or whatever it is now \*in  
17 pounds. So, that's the first -- that's why the  
18 number changed.

19                   Secondly, your issue about whether we  
20 were projected to achieve the biomass target or not.

21                   In 2002 under the old reference points that  
22 assessment projected we were going to achieve the  
23 target -- the existing target, the target at that  
24 time. The same for 2003. In 2004 was the first time

1 that the working group gave notice that we were not  
2 likely to achieve the biomass target. That was the  
3 reason in that year that the recommended TAL was the  
4 75th percentile that you eventually adopted, or that  
5 was on the table.

6 The reason that adjustment was made  
7 was an attempt to address two factors: 1, an attempt  
8 to address the retrospective reset that was occurring  
9 back then, two years ago, okay? It was an issue  
10 then. And that's part of the reason we went that  
11 route. Secondly was that gave a higher probability  
12 of being able to achieve that then 234 million pound  
13 biomass reference point. Okay?

14 Last year under the new reference  
15 points we also projected that we would not achieve  
16 the biomass target at an F of .276. That was part of  
17 the reasoning to try and look at other scenarios like  
18 the constant harvest of 27 million pounds or whatever  
19 it was, because that -- because it balances out the  
20 constant catch over three years was projected to get  
21 there, barely. Okay? And then \*of course\* the issue  
22 that we're faced with this year.

23 Every year since 2002, at least, I  
24 believe 2002 was the first year we put it in the SAW

1 Report and in the working group report, we have  
2 cautioned that given the retrospective pattern in the  
3 assessment that you should probably adopt a TAL lower  
4 than the median projection would suggest, because we  
5 had this issue. And that's been in the working group  
6 reports every year since then.

7 It may not have carried forward in the  
8 monitoring committee report to the Council, and may  
9 have not been a high-profile issue in 2002, 2003 and  
10 2004. The stock size -- stock trajectories were  
11 still going up and the survey indices were still  
12 going up. \*It's in\* the last two years that we've  
13 really seen the survey indices turn over and start  
14 heading down and that also plays a role in why the  
15 estimates have been reset the way they were in  
16 retrospect. So, that's my attempt to address the  
17 issues that you've raised.

18 JAMES RUHLE: So, in other words, the  
19 working group has made the recommendation since 2002,  
20 or at least cautioned the Council or the monitoring  
21 committee or somebody. It has never been reflected  
22 -- it was never picked up until 2005 in any of the  
23 material distributed to the Council members, simple  
24 as that. If it's in here, I can't find it. Is it in

1 here, Jessica?

2 JESSICA COAKLEY: Yeah.

3 JAMES RUHLE: For what years?

4 JESSICA COAKLEY: Jimmy, the working  
5 group document is always provided behind the  
6 monitoring committee memo behind the tab in the  
7 briefing book each year. That document should be  
8 there and it's provided each year. Now, whether it  
9 all gets read is another question. But it is there.

10 JAMES RUHLE: The monitoring committee  
11 -- certainly they deal with it at their meetings.  
12 The working group recommendation is made and then the  
13 monitoring committee comes forward. I can't recall  
14 any specific time that this Council has acted on the  
15 working group's recommendations. It's always the  
16 monitoring committee's recommendation. So, there's a  
17 difference there as to what -- how we react to what  
18 information we're dealing with.

19 I still haven't -- I'm not saying it's  
20 not in here. I haven't found it. But that's beside  
21 the point. Thank you, Mr. Chairman. That answers  
22 the question.

23 COMMITTEE CHAIR RICHARD COLE: Okay.  
24 And again, Jim, we're always given that information.

1       It always is in our briefing package. And I don't  
2 know, I've been around this process a long time, I  
3 think, Mark, that the technical people have advised  
4 us of these concerns well before 2002, I think. But  
5 nevertheless, the point has been made that we've been  
6 adequately informed about this pattern and we could  
7 have taken a much more conservative approach if we  
8 had so desired, and we decided not to. And that  
9 strictly was the point I was trying to make.

10               Okay. The next person was Bob Pride.

11               ROBERT PRIDE: Thank you, Mr.  
12 Chairman. Jessica, I've got three questions and  
13 maybe have a follow-up on one of them, depending what  
14 the answer is. On Figure 1 where you have the total  
15 catch and fishing mortality in the briefing book, it  
16 says that the F is -- I assume based on ages three  
17 through five. What's the implication of that F being  
18 based on years three through five -- ages three  
19 through five on that chart versus our target F?  
20 That's a question for -- first question.

21               JESSICA COAKLEY: Those are the age  
22 classes that are fully recruited to the fishery. So,  
23 that's why ages three to five are used in terms of  
24 calculating that F rate.

1                   ROBERT PRIDE: Well, what about the  
2 overall fishing mortality on the entire biomass?  
3 We're not calculating that at all?

4                   JESSICA COAKLEY: Just give me one  
5 second, Bob.

6                   (Pause)

7                   MARK TERCEIRO: When the fishing  
8 mortality rate reference point is calculated, it is  
9 based on all the ages and the selection by the  
10 fishery -- the pattern of selection at age by the  
11 fishery. The F max value, which is a proxy for FMSY  
12 that you get out, is the fully recruited fishing  
13 mortality rate. For summer flounder, they're fully  
14 recruited -- become fully recruited to the fisheries  
15 at age three. They're fully recruited to all the  
16 ages after that. The reason it stops at five is  
17 because six -- and just in the way that the  
18 calculations are made within the VPA, because age six  
19 is the oldest true age, it's essentially an average  
20 of ages three through five, and then what we term the  
21 plus group, which is an aggregate of ages seven and  
22 older is basically assumed to be the same at age six.

23                   So, this is a conventional way of  
24 expressing fully recruited fishing mortality rate and

1 the reason it's done that way is because it's  
2 consistent with the way that the reference point is  
3 calculated. And the U means unweighted, which means  
4 it's not weighted by the biomass or the numbers at  
5 age. It's just a strict average of those three  
6 calculated instantaneous fishing mortality rates.

7 ROBERT PRIDE: How does this fishing  
8 rate calculated in this table relate to what the  
9 lawsuit requires us to achieve? Is this the -- is  
10 the F max proxy the one that we're trying to achieve  
11 or is it something different?

12 JESSICA COAKLEY: Yes, the F max,  
13 .276, is our fishing mortality target in our  
14 rebuilding plan.

15 ROBERT PRIDE: Okay. Thank you.  
16 Second question: When the monitoring committee \*or  
17 the technical committee considered the lower TALs for  
18 the recommendation, was there any discussion or any  
19 calculations on the impacts on discards in the  
20 recreational and commercial fisheries based on those  
21 lower TALs?

22 JESSICA COAKLEY: Well, there were no  
23 specific calculations done at the time, but there was  
24 discussion about discards and the -- that if the TAL

1 was lowered that there was potential for increased  
2 discarding rates, and that was part of the reason  
3 that in the special comments section the monitoring  
4 committee suggested that additional observer coverage  
5 be considered by NMFS if a significantly more  
6 restrictive TAL was implemented for the summer  
7 flounder fishery to monitor discarding and ensure the  
8 more restrictive measures produced the intended  
9 effect of rebuilding. So, it was discussed, but no  
10 specific calculations were made.

11 ROBERT PRIDE: How will we go about  
12 getting a handle on that? Obviously if we reduce the  
13 quota 78 percent of our current levels, there are  
14 going to be some significant -- the recreational  
15 discard increases for sure, and I would assume there  
16 was be a lot of commercial discard increases, too.

17 So, how are we going to get a handle  
18 on that, and would we have to make the quota four  
19 million pounds to achieve a six million pound  
20 objective because of the additional discards? I mean  
21 where do we end up with this?

22 And that's more of a rhetorical  
23 question at this point than something I'm looking for  
24 an answer for. But it really concerns me that that's

1 a neverending spiral that we'd end up having to  
2 ratchet down and ratchet down and ratchet down. And  
3 I think we need to consider that in our  
4 deliberations.

5 The final question I had was -- and I  
6 think this is something that everybody here probably  
7 remembers, but wanted to get it back on the record  
8 very clearly. Where did our biomass target come  
9 from? Why do we choose the target that we have and  
10 why haven't we thought to revise it if we saw  
11 ourselves coming up against this problem in 2010?

12 MARK TERCEIRO: As I mentioned in my  
13 answer -- attempt to answer Jimmy Ruhle's question,  
14 the reference points were reviewed last year by SAW  
15 41. And basically the biomass target is the result  
16 of a biomass per recruit analysis that incorporates  
17 current mean weights at age, maturity rates at age,  
18 selection by the fishery at age, and that median  
19 recruitment that comes out of the VPA out of -- over  
20 the last 25 years or so. So, those are the four  
21 major components.

22 Basically we calculate biomass per  
23 recruit and multiply that times the median  
24 recruitment that we've seen in recent history, and

1 that gives us -- that product gives us the biomass  
2 target or your proxy for BMSY. And then the  
3 threshold is one half of that amount.

4 ROBERT PRIDE: Thanks, Mark. We've  
5 heard allegations over the weeks and months  
6 approaching today, and again today, that this biomass  
7 target may be unachievable. What's your scientific  
8 opinion as to whether that's a true or false  
9 statement?

10 MARK TERCEIRO: My opinion would be  
11 that if you fished the stock over the long term at F  
12 max, it is achievable.

13 ROBERT PRIDE: Thank you.

14 COMMITTEE CHAIR RICHARD COLE: I had  
15 John Boreman next and then Commander Jeff.

16 JOHN BOREMAN: Thank you. I want to  
17 return to the projections that were done. A couple  
18 of questions. First, how the recruitment was handled  
19 in the projections. Was it handled as a constant  
20 value, independent of stock size, or did you use the  
21 recruit per spawning stock biomass ratio and multiply  
22 that times stock size?

23 MARK TERCEIRO: Actually, the way the  
24 particular recruitment model in the summer flounder

1 projection, the 24 or 25-year series of recruitments  
2 \*is input as a vector and then that vector of 24 or  
3 25 values is resampled every time a projection is  
4 run.

5 So, essentially it's a resampling of  
6 the cumulative distribution of recruitments that  
7 we've observed over time, the median of which is that  
8 currently 32.7 million fish. \*Before we added a  
9 couple of the recent below-average recruitments, that  
10 number was higher. So, it's essentially not -- it's  
11 not a single value. It's a resampling of a frequency  
12 distribution.

13 JOHN BOREMAN: And so you run that a  
14 number of times to get your 50 percentile  
15 probability?

16 MARK TERCEIRO: Exactly.

17 JOHN BOREMAN: If you look -- Jessica,  
18 if you can scroll back to the spawning stock biomass  
19 versus the recruit plot that you have there?

20 JESSICA COAKLEY (No microphone:)

21 (Inaudible)

22 JOHN BOREMAN: Yeah. No, the prior  
23 one. Yeah, that one. If you look at the most recent  
24 years, '01 through '05, it looks like the recruit per

1 spawning stock biomass ratio is at or below the  
2 median value. So, in recent years if you believe the  
3 numbers, in other words they're somewhere in the  
4 accurately reflecting what's going on out in the  
5 environment, the survival rate from spawning stock  
6 biomass to recruitment at age zero is lower than the  
7 median. So, your projections isn't taking that  
8 recent trend into account. It's looking at the whole  
9 -- \*all those points and \*\* taking that into account.

10 So, if the most recent trend since  
11 like 2000 or '99, maybe even going back to about  
12 maybe 1995, if that's taken into account, then your  
13 current projections may be overly optimistic;  
14 correct?

15 MARK TERCEIRO: (Nods head.)

16 JOHN BOREMAN: Okay, thanks.

17 JESSICA COAKLEY: That's correct.

18 LCDR JEFF RANDALL: Thank you, Mr.  
19 Chairman. I just have -- before we start discussing  
20 TALs and TACs, I have a couple of comments I'd like  
21 to make regarding enforcement of the summer flounder  
22 plan. For everybody's information, typically the  
23 Coast Guard expends about 20 percent of its at-sea  
24 efforts in summer flounder, black sea bass, on an

1 annual basis. And I say that because we've heard  
2 repeatedly about the missing fish issue. And one of  
3 the reasons we do that is to verify whether there is  
4 problems or there are not problems with compliance by  
5 vessels at sea, both -- primarily commercial vessels  
6 and occasionally recreational vessels.

7 However, we do have problems and the  
8 Coast Guard is limited in its ability to enforce the  
9 plan for a couple of reasons. The state-by-state  
10 management issue and the state-by-state trip limits  
11 is not enforceable by the Coast Guard at sea because  
12 those are state laws in federal waters.

13 So, our enforcement efforts at sea are  
14 limited to basically four things: Does the guy have  
15 a permit? Does the guy have an operator's permit?  
16 Is he using the correct gear? And is he complying  
17 with the minimum fish sizes? And that's pretty much  
18 all we can do.

19 Now, as we start talking about taking  
20 some major reductions in the fishery, one of the  
21 concerns that I have for at-sea enforcement is the  
22 worst case scenario. You come across an individual  
23 who's in violation of every state landing limit, but  
24 he has the fish on board the vessel. What do you do

1 with him? Most of them -- several guys have licenses  
2 to land in several states, so now he can shop around  
3 for which state he's going to go to where he would be  
4 \*in least violation, but still that becomes a  
5 manpower intensive and enforcement intensive function  
6 to take him back to figure out where he's going to go  
7 back to, coordinate with that state and then get that  
8 all lined up, especially if he's 60, 70 miles  
9 offshore fishing out there.

10 So, I just wanted to put that up front  
11 that when we start talking about reducing landings  
12 and we start talking about more restrictive trip  
13 limits, I just want to be up front with the Council  
14 and the ASMFC to let them know what we are really  
15 able to do at sea in this fishery.

16 And as I mentioned before, determining  
17 whether compliance is or is not a problem is  
18 important I think for the Council, and that's why in  
19 our Council report I try and highlight those things  
20 and show you where the effort is so we can help  
21 verify whether compliance is or is not a contributing  
22 factor to what you're seeing in terms of missing fish  
23 and other issues.

24 Add to that some -- I know we've heard

1 from Mr. Freeman and Mr. Colvin in the past about  
2 compliance problems in the recreational fishery, and  
3 some of the operations their states have done, and as  
4 we go through this process and we have potential  
5 legitimacy problems with how the process works, we  
6 may continue to encounter those, but realize that the  
7 Coast Guard is somewhat unable to enforce those until  
8 an actual landing occurs and a vessel goes back to a  
9 particular state, even though there are some  
10 coastwide measures in place, in terms of recreational  
11 stuff.

12 Now I'm going to take and I will bring  
13 these things up as part of my role in the Atlantic  
14 States Marine Fisheries Commission's Law Enforcement  
15 Committee and we'll try to address some of those  
16 there, but I just wanted to make you guys aware of I  
17 guess some of the regulatory problems that the Coast  
18 Guard has with enforcing some of the provisions of  
19 this plan specifically, trip limits that apply to the  
20 various states. Thank you.

21 COMMITTEE CHAIR RICHARD COLE: Okay.  
22 are there any other questions regarding technical  
23 issues? Okay. I've got Rick and then Eric.

24 RICK HOOPES: Thank you. This might

1 be for Joel, and I don't know if it's technical when  
2 it's legal, but with regard to the lawsuit decision,  
3 did that decision include any guidance with regard to  
4 the socioeconomic mandates in the rebuilding process?

5 JOEL MACDONALD: Are you talking at  
6 the NRDC versus Daley, the Bizarro world decision?

7 RICK HOOPES: Yes.

8 JOEL MACDONALD: The 50 percentile?  
9 Well, it did give some guidance with respect to the  
10 primacy of National Standard 1. We had prevailed at  
11 the District Court level before Judge June Green. We  
12 had argued that there was some sort of balance, if  
13 you will, to be struck between National Standard 1  
14 and National Standard 8, and we actually probably  
15 overstepped our mandate in making those arguments as  
16 vehemently as we did.

17 When it was appealed by NRDC, one of  
18 the issues obviously before the court was -- you  
19 know, is National Standard 1 the paramount National  
20 Standard, and it concluded that indeed it was because  
21 if you look at the parenthetical in National Standard  
22 8 it's clear that you have to consider, you know,  
23 before the continued participation of fishing  
24 communities, the mandate to end overfishing and

1 rebuild these fisheries. That's the driving force  
2 behind the Magnuson Act. Economic issues are  
3 definitely important, but they are secondary to the  
4 ending overfishing and rebuilding mandate of National  
5 Standard 1.

6 RICK HOOPES: So, this decision on the  
7 50 percent probability of achieving the goal by 2010  
8 does trump socioeconomic considerations?

9 JOEL MACDONALD: It does.

10 ERIC SMITH: I was happy to hear Bob  
11 Pride's question to Mark, and I listened to Mark's  
12 answer and I appreciate John Boreman's comment, all  
13 related to this slide. I don't have any basis for it  
14 other than my own opinion that I guess I'm not as  
15 confident as Mark is that if you fish at F max you  
16 will achieve that BMSY.

17 The theory, as I understand it, is if  
18 you maintain a high SSB on average you're going to  
19 get decent recruitment from time to time. Once in a  
20 while you get a great year class, once in a while you  
21 get a stinker, couple of times you'll get average.  
22 And that's how it will go.

23 Now, this fish recruits to the  
24 spawning stock at one, I think, unusual for a lot of

1 fish, but this one it's an early spawner. So, three  
2 years in a row -- five years in a row of poor  
3 recruitment even at high SSBs is disastrous when you  
4 try and link those two things together.

5 So, I'm not at all confident that  
6 given the passage of time and those last five or six  
7 data points that we actually can reach even the  
8 reduced BMSY that came out of the last assessment,  
9 the one in 2005.

10 I guess my question is -- it's a  
11 process question. If we become more and more  
12 confident that we've set -- you know, I use this set  
13 the bar analogy. If you put a bar out here in the  
14 room 15 feet high and told me to go jump and hit it,  
15 I could jump all day, all month, I'd never get there.  
16 I can't jump that high. At some point I'm going to  
17 stop jumping. And I think that's the position I  
18 think we're in with this stock, that we've got a  
19 target out there and a good healthy maybe best ever  
20 spawning stock biomass level, yet we're seeing  
21 persistently poor recruitment. And that may mean  
22 that the bar is set too high.

23 So, my process question is how do we  
24 recalibrate it? I know it just got done last year,

1 but now we have another year and more understanding  
2 that we just don't seem to be getting that better  
3 than average once in a while year class. It's been  
4 -- heck, I'm looking at that slide now and I'm  
5 seeing, you know, '99, '01, '02, '03, '04, '05 that  
6 are all at better than median biomass and they're  
7 below median recruitment, and some of them or a  
8 couple of them are real stinkers.

9 So, do we have to do this in Amendment  
10 15 or do we charge the technical groups, monitoring  
11 groups, to go back and take a closer look at stock  
12 recruitment relationships and the current knowledge  
13 that we have now as we add more data points to this  
14 and say look critically even at the 2000 -- the 204  
15 million pound level, and in the context of the kinds  
16 of recruitments we've been getting, are we using the  
17 right method to derive the BMSY that we're using, or  
18 should we reconsider that and do it differently?

19 So, that's what I would charge us to  
20 do, but I guess my question is do we have to do it in  
21 a plan amendment or can we do it simply by tasking  
22 the technical groups to do that and come back to us  
23 in some period of time and take a tougher look at it  
24 than perhaps they even did this last time around?

1 JESSICA COAKLEY: Well, a couple of  
2 things. One, the reference points were looked at in  
3 June 2005, as Mark had pointed out, and in terms of  
4 going through the SAW/SARC process to take a look at  
5 the reference points again or the assessment  
6 framework, as I pointed out yesterday with scup the  
7 2007 schedule is filled at this point and 2008  
8 schedule for the SAW/SARC is -- the resources at the  
9 Center are allocated towards the groundfish  
10 assessments, towards GARM. So, nothing through that  
11 process could go through until 2009 would be the  
12 earliest.

13 In terms of well, other technical  
14 committees taking the look at it, or other peer  
15 review groups, if the definitions themselves for the  
16 reference points were changed, different time periods  
17 being used, different information -- the differences  
18 in the way it's defined, it would need to go through,  
19 I would expect, an independent peer review and in  
20 order to be incorporated in the plan either through a  
21 framework or amendment process.

22 Right now the updates \*to the  
23 reference points -- because the definitions of the  
24 reference points have not changed, but just the data

1 was updated, that information was able to be just  
2 incorporated directly without going through a full-  
3 blown amendment or a framework process, which is  
4 time-consuming. But if the definitions of those  
5 change, we need to go through that kind of a process  
6 to bring it into the FMP. Does that answer your  
7 question? Okay.

8 COMMITTEE CHAIR RICHARD COLE: Okay.  
9 Are there any other technical questions? Yes,  
10 Dennis.

11 DENNIS SPITSBERGEN: Jessica? Over  
12 here, Jessica.

13 JESSICA COAKLEY (No microphone:)  
14 (Inaudible)

15 DENNIS SPITSBERGEN: Okay. We've  
16 known about this retrospective analysis for quite  
17 some time and have known that there is a pattern, but  
18 I'm looking here and it says underestimates recent  
19 fishing mortality.\* \*Over the last five years the  
20 annual retrospective increase in fishing mortality  
21 has averaged 33 percent.

22 Do you -- different from Jimmy, I  
23 don't my briefing books of the past years, have we  
24 ever been told -- I don't ever recall us being told

1 specifically that it was a 33 percent or really you  
2 should look at this fishing mortality, which is this  
3 percent lower because of this retrospective pattern.

4 All I can recall is that we have just been told that  
5 there is a retrospective pattern that shows that it  
6 does tend to underestimate fishing mortality. Have  
7 they given us a specific amount in previous briefing  
8 books, or is this the first time that that has showed  
9 up a very specific percentage?

10 JESSICA COAKLEY: Well, as you know,  
11 I've only been here for two years, so as far as --  
12 \*(microphone problems.) Thank you. Sorry about  
13 that. I believe this year is the first year that  
14 we've actually given specific percentages and  
15 attempted to correct -- no? Were they given in --

16 MARK TERCEIRO: I don't know if it's  
17 made it into the briefing book or the material that  
18 the monitoring committee has forwarded to the  
19 Council. What has been provided in the assessment  
20 reports since at least 2002 are -- has been advice on  
21 the degree to which the retrospective underestimation  
22 of F was taking place.

23 In 2002, the SAW 35 report advised  
24 that the retrospective pattern underestimated F by

1 about a third. In 2003, the advice was that it  
2 underestimated F by 40 percent. 2004 working group  
3 report advised that it underestimated F by 40  
4 percent. The 2005 SAW 41 report advised that it  
5 underestimated F. A percentage was not given because  
6 there was some discussion within the SAW Review Panel  
7 about the proper way to express that and whether they  
8 believed the retrospective pattern was a real  
9 phenomenon that was generic or was just the result of  
10 one iteration of this particular model. And then of  
11 course this year you have the same advice that the  
12 current analysis underestimates F by 33 percent.

13 So, some expression of that degree of  
14 retrospective reset has been available in the working  
15 group report or the SAW report since 2002.

16 UNIDENTIFIED (No microphone:)

17 (Inaudible)

18 MARK TERCEIRO: Yeah, this is the  
19 first year that we've explicitly included a  
20 retrospective adjustment in the projections in the  
21 format that you have it here. As I mentioned to  
22 Jimmy before, in 2004 you -- the Council process --  
23 the Council and Commission process implemented a TAL  
24 at the 25th percentile or the 75th percentile of the

1 TAL that attempted to address that in part. Okay?

2 Last year we did not address it. The  
3 primary concern there was more with the constant  
4 harvest versus the reduction that was being faced  
5 when compared with the attempted three-year setting  
6 of TALs that occurred in 2004.

7 DENNIS SPITSBERGEN: Thank you. I'm  
8 just looking. Jimmy brought me this one for 2004.  
9 It just says retrospective analysis shows a tendency  
10 to slightly overestimate SS -- that's SSB, though.  
11 That's not -- I'd have to look up what it says on the  
12 fishing mortality. But anyhow, I was just curious  
13 whether it had been laid out very clearly to us.  
14 Thank you.

15 COMMITTEE CHAIR RICHARD COLE: Okay.  
16 Next on the list was Frank.

17 FRANCIS BLOUNT: Thank you, Mr.  
18 Chairman. I've got something \* Mark. You said it  
19 was 33 percent this year. I thought earlier you said  
20 it was an average came out to 33 percent and that's  
21 -- so was this year \*or the prior year slightly lower  
22 and maybe we're getting better?

23 MARK TERCEIRO: Actually, this year  
24 was lower. I think the retrospective reset went from

1 .3 to .4. It was lower than that for the 2004  
2 estimate. Obviously we don't have a retrospective  
3 estimation of the 2005 F because we need --

4 FRANCIS BLOUNT: Right.

5 MARK TERCEIRO: -- 2006 to do that.

6 FRANCIS BLOUNT: That's one bright  
7 spot we've heard today. The other thing, too, on the  
8 chart that you showed for the rebuilding, that was  
9 the one that Mark asked about -- yeah, that one  
10 there. By looking at that chart, you'd have to  
11 assume that once you get past 2010 on the top three  
12 -- and I know Mark said he thought the stock could  
13 have been at four times the size, is that assuming  
14 that in 2010 if we stay on with the F rate that the  
15 stock will continue to grow, or is there going to be  
16 some leveling off there?

17 MARK TERCEIRO: Well, that was a  
18 theoretical question that I was asked. In other  
19 words, Mr. Bogan asked at carrying capacity.  
20 Theoretically, carrying capacity would be about four  
21 times where we are now, since we're at about one half  
22 BMSY, which is a quarter of carrying capacity,  
23 depending on what relationship you assume. So,  
24 that's the first issue.

1                   The second issue is that at the median  
2                   recruitment that we've used to estimate the reference  
3                   points, if you then fish at the F max reference  
4                   point, the stock will stabilize at that B target over  
5                   the long term and it will theoretically stabilize  
6                   there and there'll be some variation as recruitment  
7                   varies and other factors vary around it. But that's  
8                   the median expectation.

9                   FRANCIS BLOUNT: Okay. And the other  
10                  one is just to take it out of technical terms, just  
11                  so I can put it in real simple language, and  
12                  hopefully I have this correct, if we went to zero  
13                  fishing mortality for the next three years, we'd have  
14                  to -- you'd have to double the stock size to meet the  
15                  objective. So, can the stock double its size in  
16                  three years with zero fishing mortality?

17                  MARK TERCEIRO: Do you have  
18                  (inaudible)

19                  JESSICA COAKLEY (No microphone:)  
20                  (Inaudible)

21                  MARK TERCEIRO: You don't have an F  
22                  zero there? I think I did one.

23                  FRANCIS BLOUNT: I mean technically we  
24                  have to double in three years. So, if we go to zero,

1 is it achievable what we're trying to do, or anything

2 --

3 MARK TERCEIRO: Yes, it is. Yes, it  
4 is. We did do a projection run for that and it is.

5 COMMITTEE CHAIR RICHARD COLE: Gene,  
6 do you have a question?

7 EUGENE KRAY: Yes, thank you, Mr.  
8 Chairman. Eric's question about the 204 million  
9 pounds and the process of how we can take another  
10 look at that, I'm sure I understood Jessica's answer  
11 on that. Let me rephrase that question.

12 We're in a critical situation -- I  
13 call it a critical situation -- where there are a lot  
14 of jobs at risk, a lot of livings at risk, a lot of  
15 people going to be put out of business if we take  
16 some of these draconian methods or limits that have  
17 been suggested. The thing that troubled me was when  
18 Jessica talked about the SAW and the SARC for 2007,  
19 2008, and that that schedule is already -- has  
20 already been made, and I don't know of any species  
21 that has more of an economic value than summer  
22 flounder, why that can't be adjusted, modified,  
23 because of the circumstances we are in.

24 But asking the question a different

1 way. If you had a magic wand and were told by the  
2 President of the United States that that 204 million  
3 pounds needs to be looked at again because some of  
4 the significant people have indicated that that  
5 biomass is overstated, or that goal is overstated,  
6 what would you do?

7 MARK TERCEIRO: I'd pass that question  
8 along to my boss and let him answer it.

9 COMMITTEE CHAIR RICHARD COLE: Yeah,  
10 Gene, I don't think there's an answer to that, and I  
11 don't think that's a fair question for the technical  
12 folks. Pat, do you want to try to answer? Okay.  
13 Pat's going to try to answer.

14 PATRICIA KURKUL: Well, I think  
15 there's a couple of options. I mean the first is  
16 that the Council can put together a technical  
17 committee to review the information and then a peer  
18 review process to look at the results of whatever the  
19 technical committee comes up with.

20 And then the second option I think is  
21 a longer term one, actually, and that's the NRCC,  
22 which does review the SAW schedule, meets in October,  
23 and could reconsider the schedule for -- I don't  
24 think for this year, but potentially for 2008.

1 I think part of the problem with the  
2 latter option is that that's been done. It's been  
3 done several times now through the summer flounder  
4 rebuilding program, and the hopes were always that  
5 there'd be a different answer to the question. And  
6 there wasn't really.

7 So, to ask the same group for a  
8 different answer a third or a fourth time, well, you  
9 can do it, but you might want to think about a  
10 different way to do this.

11 EUGENE KRAY: Thank you.

12 COMMITTEE CHAIR RICHARD COLE: Okay.  
13 Next on the list was Jim Fletcher.

14 JAMES FLETCHER: To either Mark or  
15 Jessica, how many million pounds of fish under your  
16 projections are being killed every year?

17 MARK TERCEIRO: In general it's the  
18 projected landings plus usually between 500 and 1,000  
19 metric tons of discards for the two fisheries  
20 combined.

21 JAMES FLETCHER: The question was in  
22 pounds.

23 MARK TERCEIRO: Okay. Well, if the  
24 quota is say 20 million pounds, that's -- about 22

1 million pounds then.

2 JAMES FLETCHER: Has there ever been a  
3 non-precautionary approach review of the summer  
4 flounders -- and I mention the name of Chang -- that  
5 produced scientifically reviewed information that  
6 landing 12 to 13 inch fish would result in the same  
7 numbers that you just predicted or just used?

8 MARK TERCEIRO: I'm not sure if you're  
9 referring to \*Suku Chang's assessment that he did  
10 back in the -- I guess the late '70s or early '80s.  
11 I don't have the material in front of me, so I'm not  
12 sure.

13 JAMES FLETCHER: Well, for the  
14 Council, it was 34 million pounds of 12 to 13-inch  
15 fish. Now, the question is do we need a review of  
16 the science by independent scientists from around the  
17 world using the same figures, would we come up with a  
18 different conclusion?

19 MARK TERCEIRO: Well, we had a review  
20 of the assessment last year by four or five  
21 scientists from around the world, and they accepted  
22 the assessment update and the estimation of the new  
23 reference points.

24 JAMES FLETCHER: Thank you.

1 COMMITTEE CHAIR RICHARD COLE: Okay.

2 I have some hands in the audience and I would ask you  
3 all that -- to focus your questions at this point in  
4 time on the technical issues. We will have time to  
5 discuss the TAL process and the other issues, but  
6 right now we're trying to get through these technical  
7 questions. Okay. The next person was Ray Bogan.

8 RAY BOGAN: Thanks, Rick. Ray Bogan.

9 The chart that was up before talking about the TALs  
10 that would ultimately meet the target -- and Rick,  
11 I'm not sure who the appropriate person to answer the  
12 question is. On the bottom two my understanding --  
13 and this is -- my question is prompted by Frank  
14 Blount's questions, but we have a three-year constant  
15 harvest at 10.04 million pounds for 2007 through  
16 2010, and then you have the retrospective reset.  
17 What is NMFS's position on where they would want the  
18 TAL to be for the three-year period in order to meet  
19 what they think -- a target that they think they can  
20 meet, and that's 204 million pounds?

21 Is it the retrospective that they're  
22 dealing with, or is it the other one? I'm just not  
23 exactly sure. I know next year they're recommending  
24 5.22 million pounds, but I think they're also saying

1 if you do a constant harvest of either 10.04 or 6.72,  
2 you can also meet the 204 million pounds. I'm just  
3 not sure which one they actually adopt or support.

4 COMMITTEE CHAIR RICHARD COLE: Well,  
5 again, Ray, I don't think -- unless Pat wants -- do  
6 you want to respond to that, Pat? I mean that's  
7 something the Service will have to consider once we  
8 make our recommendation, but if you want to try to  
9 answer that, Pat, you're welcome to.

10 PATRICIA KURKUL: Well, just generally  
11 speaking, clearly not including the retrospective  
12 pattern has created a situation where we've not  
13 achieved our F's consistently. So, I do think there  
14 needs to be some consideration of the retrospective  
15 pattern in whatever the Council and the Commission  
16 choose.

17 RAY BOGAN: So, in other words, all  
18 arguments aside, 6.72 million pounds is what you  
19 think would accomplish reaching 204 million pounds?  
20 Again this is drawn out by what Frankie asked about,  
21 if we shut it down for three years are we going to  
22 meet 204? Most of us are pretty confident if you  
23 shut us down we still won't meet 204, but are you  
24 saying that we could meet 204 by doing 6.72 million

1 over three years? And I say you, NMFS I mean to say.

2 PATRICIA KURKUL: The three-year  
3 constant harvest projections are actually new to me  
4 today. Those have been added since the monitoring  
5 committee met. But according to what Jessica and  
6 Mark have said, the projections show that those do in  
7 fact achieve the rebuilding target by the January 1,  
8 2010 deadline.

9 RAY BOGAN: Okay. Thanks.

10 COMMITTEE CHAIR RICHARD COLE: Ray,  
11 those projections are new to everybody. We hadn't  
12 seen those before --

13 RAY BOGAN (No microphone:) That's why  
14 I asked the question (inaudible)

15 COMMITTEE CHAIR RICHARD COLE: Phil is  
16 next.

17 PHIL CURCIO: Thank you, Mr. Chairman.  
18 Phil Curcio, United Boatmen. First a general  
19 question. Would an unaccounted for overabundance of  
20 predator species have the effect of lowering the  
21 anticipated carrying capacity of a subject species?

22 MARK TERCEIRO: If that resulted in a  
23 substantial increase in natural mortality rate, yeah.

24 PHIL CURCIO: Okay, thank you. Now

1 more specifically to the species that we're concerned  
2 with here, and I'm going to ask you to just think  
3 outside the box a little bit. I'm not sure that  
4 anyone has done this, but I'm going to ask if it  
5 hasn't been done just to take a look at it.

6 Has anyone plotted a graph depicting  
7 the margin represented by the retrospective bias  
8 against the increases in the biomass for dogfish?

9 MARK TERCEIRO: No, I haven't done  
10 that.

11 PHIL CURCIO: I would just humbly  
12 suggest that that be looked at, and that this perhaps  
13 might be a place for the Council's first foray into  
14 ecosystem management. Thank you.

15 COMMITTEE CHAIR RICHARD COLE: Next  
16 person was Jim Lovgren.

17 JAMES LOVGREN: Jim Lovgren here.  
18 Question would relate to an issue I brought up back  
19 -- sitting on this Council back in 2001. If we could  
20 have that graph up biomass -- spawning stock biomass  
21 and recruitment chart? Right there. A similar chart  
22 was made in 2001 and I asked the question at that  
23 time. I was looking at this and saying gee, our  
24 spawning stock biomass is going up, our biomass is

1 going up, but recruitment is falling. Have we  
2 reached the point with a different modeling that's  
3 the Ricker model, have we actually become on the  
4 downside of a Ricker curve?

5 I was told at that point that we  
6 didn't have enough data, there wasn't enough years of  
7 data at that point. Now we're five years later, we  
8 see the same trend continuing. We have a biomass  
9 that is now stalled. We have a spawning stock  
10 biomass that is now stalled. And we have poor  
11 recruitment. We also have mean low weight. All of  
12 these are indicators that the Ricker curve -- we are  
13 on the downside of the Ricker curve.

14 My question is back when you redid the  
15 biological target did you address it looking at the  
16 Ricker model?

17 MARK TERCEIRO: Yeah, last year when  
18 we looked at these stock recruitment data, of course  
19 we looked at it without the 2005 point in there, so  
20 we've only added one data point in terms of  
21 recruitment, and we looked at a whole suite of  
22 models, various \*flavors, a Ricker model, which is  
23 the overcompensatory one, the parabola that you would  
24 try and fit through those points. We looked at the

1 Beverton-Holt model, which is the other traditional  
2 stock recruitment model. We looked at them  
3 incorporating auto-regressive effects. We looked at  
4 them trying to incorporate environmental effects by  
5 looking at long-term lags in the data. And the  
6 Beverton-Holt data model fits these particular data  
7 better than the Ricker model does. The Ricker model  
8 doesn't converge and give realistic results.  
9 Basically in some cases it will not converge. It's  
10 because of the spread of the data points.

11 The Beverton-Holt does somewhat  
12 better, but it also has a problem in that it predicts  
13 that because of the data that we have here it  
14 predicts that you can let the stock fall to a very  
15 low level and then basically recruitment goes to  
16 zero.

17 The issue here is probably that we  
18 haven't been at biomass levels greater than 20,000  
19 metric tons and accumulated enough data points on  
20 that right-hand side of the graph to make any of  
21 those parametric models fit sufficiently well so that  
22 a peer review group was willing to accept them.

23 So, they recommended that we fall back  
24 to the method that we've used since we've been

1 estimating reference points for summer flounder, and  
2 that's basically a simple dynamic pool model of  
3 biomass per recruit and then use that result and the  
4 median recruitment that we've realized in the series  
5 to estimate that biomass target.

6 JAMES LOVGREN: Okay, all right.

7 Following up, back to the other graph. We see -- we  
8 had high population -- basically the summer flounder  
9 population reached a peak in the mid to late '70s,  
10 fishing effort reached its peak landings in the early  
11 '80s, and what you saw -- and Jim Fletcher pointed  
12 this out, but about 30 million pounds of landings at  
13 some times were of 12 and 13-inch fish. There were  
14 up to 80 million pounds of summer flounder taken out  
15 of that biomass in the early 1980s, and look at the  
16 recruitment numbers that you had back then.

17 Recruitment was through the roof. This was a stock  
18 that proved if you fished it hard enough, recruitment  
19 increased. If you don't fish it hard, recruitment  
20 falls. The biological target -- it seems to me, and  
21 I think everybody at this table here feels the target  
22 is too high.

23 Now what's changed? Environmental  
24 conditions have changed, okay? We reached a high

1 level in the mid '70s. Is that level reachable now?

2 I don't know. If we go by best science available,  
3 which we're supposed to, we'd be looking at a study  
4 in Puget Sound by NOAA, Alan Mearns, and he raised  
5 the question are we starving the fish?

6 They did a study in Puget Sound and  
7 they found out -- their concern was that they will  
8 never get the population of Puget Sound back to the  
9 levels they saw in the '30s and '40s and '50s because  
10 the water was now too clean.

11 Now, we've shut off sewerage sludge  
12 dumping. Hundreds of millions of tons of sewer,  
13 that's a nutrient, into the ecosystem every year.  
14 This isn't just a question raised in this country.  
15 This was a question raised by Iceland. Okay? This  
16 has been suggested there that we had been  
17 artificially feeding the ocean, creating a higher  
18 carrying capacity than is possible now because we  
19 have cleaned up the ocean. We don't want to go back  
20 to making the ocean dirty, but we have to be  
21 realistic in what the actual carrying capacity is.  
22 And I would hope that this Council suggests to Doctor  
23 Boreman that an independent group studies all of  
24 these aspects, and that includes the carrying

1 capacity looking at environmental conditions that are  
2 present today and not where we thought they were 30  
3 or 40 or 50 years ago. Thank you.

4 COMMITTEE CHAIR RICHARD COLE: Okay.  
5 I've got -- with this gentleman back here -- five  
6 names left on the list. And then I think we ought to  
7 -- we're going to have to move on to our discussions  
8 regarding the TAL. We'll take a break. So, before  
9 we start those discussions, but I've got five more  
10 names here and then we're going to move on. Yes,  
11 sir.

12 TOM SICILIANO: Thank you. My name is  
13 Tom Siciliano with the Manasquan Fishing Club, and I  
14 guess I have a question of the whole group. Is it  
15 conceivable in anyone's mind that recreational  
16 fishermen are that good that they could catch the  
17 estimated -- the total estimated biomass every fish  
18 that's in the ocean, all right?

19 Right now in 2005 the quota for  
20 recreational was 12 million. You take that and  
21 figure two pounds, you said two and a half, but two  
22 pounds that's six million fish. Recreational  
23 fishermen are releasing 20, 30, 40 fish to catch one  
24 16 and a half inch keeper. If I call a 16 and a half

1 or -- well, you know, 16, 15 and a half, the shorts  
2 that are being thrown back, call them a pound, times  
3 -- all right. So, the 12 million pounds -- so six  
4 million fish times 20 times one, so that's six  
5 million times 20, that's 120 million pounds of fluke  
6 that are caught and released by recreational  
7 fishermen in 2005.

8 If you believe the assumption of 20 to  
9 one is incorrect, all right, call it ten to one.  
10 It's certainly ten to one. Can recreational  
11 fishermen catch half of the total biomass? It just  
12 doesn't make sense. And members of the recreation --  
13 Manasquan Fishing Club, you know, fully don't believe  
14 this quota should be anywhere near where we are. So,  
15 thank you very much.

16 COMMITTEE CHAIR RICHARD COLE: Tom  
17 Fote.

18 TOM FOTE: Well, Phil and Ray had  
19 asked one of the questions I was asking, because I've  
20 seen the same -- we've seen the same problem with  
21 weakfish. We saw a stock that was growing, growing,  
22 the spawning stock biomass was increasing, we thought  
23 we were going to be in a good recovery in three  
24 years, four years, and all of a sudden the rug got

1 pulled out from under us. We're seeing the same  
2 thing with summer flounder. It's supposed to be  
3 going up, up, up, and we don't see that recruitment.

4 Where I disagree with Jimmy Lovgren  
5 when we're talking about cleaning the ocean. We  
6 might have taken all the sewer sludge out of the  
7 ocean, we might have done a big -- but we've also now  
8 added chlorine, we've also added medications. And  
9 Jim has been saying that for years, that basically --  
10 you know, have effects on female and male fish. We  
11 know that's happening.

12 When we also look at the amount of  
13 wetlands that we've lost since this was estimated was  
14 1930, you know, early estimates \*are 70 percent of  
15 the wetlands have been destroyed in the last 70 or 80  
16 years along the eastern seaboard.

17 When we do this projection of the 204  
18 million pounds, do we consider any of those factors?

19 Because this is not only coming out for summer  
20 flounder, but it's coming out for weakfish, and  
21 \*\*it's going to basically\*\* come out for all the  
22 species that we're trying to build to the all-time  
23 high level of 2000 -- you know, in the ten-year  
24 rebuilding period, yet the habitat and the

1 environmental conditions \*\* a lot different than the  
2 last 80 years. \*Do we basically deal with that?

3 And I guess the follow-up on Phil's is  
4 dogfish. I mean it really is -- if you look at  
5 weakfish start going the other way and you look at  
6 summer flounder start going the other way, it's the  
7 same time as when we shut down the quota to about two  
8 million pounds on dogfish or four million pounds and  
9 really haven't been harvesting that much.

10 So, could you answer my first question  
11 about how do we look at all those factors of wetlands  
12 and the loss of wetlands in the last 70 or 80 years?

13 How do we look at the change in the environment in  
14 the last 80 years and incorporate those in the models  
15 when we do ecosystem management? Because I know  
16 that's the direction we're supposed to be going.

17 COMMITTEE CHAIR RICHARD COLE: Okay.  
18 I had Chris Brown.

19 CHRIS BROWN: Thank you, Mr. Chairman.  
20 Chris Brown, the Rhode Island Commercial Fishermen's  
21 Association. I look at the retrospective analysis a  
22 little bit differently. I'm a fisherman and a  
23 conservationist, and when I see a retrospective  
24 analysis that isn't coming back favorably, I look at

1 it as a condemnation of the management strategies  
2 that we're using. I think it is a grade.

3 With fluke we have had a biomass that  
4 has grown significantly, six times, I think, since we  
5 started our management. And as the biomass has  
6 expanded, the range has expanded. And under normal  
7 circumstances that would be a very good thing. And  
8 it is for the resource. Unfortunately, how that  
9 interfaces with what we have to use in managing the  
10 resource, it's bad. As these fish travel farther  
11 east, there is little or no opportunity for the fish  
12 to be harvested. As a result, bycatch occurs.

13 In order for us to properly manage  
14 this fish -- getting back to a little bit of the  
15 technical stuff that we're supposed to be focusing on  
16 -- I think it's real important that you establish and  
17 maintain a very exact portrait of mortality  
18 throughout the fishery. As managers, you are  
19 powerless to correct anything that you see as a  
20 problem or a threat to the resource when you don't  
21 have the information at your disposal.

22 It would be very helpful to know what  
23 regions are generating discards, if there are \*  
24 discards, and if there's a gear problem or if it's

1 availability of resource, or if -- you know, a lot of  
2 times the inefficiencies occur at the state levels.  
3 We have run into that in Rhode Island and are working  
4 very hard to correct that.

5 In going forward, the Oceans  
6 Commission Report recommended that we have more  
7 dedicated access programs. Bill Hogarth circulated  
8 the memo to us -- Pat, you must have got it -- about  
9 empowering people to manage the fish themselves  
10 better through these different kind of programs.

11 I don't see that we are in a position  
12 right now at this Council level to do that. So, the  
13 government -- NMFS knows it's a better way to go. If  
14 they haven't provided us with many of the -- you  
15 know, with the infrastructure or support to do it, it  
16 is what I think is sitting on our ability to grow the  
17 fluke back higher. Whether or not we can get to  
18 where we're supposed to get to is a subject of great  
19 debate. They didn't provide me with that technical  
20 ability up till the 12th grade, so I can't really  
21 comment -- I have some beliefs that won't take us  
22 there, but -- I don't think we should be looking at  
23 cutting the landing rates because all we're going to  
24 do is exchange landings for discards.

1                   One plan suggests that you'll be  
2                   discarding roughly four or five million. The other  
3                   one suggests you're going to land that many. And I'd  
4                   just as soon land them and sell them as throw them  
5                   over dead. And until such time, you know, I really  
6                   think that it's the management strategy we have to go  
7                   back and look at, and not the landing rates.

8                   Fishermen traditionally cause  
9                   landings, regulators cause discards. And through no  
10                  intended consequence of this Council's actions, we  
11                  have done pretty much just that in the northeast part  
12                  of the country.

13                  I would like also to see that there  
14                  would be a fishing gear committee established to  
15                  benefit this Council in implementing different  
16                  conservation effective trawls in areas that are --  
17                  might be generating the discards. I think the whole  
18                  subject of why we're not getting where we need to get  
19                  to has to be looked at. So, thank you for hearing my  
20                  words.

21                  COMMITTEE CHAIR RICHARD COLE: Pres,  
22                  you're on the list.

23                  PRESTON PATE: Thank you, Rick. Quick  
24                  question for Joel MacDonald. Joel, what are the

1 consequences of not meeting the rebuilding date of  
2 2010?

3 JOEL MACDONALD: Very interesting  
4 question. Cinderella question, if you will.  
5 Obviously there's no penalty in the Act. What I  
6 foresee being at least one of the scenarios is we  
7 fail to meet the 204 million pounds by January 1,  
8 2010 and some conservation group sues the agency to  
9 force the Secretary to implement measures or to have  
10 the Council implement measures to rebuild the fishery  
11 as soon as possible.

12 Now, if we step back a step, there's  
13 an obligation under Section 304 of the Magnuson Act  
14 for the agency to review rebuilding plans  
15 periodically, not to exceed two years. And as we  
16 approach the end point of this rebuilding period, the  
17 agency is going to have to -- you know, assess  
18 whether in fact the Council strategy in the next  
19 three years is going to make it. And if it's not,  
20 the agency is going to have to advise the Council and  
21 the advice is also going to have to contain  
22 recommendations and measures as to how to get there  
23 in the time allotted. And that's -- you know, what I  
24 see happening.

1                   PRESTON PATE: We might all look good  
2 as pumpkins at that point.

3                   COMMITTEE CHAIR RICHARD COLE: Okay.  
4 Everett.

5                   EVERETT PETRONIO: Thank you. I had a  
6 real basic question. I was picturing Eric trying to  
7 reach that 15-foot pole and it made me wonder if he  
8 ever had. And the question \*very basic\* to the  
9 question \*that I have is as to the 204 million pound  
10 target that we're aiming for, that we're looking to  
11 get to; that's a theoretical target, is that correct?

12                   UNIDENTIFIED (No microphone:)

13 (Inaudible)

14                   EVERETT PETRONIO: Okay. Has there  
15 ever been a stock size measured at 204 million pounds  
16 for this species?

17                   MARK TERCEIRO: No.

18                   EVERETT PETRONIO: Has -- what is the  
19 highest level that this stock has ever been measured  
20 at?

21                   MARK TERCEIRO: The current level.

22                   EVERETT PETRONIO: So, we're at the  
23 high --

24                   MARK TERCEIRO: The level over the

1 last three years, \*put it that way.

2 EVERETT PETRONIO: Okay. So, we're at  
3 historical highs?

4 MARK TERCEIRO: Since 1982, yeah. We  
5 have some survey indices back in the late '70s that  
6 are about the level where we are now also.

7 EVERETT PETRONIO: Okay.

8 MARK TERCEIRO: But under that entire  
9 period, the stock has been under -- experienced a  
10 fairly high fishing mortality rate. So, we've never  
11 -- probably also never fished the stock over the long  
12 term at the below F max rate.

13 EVERETT PETRONIO: Okay.

14 MARK TERCEIRO: So it's again the same  
15 question -- well, you weren't here yesterday. It's  
16 difficult to -- it's difficult to say with a very  
17 high level of confidence what these biological  
18 reference points are until you actually pass through  
19 them. Then you can say with a high level of  
20 confidence that yeah, I'm sure I've been there and  
21 now we have a high level of confidence.

22 Like for most of our groundfish stocks  
23 and for this one, most of these reference points are  
24 a theoretical construct because fishing mortality

1 rates haven't been sustained at low enough levels to  
2 experience them. There are some exceptions, but for  
3 example for cod the cod and yellowtail reference  
4 points again are a theoretical point that we're  
5 trying to achieve.

6 EVERETT PETRONIO: So, we're bravely  
7 going where no man has gone before to measures that  
8 we've never seen before, to levels that we've never  
9 had before?

10 MARK TERCEIRO: That's one man's  
11 expression, sure.

12 EVERETT PETRONIO: \*That's mine\*, I  
13 know. But are there any factual inaccuracies in that  
14 statement?

15 MARK TERCEIRO: For summer flounder,  
16 no.

17 EVERETT PETRONIO: Okay. Thank you.

18 COMMITTEE CHAIR RICHARD COLE: Okay.  
19 I've got one more person here on the list, then we're  
20 going to take a break and have our -- come back and  
21 discuss the TALs, and the last person is Jim Ruhle.

22 JAMES RUHLE: Thank you, Mr. Chairman.  
23 Just briefly, I'm man enough to admit when I'm wrong  
24 and I owe Mark an apology. That information is in

1 the Demersal Working Group document, and I owe you an  
2 apology because it's in there.

3 But I'll tell you this. Since the  
4 seven years I've been sitting on this Council I feel  
5 like I've been misinformed by the monitoring  
6 committee's recommendations. There has never been  
7 enough expression about this concern, if it's real.  
8 There's only one time that I felt like I did the  
9 wrong thing for this resource, and that was when I  
10 voted for the 30 million pounds. That's the only  
11 time that I questioned my own vote. I knew it was  
12 going to lose anyway. I felt like that was too much  
13 too fast.

14 But any other time, based on the  
15 information provided up until now by the monitoring  
16 committee to me the working group's concern has not  
17 been brought forward. It is in the document. If  
18 everybody read every damn page of this thing,  
19 congratulations to them, they're a better man than I  
20 am. But what I've digested out of this and what I've  
21 made my decisions on was the monitoring committee's  
22 recommendations. I've only participated in two of  
23 those.

24 I know Mark's abilities. I've worked

1 with him on some other committees. I don't doubt at  
2 all his abilities. I do owe you an apology. It's in  
3 there. Jessica, thank you for bringing it to my  
4 attention.

5 But again, we're charged with the  
6 information that's provided to us to make the best  
7 scientific recommendation. There are times that I'll  
8 use the empirical knowledge that I've gained over 40  
9 years fishing experience in place of that. But  
10 again, only one time in the seven years that I've  
11 voted on this Council did I feel like we did the  
12 wrong thing. Now today we'll have to deal with that  
13 later, but thank you for the opportunity.

14 COMMITTEE CHAIR RICHARD COLE: Okay.  
15 And to the credit of the Council staff, Jim, and when  
16 I say Council staff I'm really referring to Chris  
17 Moore, he always included -- made sure that that  
18 information was in our briefing book.

19 Okay. Let's take a ten-minute break  
20 and then we'll come back and discuss the TALs.

21  
22 (BREAK, 10:30-10:54 a.m.)  
23

24 COMMITTEE CHAIR RICHARD COLE: We've

1 heard the staff recommendation, 19.89 million pounds.  
2 We've heard the monitoring committee recommendation,  
3 13.88 million pounds. And we've heard the Service's  
4 recommendation. So, we've covered all the range here  
5 and what we want to do now is focus our discussion.  
6 The Council has to make a recommendation to the  
7 National Marine Fisheries Service for total allowable  
8 landings for summer flounder for the 2007 fishing  
9 season. That's what we want to focus on now. Jim  
10 Ruhle.

11 JAMES RUHLE: Thank you, Mr. Chairman.

12 I'd like to offer a motion. That motion would be --  
13 and Jan has it, so she can put it up -- that the TAL  
14 for the 2007 fishing year be set at 19.9 million  
15 pounds. Further move that the Council develop an  
16 amendment to the Summer Flounder, Scup, Sea Bass FMP  
17 for the sole purpose of revising the ten-year  
18 rebuilding schedule established in Amendment 12 due  
19 to the unintentional overages in the recreational  
20 fishery during the early years of the plan, 2000,  
21 2001, 2003, totalling 15.8 million pounds, resulting  
22 in an exceeded F rate before the adoption of  
23 conservation equivalency. That's the motion.

24 COMMITTEE CHAIR RICHARD COLE: Okay.

1 Jim's offered a motion for the Council. Do we have a  
2 second?

3 RED MUNDEN: Second.

4 COUNCIL CHAIR RON SMITH: Seconded by  
5 Red.

6 BOARD CHAIRMAN MARK GIBSON: Okay.  
7 For the ASMFC board, is there sentiment to offer a  
8 similar motion?

9 BRIAN CULHANE: I'll make that motion  
10 for the Commission.

11 BOARD CHAIRMAN MARK GIBSON: Is there  
12 a second?

13 EDWARD GOLDMAN: Second.

14 BOARD CHAIRMAN MARK GIBSON: Who's  
15 that? Okay.

16 COMMITTEE CHAIR RICHARD COLE: Okay.  
17 We have concurrent motions. Obviously, everybody  
18 needs to see this up on the board. Jan's trying to  
19 get that up there as quickly as possible. But I  
20 think we can start discussions. Jim.

21 JAMES RUHLE: Thank you, Mr. Chairman.

22 To provide some rationale for this, we've had  
23 extensive discussions on different TAL settings and I  
24 think we're all really clear that the driving force

1 here is the ten-year rebuilding schedule. There are  
2 consequences that none of us anticipated when we  
3 developed this plan as far as controlling different  
4 entities of the fishery.

5 The result was unintentional. Nobody  
6 went out of compliance. But the plain fact matter is  
7 -- fact of the matter is 15.8 million pounds of fish  
8 were landed in the three-year period above the  
9 target. It created a situation where the F rate was  
10 consistently exceeded.

11 The Council has since then adopted  
12 conservation equivalency, and I'm not sure, was that  
13 2004, Dan? Dan, 2004 for conservation equivalency or  
14 2005?

15 DANIEL FURLONG: I think we put it in  
16 2004.

17 JAMES RUHLE: Okay, 2004. So, from  
18 2004 forward, meaning for the last two years, we've  
19 had control or a better handle and better  
20 expectations, and one year's fishing provided  
21 information demonstrates that with conservation  
22 equivalency the recreational community is able to do  
23 better. Again, it was not \*intended. Doesn't make  
24 any difference if it was intended or unintended.

1 15.8 million pounds of fish came out of the stock.  
2 What would the stock look like today if the 15.8  
3 million pounds was left in it? I feel like we'd be  
4 in a position that the 19 would not be an issue.

5 You have to look at the long-term  
6 average of this fishery over the last ten or 15 years  
7 and it's above 20 million pounds. So, I don't feel  
8 like it's unreasonable. I certainly do not think  
9 it's a threat to the resource, this 19.9. I  
10 understand the Service's concerns. I recognize the  
11 law. But the Council proceeded with Amendment 12  
12 with its best available information and all good  
13 intentions. But the fact is it was wrong -- it was a  
14 wrong way to go. And I'm not so sure that we're a  
15 whole lot better off right now with conservation  
16 equivalency because of the uncertainty of MRFSS, but  
17 we know we've got documentation to prove that at  
18 least 2005 -- 2004, 2005 we've got good numbers.

19 So, let's consider -- and I recognize  
20 what this entails. It's not an easy chore.  
21 Amendments don't come together real quick. I suggest  
22 that we set the existing Amendment 15 aside because  
23 it's useless. You know, you can argue 40 to 60 or 50  
24 to 50, but divide nothing by nothing and you still

1 get nothing. And if we don't do something about it,  
2 that's where we're all going to be.

3 So, this is the only way I know to try  
4 to get a discussion going that supports a reasonable  
5 quota with the intentions of fixing the problem. I  
6 just don't know any other better way to put it. But  
7 my main goal is for the resource and I do not believe  
8 that this would be detrimental to it. That's my  
9 rationale for it \*so far, Mr. Chairman. Thank you.

10 COMMITTEE CHAIR RICHARD COLE: Jim,  
11 it's your intent that that 15, as we currently have  
12 it, would be -- Amendment 15 would be set back and  
13 this would take precedent if this motion went  
14 forward?

15 JAMES RUHLE: Yes, sir. That would be  
16 my intention.

17 COMMITTEE CHAIR RICHARD COLE: So, do  
18 all the Council members understand that? That's what  
19 the intent is of this motion. Did we get the  
20 seconders up there?

21 Okay. Jim, this is -- as I understand  
22 it, one motion. It could be two, but you're offering  
23 it as one; is that correct?

24 JAMES RUHLE: Yes, sir. And I thought

1 about that a lot. I usually don't try to complicate  
2 the motions by making them too long, but it provides  
3 a rationale for the motion and provides a mechanism  
4 to address the problem. So, yes, I'd like to keep it  
5 as one at this time.

6 COMMITTEE CHAIR RICHARD COLE: Okay.  
7 Everyone should understand Jim's intent with this  
8 motion. Okay. Discussion on this motion? I have  
9 Pat Kurkul next.

10 PATRICIA KURKUL: I think an issue  
11 came up in our discussion earlier on the scientific  
12 information and some of the questions that John  
13 Boreman was asking about the recruit data --  
14 recruitment data that I think may in fact indicate  
15 that we need to look at the 204 million pounds again.

16 And so before we get too much further  
17 into this discussion, I'd like to ask maybe John  
18 Boreman to speak more specifically to that issue, and  
19 then I think we need to regroup a little bit and see  
20 where we are.

21 I have some comments directly to the  
22 motion, but I think the motion might become moot  
23 after John has the opportunity to speak to the issue  
24 a little bit.

1 COMMITTEE CHAIR RICHARD COLE: John.

2 JOHN BOREMAN: Okay, thank you. This  
3 goes back to the question that Bob Pride asked about  
4 if the President directed us to reevaluate that 204  
5 million billion biological reference point, what  
6 would we do? Well, first of all, since I work at the  
7 pleasure of the President -- oh, it was Gene Kray.  
8 Since I work at the pleasure of the President, I will  
9 do it, but it got me thinking, too, about what I was  
10 -- in my discourse with Mark and Jessica about the  
11 recruitment and the survival rates.

12 If you look at -- since about 1990 or  
13 so at the spawning stock biomass and recruit plot, it  
14 shows that the spawning stock biomass has basically  
15 been growing almost steadily since the early '90s.  
16 At the same time, we haven't seen a similar increase  
17 in the number of recruits. And if we assume that the  
18 survival rate from egg to age zero, where we measure  
19 recruits, has been constant, we would have expected  
20 to see an increase in recruitment as the spawning  
21 stock biomass has increased.

22 Instead, recruitment either remains  
23 steady or decline. In most recent years, we've had  
24 high spawning stock biomass levels, but recruitment

1 is still at relatively low levels. What that  
2 suggests is that the survival rate from spawners to  
3 recruits has been declining steadily as the stock has  
4 been increasing steadily.

5 Now, when I asked Mark about the  
6 projections and how they were done, what the  
7 projections assumed by resampling all the recruit  
8 information that basically is making the assumption  
9 that the survival rate is relatively constant over  
10 the last 20 or so years, 30 years. That may not be  
11 the case. And looking at the data, it probably is  
12 not the case. Probably the cases that we're seeing a  
13 declining trend in survival are age zero winter  
14 flounder for whatever reason. Either spawning has  
15 not been as successful, so the eggs aren't as viable,  
16 or something's happening between the time that the  
17 spawners spawn and we pick up the young of the year  
18 fish in our surveys.

19 With that in mind, I think that we  
20 should reexamine that reference point in light of a  
21 declining trend in age zero survival. Right now it's  
22 calculated with the assumption of no trend in age  
23 zero survival, and based on a time series that goes  
24 back to where recruitment was quite high when

1 spawning stock biomass was on the lower side. That  
2 has all kinds of implications. One implication is if  
3 the recruitment -- if the more recent years the  
4 survival to age zero fish to recruits in the more  
5 recent years is reflective of more recent conditions  
6 and environment, then we may be, as I said, overly  
7 optimistic in our projections. But at the same  
8 token, we'll be overly optimistic in the BMSY value,  
9 our reference point, and that might be lower than --  
10 actually than the 204 million pounds. But it has  
11 other implications, as well, and I can ask Mark to  
12 talk about those, but I think that we should go back  
13 and at some point, either soon or -- sooner or later  
14 we should go back and look at the influence of this  
15 declining trend in age zero survival on how we  
16 calculate that reference point.

17 COMMITTEE CHAIR RICHARD COLE: Okay.  
18 Having said that, John, I don't know where that  
19 leaves us here today. I guess --

20 JOHN BOREMAN: Sorry.

21 COMMITTEE CHAIR RICHARD COLE: -- I'll  
22 have to ask for the attorney's viewpoint on this, see  
23 what he has to say. Joel, can you help us out? Is  
24 he here?

1 JOEL MACDONALD: \*I'm not quite sure  
2 what to do with this. We're in a process where we  
3 have to make a recommendation to the Service. I  
4 think probably during -- you know, the process to  
5 impose the specifications for next year we might have  
6 a parallel process to, what, reconsider the BMSY  
7 target. I'm not sure how the timing of that would  
8 work out. But that's what immediately leaps to mind.

9 COMMITTEE CHAIR RICHARD COLE: Okay.  
10 Ron.

11 COUNCIL CHAIR RON SMITH: I just  
12 wondered if -- to get an answer from the stock  
13 assessment people and our Council staff, if we could  
14 -- if this review could be done and more appropriate  
15 estimates of BMSY could be made in time for this to  
16 be considered at our December Council meeting when we  
17 set the specs for the recreational fishery?

18 COMMITTEE CHAIR RICHARD COLE: I'd let  
19 -- dan.

20 DANIEL FURLONG: Yeah, I think that  
21 setting it in December is in too late, because  
22 \*you're going\* to have the rule in effect by January  
23 1. But what we could do, and we've done this in  
24 other measures where we have a pending future rule in

1 effect we put in two motions.

2 Now, you know, if we could play the  
3 game here and say let's maintain the current target  
4 of 200 and the TAL rate that will get us there, that  
5 could be one conditional kind of recommendation. You  
6 could, you know, play the game and say well, what if  
7 the target should be 150? If it was 150, and you  
8 guys can do it on the back of an envelope and come up  
9 with a TAL level that would be appropriate for that,  
10 and if you say the target is really 100 million and  
11 we're there. I mean you could put -- you know, like  
12 three trains on the tracks -- on three different  
13 tracks, you know, with the idea that one of them will  
14 get to the right place at the right time.

15 But in terms of what Joel just said,  
16 the idea that as a Council we have to make, you know,  
17 a recommendation to the agency, I just arbitrarily  
18 picked three numbers, 200, 150 and 100, and say --  
19 you know, what TAL will meet the requirement that we  
20 have at least a 50 percent likelihood such that we'll  
21 hit the target  $F$ , which is  $F$  max, and at the same  
22 time address the issue of hitting our rebuilding  
23 target within this ten-year rebuilding schedule.

24 COMMITTEE CHAIR RICHARD COLE: Okay.

1 And again I've got a lot of people here that want to  
2 talk, and we need to talk about this process, given  
3 what John just told us and how we can work it in here  
4 and still meet our obligation to the Service by  
5 making a recommendation. So, John, I see your hand  
6 back up again.

7 JOHN BOREMAN: Yeah, if I can just  
8 respond to Dan's comment, it's not that  
9 straightforward where we're just lowering the BMSY  
10 value because it has implications for the TAC, the  
11 TALs and everything else, too. What in essence we're  
12 saying is the natural mortality rate is higher and  
13 it's increasing. So, everything is going to be  
14 shifted down. That's why I asked, you know, if Mark  
15 could comment on the implications because the  
16 implications are not just lowering the one bar, but  
17 the whole set of biological reference points will be  
18 probably lower.

19 COMMITTEE CHAIR RICHARD COLE: Joel.

20 JOEL MACDONALD: Thank you, Mr.  
21 Chairman. On further reflection, you know, given the  
22 vagaries of this process and how it might work and  
23 what the results might be, if we go forward with the  
24 obligation we have under the current scenario, that

1 is to make a recommendation to the Service, and then  
2 -- you know, should the process that John is talking  
3 about work to our advantage and come up with a  
4 different BMSY target, then we could probably  
5 implement -- you know, a change to the specifications  
6 through an emergency rule. You know, we've done  
7 emergency rules for not only biological reasons but  
8 for economic reasons, as well, during the history of  
9 the Magnuson Act.

10 So, that would be a possible mechanism  
11 to implement -- you know, whatever change might be  
12 appropriate later in time. It would give us some  
13 measure of cover because under Section 305 of the  
14 Magnuson Act the period of time in which an emergency  
15 rule is effective is up to 360 days, a year  
16 essentially. So, that would cover the year in which,  
17 you know, that was appropriate. And we might have to  
18 somehow backstop that emergency rule with another  
19 vehicle that would put in place whatever changes were  
20 necessary, you know, based upon the results of the  
21 scientific investigation undertaken by the Center.

22 COMMITTEE CHAIR RICHARD COLE: So,  
23 what you're saying, Joel, is that we should go ahead  
24 and make our recommendation here today, --

1 JOEL MACDONALD: Yes.

2 COMMITTEE CHAIR RICHARD COLE: --

3 given what we feel would be the best TAL, regardless  
4 of this new information -- or this new way to look at  
5 the possible targets.

6 JOEL MACDONALD: Exactly, because we  
7 don't know what's going to come out of that process,  
8 if anything. And we can't really incorporate  
9 anything into our decision on this particular TAL,  
10 because there's nothing in the record to incorporate.

11 And so we're going to have to let the process play  
12 out in a parallel fashion to see what it comes out  
13 with. And if there is a change mandated in the  
14 specifications that -- you know, are published for  
15 next year based upon let's say a new BMSY target,  
16 then we could do that through an emergency rule based  
17 upon the record that attends that whole scientific  
18 investigation.

19 COMMITTEE CHAIR RICHARD COLE: All  
20 right. I'm going to go to Pat Kurkul because Pat is  
21 one of the primary people that will be involved in  
22 this decision-making process. And then I'm going to  
23 go back to the maker of the motion and see if you  
24 have any changes, given what you've heard here today,

1 Jim. Pat.

2 PATRICIA KURKUL: I think there might  
3 be another option on the process. I think the most  
4 important thing is deciding today what the process is  
5 and how we can quickly get this information looked at  
6 and peer reviewed. I think that's the critical piece  
7 that we need to be working on this morning.

8 The board -- I know last year you  
9 delayed your decision until I think it was your  
10 annual meeting, so one possibility is for the board  
11 to wait in the hopes that we'll have that information  
12 in time for the annual meeting. The Council needs to  
13 make a recommendation today, and frankly the Council  
14 doesn't have the information they need to make a  
15 recommendation today. I mean that's just the reality  
16 of it. But you do need to make one, and I think what  
17 I would suggest is that you make one, we'll take that  
18 into consideration, but then using this information  
19 put out proposed specifications and try to time it  
20 such that the Council's December Council meeting  
21 you're able to comment on those proposed  
22 specifications with the new information. And then we  
23 can -- then we can take that all into consideration  
24 before we set final specifications. That's my

1 suggestion for how to proceed.

2 COMMITTEE CHAIR RICHARD COLE: Jim.

3 JAMES RUHLE: Thank you, Mr. Chairman.

4 I appreciate Pat's comments and John Boreman's,  
5 also. I think \*it's very helpful -- no, they're not  
6 helpful. They totally screwed up what I'm trying to  
7 do, but that's beside the point. I do need to make  
8 one correction here, and that's the wording here.  
9 I've got -- it's nothing that -- it's my mistake and  
10 it was brought to my attention that the conservation  
11 equivalency was actually adopted in 2002. Is that  
12 right? But the overages that occurred -- again  
13 unintentional overages was 9.06 million pounds in  
14 2000, 4.48 million pounds in 2001, 2002 was okay, --  
15 was below. 2003 was 2.32. So, we've got -- that's  
16 why those years are expressed there. So, let  
17 everybody understand that conservation equivalency,  
18 even though it was adopted in 2002 in some places it  
19 really didn't become effective and something we could  
20 guarantee a success with until 2004.

21 With that being said, I'm -- I'd be  
22 willing, Mr. Chairman, and whatever your purview is  
23 here, I would be willing to table this motion. I  
24 think this motion is appropriate right now. I really

1 do. I don't think it's going to be moot, no matter  
2 what we decide to do, because we do in fact have to  
3 make a recommendation. And prior in terms of the  
4 revised or the retrospective analysis, the 19.9 met  
5 the 50 percent probability.

6 COMMITTEE CHAIR RICHARD COLE: That's  
7 correct.

8 JAMES RUHLE: I believe that's  
9 correct. And that's why I chose that number and not  
10 a pound higher. So, I think we would -- like Dan  
11 suggested, we'll have several trains going down  
12 different tracks. This -- I still think we need to  
13 revisit this time frame, I really do, because -- you  
14 know, we did what we thought was right at that time,  
15 but I still think regardless of what the biological  
16 reference point does we didn't have a fair and  
17 equitable plan in place, the F rate was exceeded for  
18 whatever reason, and we really need to revisit to a  
19 time frame that we have complete control of this  
20 fishery which occurred from 2004 on.

21 So, procedurally, Mr. Chairman, if you  
22 wish, I would be willing to remove this from the  
23 table for a time certain, table the motion for a time  
24 certain, or we could continue the discussion on it.

1 But I do think the motion is appropriate. It may not  
2 be at this specific time, but it certainly will be  
3 today. But if you want it tabled, I certainly don't  
4 object.

5 ROBERT PRIDE: Point of order, Mr.  
6 Chairman. Jim, I think that your motion needs to be  
7 split into two pieces. One would be the TAL  
8 discussion that we're going to have today, and then  
9 the other for the -- for what we need to do in the  
10 interim. And right now we're trying to consider two  
11 things together. So, I'd respectfully submit that  
12 you split the motion.

13 JAMES RUHLE: I'd be more than glad to  
14 do that, Mr. Chairman. I'll split -- move to split  
15 the motion at the initial -- the first one you had up  
16 there, I would support that, no problem. I believe  
17 the seconder agrees.

18 COMMITTEE CHAIR RICHARD COLE: Okay.  
19 We have a motion before us, it's been seconded by  
20 Red, to split the motion. Do the board members --  
21 the folks from the board, do they agree to the  
22 motion? Ed? Okay. So we have a motion before us to  
23 split this. In other words, we'll have the TAL  
24 recommendation and then the recommendation for the

1 amendment as two separate motions. Dennis.

2 DENNIS SPITSBERGEN: Quickly, Joel,  
3 through emergency rule, depending on what comes out  
4 of this new analysis, the adjustment could be made  
5 either direction, you know, if we would put out a  
6 19.9 and find out that that was too high, it could  
7 also be adjusted lower, could it not --

8 JOEL MACDONALD: Absolutely.

9 DENNIS SPITSBERGEN: -- through  
10 emergency rule?

11 JOEL MACDONALD: Absolutely.

12 DENNIS SPITSBERGEN: Okay.

13 COMMITTEE CHAIR RICHARD COLE: Okay.  
14 Let me just put it this way. Is there any Council  
15 member that is against splitting the motion?

16 (No response audible)

17 COMMITTEE CHAIR RICHARD COLE: Seeing  
18 none, we'll split the motion.

19 BOARD CHAIRMAN MARK GIBSON: Is there  
20 any board objection to splitting the motion?

21 (No response audible)

22 BOARD CHAIRMAN MARK GIBSON: Seeing  
23 none, then the motion is split.

24 EVERETT PETRONIO: Mark, I'm not

1 objecting, but given what I've heard, I'm wondering  
2 about tabling it as far as the board goes.

3 BOARD CHAIRMAN MARK GIBSON: That may  
4 be a next action, but right now they're split.

5 COMMITTEE CHAIR RICHARD COLE: Okay.  
6 We're back to the motion before us and that motion  
7 would be the TAL recommendation of 19 million pounds.  
8 Discussion on that motion? I have Pat and then  
9 Gene.

10 PATRICIA KURKUL: First to Dennis's  
11 question about an emergency action being able to  
12 reduce the quota, it's true that an emergency action  
13 could reduce the quota. However, I'd like -- first  
14 off, I'd like to see a process where we didn't have  
15 to use an emergency action. And then secondly, the  
16 concern by the states in the past has been when you  
17 go from a higher to a lower, they've made management  
18 decisions based on that higher quota and it's much  
19 more difficult and they may have allowed the fishery  
20 differently than they would have at the lower quota.  
21 So, it does create problems for management within  
22 the states by doing that.

23 More directly to the 19.9 million  
24 pounds, I'm opposed and I'm opposed because it does

1 not consider the retrospective pattern, which is part  
2 of the problem that we've made, part of the mistake  
3 we've made every single year. And frankly, the other  
4 issue is that we've been over in the fishing  
5 mortality rate every single year of the rebuilding  
6 program. So, it's not just related to recreational  
7 overages. We have not yet during this rebuilding  
8 program achieved the fishing mortality target. So,  
9 we need something more conservative than the 19.9.

10 COUNCIL CHAIR RON SMITH: Okay. Gene.

11 EUGENE KRAY: Yeah, to the point of  
12 the -- if the emergency -- if we go the emergency  
13 rule route, and Dennis asked the question of could it  
14 then be lowered. Could it in fact be raised?

15 JOEL MACDONALD: (Nods head.)

16 EUGENE KRAY: So, it could go either  
17 way. Thank you.

18 COMMITTEE CHAIR RICHARD COLE: Bob  
19 Pride.

20 ROBERT PRIDE: Thank you, Mr.  
21 Chairman. I'm going to support the motion for 19.9,  
22 but I've got a couple of caveats that go with it.  
23 But the reason I'm going to support it is because it  
24 does meet the basic standard. And I understand Pat's

1 comment about the retrospective analysis showing  
2 something, but -- or it needs to be considered, but I  
3 think the consideration needs to be in other areas  
4 other than just quota getting.

5 The 19.9 also mitigates economic  
6 impacts. We all have heard, you know, from industry  
7 that this is a big problem to drop down, you know, to  
8 half or 20 percent of the quota that they've been  
9 enjoying over the last few years. And if we need to  
10 make that kind of move, then I think we need to be  
11 absolutely sure that our science is solid and that we  
12 know exactly what we're doing. And I'm not sure that  
13 we're at that point yet.

14 We also have this recruitment issue  
15 that has a lot of uncertainty around it. We don't  
16 know if it's really that the eggs aren't hatching or  
17 that the eggs are hatching and they're getting eaten  
18 by, you know, other fish or that there's a lot of  
19 illegal fishing going on and they're landing the fish  
20 or what. We just really don't know what that issue  
21 is fully.

22 Now, those are the reasons I support  
23 it. I have some caveats that I want to put on this  
24 so everybody understands that there's some risks

1 associated with this. The first one is that we do  
2 need to have this technical task force to review this  
3 target, get it peer reviewed and do that pronto.  
4 Without that, I couldn't support the motion.

5 We also need to think about what we  
6 can do at the state level in enforcement. We  
7 apparently do have an I/U/U problem, and the  
8 retrospective analysis shows that these fish are  
9 going somewhere. They're not falling in a hole in  
10 the ocean floor. They're probably being landed and  
11 sold illegally or maybe they're being misclassified.

12 Who knows? I don't know what. But something's  
13 going on there that we need some additional state  
14 level enforcement, I think.

15 And then the third caveat that I want  
16 to put on everyone is that if we go this route, I  
17 think we all need to understand and explain to our  
18 constituents that we may have a zero TAL in  
19 2008/2009. If this analysis that the scientists do  
20 shows us that yeah, we're on track and we've -- you  
21 know, we do have good numbers, then we may just find  
22 ourselves with no TAL for two years. And I want  
23 everybody to be aware that that could be a  
24 consequence of this action. Thank you.

1 COMMITTEE CHAIR RICHARD COLE: And as  
2 we go forward here discussing this particular motion,  
3 if in fact this motion would carry forward from the  
4 Council perspective, keep in mind that staff has to  
5 put together this specification package and they need  
6 this justification. Now, Bob's laying out his  
7 rationale here, and I would encourage everybody to  
8 try to lay it out and help the staff to -- so that  
9 they can prepare their package if this motion goes  
10 forward. Dave Pierce.

11 DAVID PIERCE: I understand where  
12 Pat's coming from. That was my first and foremost  
13 concern, the fact that fishing mortality has been too  
14 high over the last few years -- more than the last  
15 few years actually, and I've always said that control  
16 mortality and biomass takes care of itself, to the  
17 extent that it can, recruitment being the issue.  
18 Biomass targets are important, but at the same time  
19 they can be very very hindering.

20 I do support this motion for 19.9  
21 million pounds for a number of reasons. The first  
22 one is that it is below the 2006 TAL of 23.6 million  
23 pounds, so it's quite a bit lower than what we have  
24 in 2006. I do believe that the target -- the

1 biological target, the biomass target specifically,  
2 will be decreased in light of the recruitment that  
3 we've seen over the last few years, actually over the  
4 last three years it's averaged about 24.5 million  
5 fish, not 33 million fish. So, I'd love to see that  
6 recalculation of the target based on that assumed  
7 recruitment, not 33 million. And I assume that sort  
8 of an initiative would be undertaken as part of the  
9 strategy that was outlined by John.

10 So, I'm quite convinced that that  
11 target is going to be decreased after some further  
12 reflection. And John's other points about decreased  
13 survival of the young, that factors into my  
14 conclusion, as well.

15 Another factor that I think is  
16 extremely important and we should not discount  
17 because it always influences our decision regardless  
18 of the species we're talking about, weakfish, you  
19 name it, that's the age structure that's currently  
20 out there. And I'd turn the board and the Council's  
21 attention to Figure 5 on page 14. I think it's the  
22 report that was put together by Jessica. And we see  
23 from this particular figure something that I hoped we  
24 would achieve sometime. And it's happened.

1                   If you look at 1985 and 1995, you see  
2 the shortage of the older fish, age three and older  
3 specifically, a very truncated age structure. If you  
4 go right to the bottom and you look at the blackened  
5 boxes, you see long-term age structure at the F max,  
6 which is our target, .276. All right, I see that.  
7 That's the long-term goal. Well, look at 2005, the  
8 box above that. 2005 looks awful good to me. 2005  
9 is far better than the age distribution at .276 with  
10 the exception of five and older, but I suspect that  
11 box will grow in 2006 and 2007.

12                   So, I look at that age structure and I  
13 say something doesn't quite fit, because if that's  
14 long-term age structure at F max, .276, and I look at  
15 the Fs that we've apparently had from 2000 through  
16 2005, I see it's interesting since 2000 F was at .88,  
17 2001 F was .67, very high and that was alluded to by  
18 Jimmy a while ago relative to recreational landings,  
19 recreational catch. Well, despite those high Fs and  
20 high Fs in '03 and '04 of .46, we've got that age  
21 structure, so that gives me reason to be confident  
22 that I can be comfortable with 19.9 million for a  
23 year with the idea that we see what happens in 2007  
24 relative to recruitment, and indeed if we get another

1 low year class, 2007 -- I guess they were 2006, \*now  
2 the 2006 year class. Then that again feeds into the  
3 need to revise the biomass reference point.

4 All right. Another reason why I feel  
5 this motion is appropriate, the 19.9 million, is --  
6 and I'll be very specific and parochial,  
7 Massachusetts' specific interests, I wrote down what  
8 the various impacts would be by state when Jessica  
9 gave her presentation earlier on, and she noted the  
10 commercial quota that Massachusetts would have with  
11 the different Fs and I see that with the monitoring  
12 committee recommendation -- that's not the motion,  
13 it's the one that's lower, the 13 point some odd  
14 million pounds, Massachusetts ends up pretty much  
15 with a commercial fishery that will be a very, very  
16 short duration, and a recreational fishery that will  
17 be seriously constrained, far more than it is now,  
18 and perhaps more restricted than it was back in 1993,  
19 '94, first year of this plan. I can't go back there  
20 knowing how abundant fluke is off of our shores and  
21 elsewhere up and down the coast, knowing the age  
22 structure that we have right now to deal with, very  
23 optimistic, and knowing the socioeconomic impact  
24 that's going to occur.

1 I balance both that impact -- I  
2 balance that impact against my concern about fishing  
3 mortality and with the balancing that I do, with all  
4 the points that I've just made, I conclude that the  
5 19.9 million pounds is reasonable for 2007 and I'll  
6 be on guard, so to speak, and very attentive to the  
7 work that's being done. Thank you, John. It was  
8 very commendable of you to step forward with that  
9 suggestion. I look forward to that particular  
10 analysis and I look forward to what the next  
11 assessment will show regarding the year class  
12 strength. If we find out that there's median  
13 recruitment or better next year, then I'm going to  
14 have a different sentiment regarding what sorts of  
15 measures will have to be in place for -- for the year  
16 after, not next year, for the year after. For now,  
17 19.9 I think is sensible is it's very defensible.

18 COMMITTEE CHAIR RICHARD COLE: I had  
19 Pat Kurkul next.

20 PATRICIA KURKUL: Sorry. I forgot a  
21 couple of things. In addition to the fishing  
22 mortality problem and the difficulty of justifying  
23 continuing an approach that does not achieve the  
24 fishing mortality target without considering the

1 retrospective pattern, there are some other things  
2 here that still indicate that we've got a problem.  
3 And recruitment is the lowest since 1988. Almost all  
4 of the full age structure survey indices have dropped  
5 since 2003, and remember we still only have three  
6 years left on the rebuilding program, so we still  
7 have just three years to rebuild this stock. And as  
8 John pointed out, when he presented this issue, this  
9 isn't a good thing. I mean even if natural mortality  
10 is higher than we expect that it is, that's got  
11 implications for everything, including the TAL. And  
12 the TAL will be lower.

13 So, I think we're sending -- once  
14 again we're sending the wrong message to the  
15 industry. There's still a lot of reason for caution  
16 here and a lot of reason for considering much lower  
17 target levels. Thanks.

18 COMMITTEE CHAIR RICHARD COLE: Pat  
19 Augustine.

20 PAT AUGUSTINE: Thank you, Mr.  
21 Chairman. I think Doctor Pierce summarized all of my  
22 thoughts, very concisely and clearly. It just seems  
23 to me -- I guess I keep losing this point in my mind.  
24 If we fish on the spawning stock from 16 and a half

1 inches and larger, and it's going to continue forever  
2 \*to have an impact on the new upcoming zero to one  
3 age fish, and I guess maybe I just have a simple  
4 mind. But having said that, looking at where we are  
5 in these two motions, I truly support personally that  
6 we move that the TAL be set at 19.9.

7 However, on behalf of the board, I  
8 would like to recommend to the board that we postpone  
9 our decision on that final number to the annual  
10 meeting, and if I can embody in my motion the second  
11 motion simultaneously I would appreciate it. So, I  
12 would move that both motions on behalf of the board  
13 be postponed until the annual meeting.

14 BOARD CHAIRMAN MARK GIBSON: Is there  
15 a -- seconded by Everett Petronio. Mr. Chairman,  
16 where do you want to go with that? Do you want the  
17 Commission to dispense with the motion before the  
18 Councils do or --

19 UNIDENTIFIED (No microphone:)

20 (Inaudible)

21 BOARD CHAIRMAN MARK GIBSON: Okay.  
22 So, you have moved to postpone till the annual  
23 meeting both board motions.

24 PAT AUGUSTINE: That's correct, Mr.

1 Chairman.

2 BOARD CHAIRMAN MARK GIBSON: Thank  
3 you. It's my understanding that any debate on that  
4 pertains to the time certain for postponing. Is  
5 there any members of the board who have comments or  
6 issues time the time for postponing action? Pres.

7 PRESTON PATE: I just question with  
8 the time line that Pat laid out earlier on the  
9 emergency rule if it might not be necessary for us to  
10 have another joint meeting after our annual meeting,  
11 if the Service is going to be considering this  
12 technical analysis perhaps as late as December for  
13 emergency rule purposes, we might have to get back  
14 together as a group like we are today for  
15 consideration.

16 That doesn't negate -- that doesn't  
17 negate the idea of postponing it until our October  
18 meeting, but it may just mean that October we'll  
19 postpone it again until the December joint meeting.

20 BOARD CHAIRMAN MARK GIBSON: I think  
21 we had a December joint meeting last time around.  
22 Yeah. So, yeah, that's understood. Any other -- Pat  
23 Augustine.

24 PAT AUGUSTINE: Thank you, Mr.

1 Chairman. So, Pres, in your mind would it make sense  
2 to just postpone it to a December meeting or let's  
3 leave it at our annual meeting in the event that the  
4 joint meeting could not be put together, maybe in  
5 October, depends on when the technical information  
6 becomes available. Your recommendation, sir?

7 PRESTON PATE: Do the latter. Keep it  
8 scheduled for October.

9 PAT AUGUSTINE: Thank you. Let's do  
10 that then.

11 BOARD CHAIRMAN MARK GIBSON: Further  
12 -- any board discussion on -- Vince O'Shea.

13 VINCE O'SHEA: Thanks, Mr. Chairman.  
14 I didn't say this at the time the motion was made,  
15 but this would be in support of postponing. I'd  
16 actually even question why the board from ASMFC is  
17 involved in a motion involving the Council and what  
18 the Council is going to do.

19 At the time they were linked together,  
20 so it was appropriate to have a joint motion. But  
21 quite frankly I think this is probably an issue --  
22 the second part is an issue that probably the board  
23 wants to sit off on the side and see what the Council  
24 is going to do. Thank you.

1 BOARD CHAIRMAN MARK GIBSON: Brian.

2 BRIAN CULHANE: If it's the pleasure  
3 of the board, I'd be willing to withdraw the second  
4 motion and support postponing the first motion till  
5 the October meeting.

6 BOARD CHAIRMAN MARK GIBSON: Is there  
7 any objection from the seconder? Okay. So, the  
8 board withdraws the second motion. The only issue  
9 before us then is the postponement of the first  
10 motion. Any other discussion on the timing of that  
11 postponement?

12 (No response audible)

13 BOARD CHAIRMAN MARK GIBSON: Is there  
14 any objection from the board -- the ASMFC board to  
15 postpone that -- addressing that motion till the  
16 annual meeting?

17 (No response audible)

18 BOARD CHAIRMAN MARK GIBSON: Seeing  
19 none, that motion -- oh, Eric Smith.

20 ERIC SMITH (No microphone:)

21 (Inaudible)

22 UNIDENTIFIED (No microphone:) One  
23 objection.

24 BOARD CHAIRMAN MARK GIBSON: You

1 object to it? All right. Do you want to comment to  
2 the board?

3 ERIC SMITH: Just very briefly, I had  
4 some points I want to make on this issue and I'm in  
5 the awkward position of when this motion to postpone  
6 passes, my opportunity to comment, since I'm not a  
7 member of the Council, is foregone. So, I would have  
8 hoped that that motion to postpone would have come  
9 after some amount of board debate. But I don't have  
10 any qualms with the board making its call now,  
11 because I think in the long run that's probably the  
12 most effective thing we could do right now.

13 BOARD CHAIRMAN MARK GIBSON: Okay.  
14 We'll have to have a vote on that motion then. Any  
15 further discussion? Dave Pierce.

16 DAVID PIERCE: Yeah, I'll support the  
17 motion to wait until our next meeting, but I would  
18 like to make a point relative to what Vince said, and  
19 that is I know from past discussions that we've had -  
20 - the board has had on fluke, scup and sea bass, that  
21 when we've had the Council make its decision before  
22 ASMFC with ASMFC not necessarily liking what the  
23 Council did, the board was under tremendous pressure  
24 to still go with what the Council did because of

1 federal permit holder issues.

2 North Carolina, other states, your  
3 fishermen are federally permitted, so therefore if  
4 ASMFC at our meeting in this fall decides not to do  
5 what the Council does relative to these numbers, I  
6 don't know what the states to the south in particular  
7 would be able to do. They'd be -- I think they  
8 might feel pretty much obliged to go with the Council  
9 strategy because again federal permit holder issues.

10 Now, maybe I'm wrong on that, but -- I  
11 don't mind postponing it. I just want to make sure  
12 that those other states that have principally federal  
13 permit holders who would be ruled by -- you know, the  
14 federal action, I'd like to know whether those states  
15 have a different perspective from the one I just  
16 shared with you.

17 COMMITTEE CHAIR RICHARD COLE: Pres.

18 PRESTON PATE: No, I think that's an  
19 accurate perspective, Mr. Chairman. We've been  
20 through this before when the Council and the  
21 Commission had for a short period adopted quotas  
22 differently for this fishery and wound up -- we wound  
23 up supporting the Council quota for that very reason.

24 And our fishermen because they are almost all

1       federally permitted would be disadvantaged by a  
2       different quota, with the states being higher than  
3       the EEZ quota.

4                   BOARD CHAIRMAN MARK GIBSON:   Pat  
5       Augustine.

6                   PAT AUGUSTINE:   Thank you, Mr.  
7       Chairman.  I think that's -- the value of the board  
8       being here to participate in this conversation and  
9       dialogue and share the information that's presented  
10      is very important.  I do think that although I sit on  
11      both the Council and the Commission I feel I have an  
12      advantage where I can vote on what the quotas are  
13      being set at.  My biggest concern is that the board  
14      not being here to participate in that conversation  
15      would be -- it could be a one-sided affair, and let's  
16      take the worst case scenario, in Ms. Kurkul's mind it  
17      would be the best case scenario that we agreed to a  
18      5.2 million pounds.  In my mind that's a foregone  
19      conclusion when we get to ASMFC, we'd have to pretty  
20      much fall in step or go through the process we went  
21      through before, New York in particular on summer  
22      flounder when we were over quota.

23                   So, I do think this is most important  
24      that we share in this debate.  Dave, my concern was

1 similar to yours, but listening to Pres and some of  
2 the other states that have a larger commercial  
3 contingency that fish in the federal waters, I find  
4 it hard to believe with the exception of spiny  
5 dogfish from one state from New England disadvantaged  
6 another state from the south called North Carolina a  
7 couple of years ago, \*why, the way the split in the  
8 quota came, where it was a done deal before I think  
9 the board even realized what happened, it was a good  
10 move on the Commonwealth of Massachusetts part where  
11 the whole quota basically was harvested before the  
12 states to the south had any advantage. But that  
13 issue has been corrected and I think this group  
14 becomes pretty much a watchdog or we both board and  
15 Commission -- I'm sorry, board and Council  
16 participate in the total process. So, I think we're  
17 all getting a fair shake here. Thank you, Mr.  
18 Chairman.

19 BOARD CHAIRMAN MARK GIBSON: Any other  
20 board comments on the motion to postpone? Eric  
21 Smith.

22 ERIC SMITH: \* on the concern I had  
23 before, I have no objection to the motion that was to  
24 withdraw the second motion, or if that's simply

1 withdrawn without action. I'm not intending to  
2 interrupt the flow of that. So, you have unanimity.

3 It's on the first motion that I had my reluctance  
4 and I wanted to be sure you were clear on that.

5 BOARD CHAIRMAN MARK GIBSON:

6 Understood. The second part was withdrawn with no  
7 objection and we're debating the time certain of the  
8 motion to postpone at this point. Anyone else from  
9 the board?

10 (No response audible)

11 BOARD CHAIRMAN MARK GIBSON: Okay. Is  
12 there a comment from the audience? Tom Fote.

13 TOM FOTE: I find it disheartening  
14 when I heard people say that if the Council was stuck  
15 or -- you know, NMFS made a decision on 5.2 million  
16 pounds that we basically would go along with the  
17 Council and the National Marine Fisheries Service. I  
18 thought that's what I heard. My objection to that is  
19 at 5.2 million pounds there is no fishery, commercial  
20 or recreational --

21 BOARD CHAIRMAN MARK GIBSON: Tom,  
22 we're supposed to be commenting on the time --

23 TOM FOTE: Right, and that's what I'm  
24 saying about time certainty of the motion. I would

1 as soon have the Commission vote on the motion today  
2 and we all came to find out what would it be. You  
3 know, we could change it in October, but I think we'd  
4 sooner hear -- walk away with some understanding of  
5 what the Commission is looking at instead of having  
6 to wait till -- a lot of us will be at that October  
7 meeting in North Carolina. I will be there, but a  
8 lot of people sitting in the audience will not be  
9 there. Thank you.

10 BOARD CHAIRMAN MARK GIBSON: One more  
11 comment from the audience. Mr. Bogan.

12 RAY BOGAN: Ray Bogan, United Boatmen.  
13 Thank you. I would hope that the Commission  
14 considers either an alternate motion to the second or  
15 at least votes on that one. I understand it says  
16 move that the Council develop an amendment, but the  
17 Commission has become a de facto stamp for what NMFS  
18 says.

19 BOARD CHAIRMAN MARK GIBSON: We've  
20 already taken action on that motion and withdrawn it.

21 RAY BOGAN: Okay. I'm just saying I  
22 would ask for an alternative be considered on that.

23 BOARD CHAIRMAN MARK GIBSON: We have a  
24 motion to postpone the \*first, for the 19.9 million

1 pounds. That's what we're debating right now.

2 RAY BOGAN: Okay. In that regard, if  
3 that's the motion that's being considered, then I  
4 would support that. But I had wanted to comment on  
5 that other motion, though.

6 BOARD CHAIRMAN MARK GIBSON: As I  
7 understand it, that has already been withdrawn.  
8 Okay. To the board, we need to dispense with that,  
9 so I'll call the question. All in favor of  
10 postponing decision on the TAL until the October  
11 meeting, please raise your right hand.

12 (Response)

13 BOARD CHAIRMAN MARK GIBSON: Any  
14 opposed?

15 (Response)

16 BOARD CHAIRMAN MARK GIBSON:  
17 Abstentions?

18 (No response)

19 BOARD CHAIRMAN MARK GIBSON: Null  
20 votes?

21 (No response)

22 BOARD CHAIRMAN MARK GIBSON: None.  
23 Motion carries.

24 COMMITTEE CHAIR RICHARD COLE: Okay.

1 We're back to the motion before the Council regarding  
2 the recommendation of the 19 million pound TAL. I'll  
3 go back to my list as we left it. The next person to  
4 speak was Tony Bogan.

5 ANTHONY BOGAN: Thank you, Mr.  
6 Chairman. I'm going to support the motion. Dave  
7 Pierce gave a real detailed description of his  
8 feelings and his justifications and reasons for what  
9 he said and for supporting the motion, and he echoed  
10 some of my sentiments. I won't say he echoed all of  
11 them, because I never would have thought of quite  
12 that much stuff as far as justifying my vote.

13 He's got a far better mind for dealing  
14 with this kind of intricacy -- intricacies that we  
15 deal with these in these fisheries than I do. One of  
16 the -- another reason of my own, though, why I am  
17 going to support the motion, it was -- you had  
18 brought up one, give justification and that's what  
19 I'm here to do. One of the things we've got to look  
20 at when we're looking at what the history of this  
21 fishery has been versus the quotas that we've set  
22 versus the numbers that we've been -- you know, have  
23 been given back to us from the scientific community,  
24 and what the Service has or has not approved over

1 recent years, as well, one thing that's been kind of  
2 missed is we're talking about numbers that are  
3 guesses, at best. They're educated guesses because  
4 the people who making them are educated. I'm not  
5 taking anything away from the people making the  
6 guesses. They are. They're educated people making  
7 these guesses. But the simple fact of the matter is  
8 they're guesses. And one massive, massive issue in  
9 here in coming up with our numbers and reliability is  
10 recreational landings. Hell, we have another motion  
11 there that talks about years where we were over or  
12 under, there were recreational overages which is a  
13 viable point, because those are the numbers that are  
14 plugged into the science.

15 We now have the scientific community  
16 saying those numbers are -- what was the quote,  
17 fatally flawed I believe was the quote unquote from  
18 the NRC. So, there have been years where the  
19 recreational sector has come in to say, you know,  
20 this was a gross overestimation, what you said  
21 happened in the fishery didn't happen. One of those  
22 years was 2003. If you take away that one ridiculous  
23 number from just the state of New York, just one  
24 state that had supposedly 110 percent increase from

1 one year over the other, even though there was no  
2 economic increase, which is kind of magical in my  
3 mind, you wouldn't see that overage that you see in  
4 the fishery. It would still be an overage, but it  
5 would be minuscule.

6 Another thing that's missing from this  
7 is an issue that we brought up. This is why I'm  
8 going to support the higher TAL than what the  
9 monitoring committee recommended, is we're not  
10 looking at numbers of fish, we're looking at pounds.

11 And if you take again the most recent year of an  
12 average from the recreational sector, which would  
13 adversely effect the F rate -- again, that's the  
14 number that was plugged in, right, wrong  
15 or indifferent. If you looked at numbers of fish  
16 versus pounds, it wasn't a 20 some odd percent  
17 overage, it was nine percent, only a few percent off  
18 -- actually within the margin of error for the  
19 numbers that were generated from the State of New  
20 York, which means all of a sudden now you would have  
21 a number that was not an overage. It was within the  
22 margin of error, which would have brought down that F  
23 rate had we not been looking at \* -- we're looking at  
24 things one way one time when it's convenient and

1 another way another time when it's convenient, and  
2 unfortunately that's the result of only having one  
3 piece of information to look at.

4 We now know that that piece of  
5 information, albeit the only piece we have, is not  
6 usable. We have to use it until we can replace it,  
7 and unfortunately it's been how many months now and  
8 there's still not a damn thing being done other than  
9 a meeting scheduled to change it. So, in my mind I'm  
10 looking at all the things that Dave Pierce and a few  
11 other people brought up as justifications, and I'm  
12 looking at something when the number was under, 2002,  
13 the recreational community is on the record saying  
14 there's no way it was that low. It was low, but  
15 there's no way it was that low. You overestimated  
16 the underage. The following year we went there's no  
17 way it was that high. We didn't have a hundred  
18 percent swing in our landings from one year to the  
19 next. It didn't happen in reality.

20 So, I'm looking at these fluctuations  
21 that are coming back to us from the -- the scientists  
22 giving us back only what they have to work with, and  
23 the people that are in the fishery are saying this  
24 didn't happen. We would know if we went from

1 catching two fish one year to 100 fish the next year  
2 to five fish the other. We'd probably be the first  
3 ones to know the answer to that. Unfortunately, when  
4 we say that's not the answer, we're told yes, it is.

5 So, in my mind this is easily  
6 justified -- justifiable because it is a significant  
7 decline from the current TAL we're working on, so it  
8 is certainly far more conservative than the TAL we  
9 are working on right now, which was based on the best  
10 available science, which was a significant drop from  
11 the quota before that, which was based on the best  
12 available science, you're talking we're going to be  
13 looking at a ten million pound drop in two years.  
14 That's conservative.

15 I also am not -- and I've been on the  
16 record already saying that I'm not convinced that the  
17 biomass targets that we have are achievable, but at  
18 the same token I'm not convinced that the biomass  
19 numbers we have are accurate either. We know --  
20 there's a history of issues with the landings data  
21 from the recreational sector. That is variable.  
22 Sometimes it could be variable higher, don't get me  
23 wrong, but we know sometimes it could be variable  
24 lower. We know that there's a history of issues with

1 the trawl surveys. We know that there's a new boat  
2 coming in that's going to be the dominant force in  
3 the trawl surveys in some of our fisheries. We know  
4 that states are constantly working on updating their  
5 survey information.

6 I'm a little optimistic, maybe overly  
7 optimistic, that all of these things are going to  
8 slowly but surely creep us towards a more realistic  
9 assessment of what we really have out in the ocean,  
10 because I don't feel that's what we have right now.

11 And lastly, the reason I'm going to  
12 support it is because just -- this is -- as parochial  
13 -- more parochial than Mr. Pierce's comments, I have  
14 a family -- a fishing family that I am the fourth  
15 generation of, been fishing in the state of New  
16 Jersey for summer flounder amongst other things since  
17 the 1920s, and in the same location for over 75  
18 years. And I'm here to tell you that none of my  
19 surviving family members, the oldest of which are in  
20 the 80s, so they were around towards the beginning of  
21 our fishery, have ever seen fluke fishing the likes  
22 of which we've been seeing over the last few years.  
23 So, I am optimistic that we do have some  
24 underestimation going on in the biomass, even though

1 our lofty goal may be a little too lofty. Thank you.

2 COMMITTEE CHAIR RICHARD COLE: Scott.

3 SCOTT HOLDER: Yeah, I'm going to on  
4 record to say that I support the 19.9, although I do  
5 have some concerns. If you look at the figure --  
6 which figure am I on -- 6, I think it kind of tells  
7 you the whole thing. The recruitment is really what  
8 makes me nervous. If you throw out '83 and '87 --  
9 through '87 and you just look at the median amount of  
10 fish that you had, 30 million fish going into the  
11 fishery every year, and if you took that 2.5 pounds  
12 that Jessica put up there, you would have 75 million  
13 pounds of fish and we're going to be putting -- we're  
14 going to be taking out 19.9. That's like 26 percent  
15 that we're going to be pulling out of this fishery  
16 every year.

17 Can we sustain the fishery pulling  
18 that many out? My question is -- and my fear is  
19 we're not really solving the disease, but just going  
20 after the symptoms. The recruitment is really what  
21 bothers me. We need to understand why the  
22 recruitment is low, how we bolster the recruitment.  
23 We could talk about allocation and allocation for the  
24 rest of our lives, but I've got a fear that we're

1 just going to slowly kill off this industry that we  
2 all grew up with. I see it every day. I come out of  
3 Captree and half those boats are in the dock.

4 And if we keep doing this and not \*  
5 this problem, we're not going to -- I'm not going to  
6 see any boats down -- that's going to be an empty  
7 dock. That's all I've really got to say.

8 COMMITTEE CHAIR RICHARD COLE: Okay.  
9 Do any other Council members have any comments  
10 regarding this motion? Dennis.

11 DENNIS SPITSBERGEN: Just a few very  
12 short comments. I'm going to reluctantly support  
13 this motion. Were it not that there was going to be  
14 a technical review of the reference points, I think I  
15 probably would have to vote against that. A couple  
16 of the reasons -- a couple, three of the reasons that  
17 I'm going to support it, I am concerned about the  
18 economic impact that we would have with some of the  
19 quotas we are looking at. I am very concerned about  
20 what kind of discards we would get if we dropped  
21 these quotas as dramatically as possible. And a  
22 third thing that concerns me is fisheries is a  
23 balloon. When you squeeze it one place, it bulges  
24 out another. And if we have a dramatic drop in the



1 was provided -- well, in the Demersal Working Group  
2 document that was given to the -- well, within your  
3 briefing book and to the monitoring committee,  
4 recommended that a TAL less than the 50 percent  
5 median recruitment or median fishing mortality rate  
6 be considered for the 2007 fishing year. So, that  
7 recommendation was that you go with something less  
8 than 19.9.

9 The monitoring committee considered  
10 that information and recommended a TAL of 13.89  
11 million pounds, which was the retrospective reset of  
12 the target F. But as you saw in the motions sheet,  
13 there was a lot of debate over what TAL was  
14 appropriate. There were several motions put on the  
15 table, ranging from 5.2 to 19.9 to 12, and then  
16 finally the 13.89.

17 So, I would say that that 19.9  
18 wouldn't be consistent either with the monitoring  
19 committee recommendation or the recommendations  
20 coming out of the Demersal Working Group document.

21 VINCE O'SHEA: Then a follow-up, Mr.  
22 Chairman. I noticed in the monitoring committee  
23 there was a motion by Doctor Terceiro for the five  
24 million, and I was just wondering what was the

1 scientific basis for the -- the scientific argument  
2 or data that was provided for the eventual 13 million  
3 that was selected by the monitoring committee.

4 MARK TERCEIRO: Well, the five -- the  
5 five million was the retrospective adjustment that  
6 will get us there in three years. I don't recall --  
7 I didn't make the motion for the 13 -- what was the  
8 --

9 JESSICA COAKLEY (No microphone:)

10 (Inaudible)

11 MARK TERCEIRO: That was the  
12 retrospective adjustment for .276 and the motion was  
13 made by the state of Mass., I believe, wasn't it?

14 JESSICA COAKLEY (No microphone:)

15 (Inaudible)

16 MARK TERCEIRO: I don't recall who  
17 made the motion.

18 JESSICA COAKLEY: It was Wilson Laney  
19 and Paul Caruso that made the motion and the  
20 justification for it was provided in the notes below  
21 the motion that they've given. And it said that it's  
22 an attempt to move the stock rebuilding trajectory in  
23 the correct direction, recognizing that it may not  
24 result in rebuilding by 2010. That was the

1 justification that they've provided.

2 VINCE O'SHEA: Thank you, Mr.  
3 Chairman.

4 COMMITTEE CHAIR RICHARD COLE: Okay.  
5 Do Council members need any more discussion on this  
6 motion?

7 (No response audible)

8 COMMITTEE CHAIR RICHARD COLE: Is  
9 there anybody from the audience that wants to make a  
10 quick comment, please, because we're on a tight time  
11 schedule here. Tom.

12 TOM FOTE: Dave Pierce made a -- Tom  
13 Fote, Jersey Coast Anglers Association. Dave Pierce  
14 made a statement that we were basically -- you know,  
15 back in the '90s -- \*I was looking at it, in 1993 we  
16 were at 20.73. In 1994 we were at 26.68. So, we are  
17 a lot worse off than we were in the '90s as far as  
18 the quota goes. We're actually way below this.

19 I don't support this motion. I think  
20 -- you know, you're still talking about a 16 percent  
21 cut again this year. That's going to have a dramatic  
22 effect on the New York boats, an effect on the New  
23 Jersey boats, both commercial and recreationally. I  
24 mean it's another 16 percent for the commercial cut

1 in their income, and more than a 16 percent cut in  
2 the recreational sector when you start putting  
3 regulations in place like this.

4 I was hoping, you know, that before  
5 this argument -- when I first saw the monitoring  
6 committee report, I thought the discussion was  
7 whether we go from 23 to 19.9. I mean a lot of  
8 people here are happy that we're going to 19.9 since  
9 NMFS came out with the 5.2 million pounds.  
10 Otherwise, there would have been a lot more  
11 discussion of staying at 23 million pounds.

12 But the fear of the 5.2 million pounds  
13 has basically kind of trumped my discussion on  
14 basically going -- staying with status quo of 23.  
15 Thank you very much.

16 COMMITTEE CHAIR RICHARD COLE: Ray.

17 RAY BOGAN: Thanks, Rick. Ray Bogan.

18 I personally would like to see a higher number than  
19 the 19.9 million pounds. This target that we're  
20 trying to achieve, the target biomass, is absolutely  
21 unrealistic. When we try to suggest to you folks  
22 hey, we are certain NMFS is -- I'm sorry, MRFSS is  
23 wrong, we argued it, you explained to us that we  
24 weren't really sure what we were talking about, we

1 were right. We're talking about this \*target  
2 biomass. We've had too many people with too many  
3 years of experience on the ocean to in any way think  
4 that we can double this population, not in three  
5 years, not in five years, not in six years. It's not  
6 going to happen.

7 We'd be gloriously happy if we were  
8 wrong and we were still there to enjoy it, because  
9 that's the kind of thing you hope to be wrong on.  
10 We're not wrong, unfortunately. It's not going to  
11 happen.

12 With regard to the recruitment,  
13 remember what we were very, very clearly told as we -  
14 - we were often preached, actually, to when we were  
15 told that we need to increase the spawning stock  
16 biomass after which recruitment will definitely  
17 increase. There is no question this morning stock  
18 biomass has increased, but at the same time the  
19 recruitment that we were promised according to the  
20 numbers so far have not.

21 What I am trying to suggest is there  
22 is an unrealistic number you're trying to achieve as  
23 a result of which we're ratcheted down far more than  
24 an industry can withstand. And industry is the

1 overall industry, both recreational and commercial.

2 So, I would suggest, number 1, that  
3 you please consider that fact; number 2, that as  
4 you're probing further into what this target is, try  
5 to do it quickly so that the industries that you're  
6 destroying when you finalize realize you're wrong,  
7 some of them have a chance of surviving.

8 COMMITTEE CHAIR RICHARD COLE: Okay.  
9 Yes, sir.

10 JOEL HOVANESIAN: Joel Hovanesian,  
11 Fishing Vessel Excalibur from Point Judith, Rhode  
12 Island. I find it hard to believe that we're where  
13 we're at here with this situation. I can recall  
14 coming to a meeting down here probably four or five  
15 years ago with Doctor Eric Paul from Rutgers, who at  
16 that time mentioned something about a bell curve,  
17 which I -- not being a biologist, don't quite  
18 understand, but I'm sure that there's people here  
19 that do.

20 At that time he mentioned the fact  
21 that by not harvesting these fish we're probably  
22 doing more harm to the resource because the  
23 recruitment was going to go down. That was four or  
24 five years ago. Now, lo and behold here we are.

1                   That was one man's opinion. Now,  
2                   there's a lot of different opinions around here, but  
3                   there's other factors that go into this. No one's  
4                   taking into account the stock of fish on Georges  
5                   Bank. We have stock of fluke on Georges Bank that  
6                   isn't surveyed, that isn't even being taken into  
7                   account in this equation.

8                   There are fish down there that have  
9                   never been in part of the trawl survey system that  
10                  need to be addressed. A very, very large,  
11                  significant stock of fish that stay down there, that  
12                  are down there right now. I've seen them, I  
13                  harvested them three weeks ago, big fish that don't  
14                  get put into the equation.

15                  The dogfish that are on the beach  
16                  right now that are sucking everything that comes out  
17                  of the bays and estuaries. I've had umpteen people  
18                  on the radios, listening to them, saying Jesus, it's  
19                  a shame all these little fish coming out of these  
20                  bays are going to run into that wall of dogfish on  
21                  the beach. Nobody recognizes the dogfish. They're  
22                  sitting there -- I got a letter from Pat the other  
23                  day about the dogfish saying that, you know, we're  
24                  going to be basically shut down out of that until

1 2009. How can we project to 2009? Are we Kreskin  
2 now that we can predict into the future, nobody's  
3 going to be able to change that?

4 People got to start recognizing what  
5 is going on and start listening to the people who are  
6 living it and seeing it and doing it every day.  
7 Until the day comes that the information that comes  
8 from the industry and from people in this audience is  
9 taken into account, we're never ever ever going to be  
10 able to straighten this mess out. And you people  
11 have to talk to the National Marine Fisheries Service  
12 and get these guidelines eased up so that you can do  
13 a job that needs to be done.

14 This situation is unbelievable. I  
15 mean we are at a level that's never been seen before  
16 and we're talking about reductions. With the price  
17 of fuel going up, we can't afford to operate anymore.

18 I mean what the National Marine Fisheries Service  
19 hasn't been able to accomplish with putting us out of  
20 business, the fuel companies will.

21 COMMITTEE CHAIR RICHARD COLE: Okay.  
22 Do we need any more discussion on the motion?

23 (No response audible)

24 COMMITTEE CHAIR RICHARD COLE: Okay.

1           Apparently we're ready to vote, Mr. Chairman.

2                           COUNCIL CHAIR RON SMITH: For the  
3 Council, all those in favor, please raise your right  
4 hand.

5   (Response)

6                           DANIEL FURLONG (No microphone:) \*17.

7                           COUNCIL CHAIR RON SMITH: I had 18.

8                           UNIDENTIFIED (No microphone:)

9                           (Inaudible)

10                           COUNCIL CHAIR RON SMITH: \*Tony had  
11 18, so we'll go with that. Okay, 18 in favor.  
12 Opposed?

13   (Response)

14                           COUNCIL CHAIR RON SMITH: Two. Two  
15 opposed. Abstentions?

16   (No response)

17                           COUNCIL CHAIR RON SMITH: No  
18 abstentions. The motion carries.

19                           COMMITTEE CHAIR RICHARD COLE: Okay.  
20 We've got the second part of that original motion now  
21 that is now a separate motion regarding what would be  
22 a change -- would be Amendment 15, I presume to the  
23 plan. Discussion on that motion? Joel.

24                           JOEL MACDONALD: Thank you, Mr.

1 Chairman. There is definitely a legal problem with  
2 trying to extend the rebuilding time frame. If you  
3 look at Section 304 of the Magnuson Act, it's pretty  
4 clear, it said that the time frame cannot exceed ten  
5 years except in case where the biology of the stock  
6 of fish, other environmental conditions or management  
7 measures under an international agreement in which  
8 the U.S. participates, dictates otherwise.

9           There is nothing to suggest that the  
10 biology of the summer flounder stock or environmental  
11 conditions would come into play here. Typically to  
12 take advantage of that exception you have to  
13 determine that a stock cannot be rebuilt without  
14 overfishing in ten or more years. If you make that  
15 determination that absent fishing for ten years you  
16 still can't rebuild it, the National Standard  
17 Guidelines allow you to use what's called \*PMIN, that  
18 -- you know, that period of time without fishing  
19 which it would take to rebuild the stock plus one  
20 mean generation time. That's the current advice in  
21 the National Standard Guidelines.

22           So, we've never concluded -- you know,  
23 we began this program -- never concluded that we  
24 couldn't rebuild, you know, the summer flounder

1 fishery absent fishing within ten years. We started  
2 this program in 1993 and -- you know, we have yet to  
3 rebuild the fishery. But it hasn't been due  
4 essentially to the biology or environmental  
5 conditions. We just have I think been overgenerous,  
6 if you will, in some of our quota allowances.

7 So, you know, legally speaking we  
8 can't defend an extension of this rebuilding time  
9 period.

10 COMMITTEE CHAIR RICHARD COLE: Bob.

11 ROBERT PRIDE: Based on Joel's comment  
12 and also another factor here that disturbs me a  
13 little bit is that Jim's motion as phrased basically  
14 says that the causal factor was overfishing in the  
15 recreational industry, and that's not entirely true,  
16 as we all know. So, I mean I would encourage Jim to  
17 withdraw this motion and maybe rephrase it as an  
18 action plan for putting together this technical task  
19 force and what have you.

20 COMMITTEE CHAIR RICHARD COLE: Jim.

21 JAMES RUHLE: Thank you. There's  
22 other people that are on the list to speak, but I  
23 have no intention of removing -- I worded it to --  
24 wait a minute. The only numbers that we have

1 available is the 15.8 as a result of an unintentional  
2 overfishing in the recreational community. That's  
3 the only numbers that I could base the motion on. It  
4 was no finger-pointing. It was just that that's the  
5 only numbers that we have to work with to demonstrate  
6 that that was an actual landing that took place. So,  
7 that's why the reference there is to that.

8 As far as Joel's comments go, that  
9 15.8 million pounds did affect the biology of this  
10 stock. It had a tremendous effect on the rebuilding  
11 of that stock for those first four years. Whatever  
12 New England did in Amendment 13, they restarted the  
13 clock on groundfish. It may not be as extensive as  
14 this and it may have been wholly political, but they  
15 restarted a clock. There's a process -- there's a  
16 precedent that in some cases this may not be beyond  
17 something that we could do.

18 That's -- I don't know the expertise  
19 of it, Joel. I know that the plan that we laid out  
20 in 2000, I know what our intentions were. And I also  
21 know now, retrospective analysis, it fell on its ass  
22 until 2004. Now it's got up and it's walking along  
23 okay. All's I'm suggesting is that we revisit this  
24 and using that rationale see if there's a way for a

1 consideration of this. And this is being worked on  
2 from other angles, put it that way. We may in fact  
3 get some relief, possibly, from Congress. But it  
4 hasn't happened yet, and I don't count on politicians  
5 doing any damn thing. So, we need to do it  
6 ourselves, and this is the only attempt I know to do  
7 that, sir. Thank you.

8 JOEL MACDONALD: Mr. Chairman, may I  
9 respond?

10 COMMITTEE CHAIR RICHARD COLE: Sure.

11 JOEL MACDONALD: Pat or George can  
12 probably add more to this, but my recollection with  
13 respect to Amendment 13 of the Multispecies Plan is  
14 that there was never an approved rebuilding program  
15 represented by Amendment I think 5, 7 and 9, so there  
16 was never a complete package that met the  
17 requirements of the Sustainable Fisheries Act.  
18 Therefore, when Amendment 13 came up as a result of I  
19 think the court overturning Framework Action 33, that  
20 the clock started anew because there was never any  
21 previous rebuilding plan that was consistent with the  
22 Sustainable Fisheries Act requirements.

23 Now, we have a similar situation  
24 closer to home where -- with respect to scup. We

1 looked at Amendment 12 -- the agency looked at  
2 Amendment 12 and disapproved the rebuilding program  
3 for scup in Amendment 12. The problem with it at  
4 that point in time was that it bootstrapped the  
5 program in Amendment 8, and the agency felt that  
6 given the circumstances of the stock it wasn't robust  
7 enough.

8 So, there was never an approved  
9 rebuilding plan. We sort of -- I don't want to say  
10 limped along, but we progressed using, you know, the  
11 plan that was bootstrapped essentially. We put our  
12 heads together -- the issue came up with respect to  
13 Amendment 14, when are we going to start the clock?  
14 And some people were of the sentiment that we should  
15 start with Amendment 12. But if you look at the  
16 National Standard Guidelines, it says the clock  
17 starts when the approved rebuilding period or program  
18 is implemented.

19 Since the rebuilding program for scup  
20 was never implemented because it wasn't approved, we  
21 were able to say we can defend a position where the  
22 clock on Amendment 14 starts when it's implemented.  
23 Okay? We've got a totally different situation here  
24 with respect to summer flounder. We've -- you know,

1 as I said earlier, we've never been able to conclude  
2 that we can't rebuild this fishery in less than ten  
3 years absent any fishing at all. Given that fact, we  
4 couldn't take advantage of that  
5 biological/environmental exception in Section 304.  
6 That's where my advice stems from.

7 COMMITTEE CHAIR RICHARD COLE: To that  
8 point, Pres, is that --

9 PRESTON PATE: Yes. If you discount  
10 all of the other responsibilities that the Council  
11 has under Magnuson, all of the other standards except  
12 National Standard 1, I think Joel's argument has some  
13 logic. If you bundle them all together and create a  
14 complete package of what the responsibilities are of  
15 the Council, including the economic consequences of  
16 its decisions, is argument where it's not being  
17 totally illogical loses some of its logic.

18 I think we're at the point with summer  
19 flounder that we're realizing that the recruitment  
20 failures or recruitment below the long-term average  
21 is one of the factors that's contributing to our  
22 inability to continue on course, and the possibility  
23 that we would have to take drastic measures to  
24 rebuild the stock by 2010.

1                   The factors that are contributing to  
2                   that poor recruitment are either biological or  
3                   environmental, which I think clearly fall within the  
4                   categories of considerations that the Council can  
5                   make, should make, in adjusting the rebuilding time  
6                   frame. Otherwise, we may find ourselves in the  
7                   future with similar situations where five, six, seven  
8                   years into a rebuilding process we recognize  
9                   biological or environmental factors that are  
10                  affecting our potential success and have to respond  
11                  to that and adjust that on the backs of the fishermen  
12                  that are depending upon continued viable fisheries  
13                  for their livelihood.

14                  So, if Magnuson doesn't allow for the  
15                  flexibility of continuing and rebuilding on an  
16                  adjusted schedule after taking into consideration the  
17                  economic needs of the fishery, then Magnuson is  
18                  flawed terribly, because I don't think that the  
19                  fishermen should suffer the economic consequences of  
20                  adjusting to late, unrealized biological and  
21                  environmental conditions without some adequate  
22                  consideration under the law.

23                  COMMITTEE CHAIR RICHARD COLE: Okay,  
24                  Tony.

1                   ANTHONY BOGAN: Thank you, Mr.  
2 Chairman. I'm still not 100 percent sure which way  
3 I'm going with this one. My problems, apart from the  
4 information that Joel just passed on to all of us --  
5 my issues actually stemmed from the discussion when  
6 the motion was originally made that the intent was  
7 that this would push Amendment 15 off to the side and  
8 put this up front now. I believe that the most  
9 urgent issue we're dealing with right now is summer  
10 flounder and we've got to deal with the problems  
11 we're facing right now that have put us in a  
12 situation that eventually some of the other fisheries  
13 could be in.

14                   My issues with Amendment 15 personally  
15 are not revolving around allocation of summer  
16 flounder. There's a lot of other things a number of  
17 people -- a couple of people here were present at the  
18 public hearing, the scoping meeting we had in New  
19 Jersey on the amendment, and none of the issues I  
20 brought up had to do with allocation that we wanted  
21 to see included -- as far as allocation of summer  
22 flounder goes that we wanted to see -- we had a whole  
23 litany of things that we were pinning our hopes to  
24 that also applied to scup and sea bass, which was why

1 we fought so hard to have all three of those  
2 fisheries included in that amendment.

3 I don't know that I'm willing to  
4 sacrifice the things that we're trying to get done as  
5 quickly as possible in all three fisheries, but  
6 specific sea bass and scup, because let's face it,  
7 faced with what we're facing now, there's only two of  
8 those fisheries left. You'd have to take summer  
9 flounder out of the mix if we look at a 5.2 million  
10 pound quota that the Service is likely to approve. I  
11 don't know if I'm willing to turn around and be in  
12 the same situation over the next couple years or --  
13 hell, if we had to wait for another amendment process  
14 to start, we could be talking by my ten-year-old will  
15 be in college by the time we'd be looking at another  
16 amendment. I don't know if I'm willing to do that,  
17 because we're going to be relying a hell of a lot  
18 more heavily on sea bass and porgies, despite those  
19 big quota cuts we're talking about later on this  
20 afternoon, as well as bluefish, I'm just not  
21 convinced yet. I'm going to have to listen to more  
22 of the discussion around the table before I know  
23 which time my hand's going to go up, after a yes or a  
24 no. Thank you, Mr. Chairman.

1 COMMITTEE CHAIR RICHARD COLE: Gene.

2 EUGENE KRAY: Going back to Joel's  
3 initial point leads me to believe that we are left  
4 with one alternative, and that would be one that's  
5 legislative. And Jimmy made a reference to the fact  
6 that he doesn't trust politicians, and I'm not sure I  
7 do, either, but I think that may be the only route  
8 that's left to us. In the Magnuson reauthorization  
9 bills, in both Senator Stevens bill and in  
10 Congressman Pombo's bill, there is a removal of that  
11 ten-year restriction. Now, that will solve a  
12 problem, would it not, taking away the ten-year  
13 restriction?

14 JOEL MACDONALD: Yes, it would.

15 EUGENE KRAY: Okay. Then maybe that's  
16 somewhere we can martial our efforts to do that, or  
17 to get the community -- get the fishing community,  
18 recreational and commercial communities, involved in  
19 pushing their legislators to get those -- to get  
20 Magnuson reauthorized with those changes in it, or  
21 else we're going to be stuck with -- and I'm not sure  
22 what the time table on that all would be, but that's  
23 what has to happen in my opinion.

24 COMMITTEE CHAIR RICHARD COLE: Ron.

1 COUNCIL CHAIR RON SMITH: I think  
2 Jimmy's motion's well-meaning, but given what Joel  
3 said, it's I think going to be an exercise in  
4 futility for the Council. It would -- it's hard to  
5 argue, if Joel or somebody has to argue this point,  
6 if this motion passes, at some point future date when  
7 the Council or the NMFS Service is asked well, you  
8 exceeded your F, you knew that, why didn't you make  
9 the appropriate adjustments within the ten-year time  
10 period? And we didn't want to do that, for obvious  
11 economic and sociological reasons.

12 So, I feel if this motion passes, it's  
13 going to drain staff time that is sorely needed on --  
14 in other areas, as Tony just pointed out.

15 COMMITTEE CHAIR RICHARD COLE: Vince.

16 VINCE O'SHEA: Thanks, Mr. Chairman.  
17 I actually had a follow-up to Joel's comment on the  
18 rebuilding. For several years now there's been  
19 discussion about possibility of a balloon payment and  
20 the fear of a balloon payment in this fishery  
21 management plan. And most recently, this morning,  
22 Bob Pride mentioned the possibility of a two-year  
23 moratorium if this strategy doesn't work.

24 So, my question is under the existing

1 law, and the obligation to rebuild, you read  
2 exceptions of relief to that date. Does the  
3 possibility or the requirement of the Council to  
4 impose a moratorium -- a fishing moratorium as the  
5 only way to meet that date, is that one of the  
6 criteria that would excuse the -- or provide relief  
7 to the ten-year requirement?

8 JOEL MACDONALD: Well, the Act doesn't  
9 speak specifically with respect to moratoria to  
10 achieve -- you know, a rebuilding target by a certain  
11 end date. You know, as I said earlier, the  
12 Cinderella question is what happens. And I painted  
13 out scenario. Who knows? You know, there may be  
14 others.

15 VINCE O'SHEA: And I suppose just a  
16 follow-up. When you answered that question before,  
17 you were putting it in terms of -- you know,  
18 potential lawsuit from different groups, but actually  
19 wouldn't it -- wouldn't the decision process actually  
20 occur before then by the federal officials who would  
21 feel obligated to follow the law in terms of setting  
22 -- approving TALs for 2008 and 2009. In other words,  
23 they would feel an obligation to follow the law as it  
24 was written, as opposed to saying let's wait till

1 2010 and see if we get sued.

2 JOEL MACDONALD: Obviously there's an  
3 obligation on the part of the agency to -- as I  
4 pointed out earlier -- you know, to rebuild this  
5 fishery and to advise the Council, you know, with no  
6 later than two years, whether their strategy is going  
7 to work. And you know, we're nearly two years away  
8 from the end period and -- you know, we've sort of  
9 been in \*informal discussions with the Council for a  
10 while and we haven't -- we, the agency, haven't  
11 really advised the Council what measures might be  
12 taken to -- you know, cure this problem.

13 But in the context of the quota  
14 setting process each year, the Regional Administrator  
15 has an obligation to assure that the F target is not  
16 exceeded.

17 The problem with the regulatory  
18 structure right now is if we stick with that  
19 strategy, we will not rebuild the fishery. You can't  
20 fish at an F equals 0.276. You have to fish at a  
21 much lower F. And you know, the agency's mindful of  
22 that. But where we go from here, I think personally  
23 what we have to do is look at this on a yearly basis.

24 Who knows what the assessment is going to come up

1 with next year? We may have a reversal, and I think  
2 -- you know, we're all hoping for that, that we have  
3 a banner recruitment event that -- you know, reverses  
4 the circumstances that we find ourselves in at this  
5 juncture.

6 So, you know, the agency definitely is  
7 going to be mindful of its obligation to rebuild this  
8 fishery and set quotas that are more in line with  
9 that obligation. I'm not sure where that will be,  
10 but I think that would be the theory behind it.

11 VINCE O'SHEA: Thank you, Mr.  
12 Chairman.

13 COMMITTEE CHAIR RICHARD COLE: Okay.  
14 The maker of the motion has asked the opportunity to  
15 speak. Greg and Rick, I had you on the list. But I  
16 think I'm going to let the maker of the motion come  
17 forward with his recommendation. I think it will  
18 kind of change -- you know, what you had in mind.  
19 So, let's -- in order to save time, let's let Jim  
20 speak next.

21 JAMES RUHLE: Thank you, Mr. Chairman.  
22 In the essence of time here, we've got a lot to deal  
23 with before, and then hearing the comments that were  
24 made, I would like to give Joel the opportunity to

1 investigate this and see if there's any legitimacy to  
2 doing this. Maybe it can't happen. I'm not  
3 doubting, Joel, your word that you don't think it  
4 can. But there's other attorneys associated with  
5 NMFS that may think differently about this.

6 With that being said, I would like to  
7 table the motion to a time certain, being the October  
8 meeting of this Council, and make a determination  
9 then if at that time -- if this could be done and if  
10 we don't have any information on possibly adjusting  
11 the biological reference point, it needs to be done.

12 The concern for 15, I recognize that,  
13 that everybody's got a concern for 15, but without  
14 some relief -- in my opinion, without some relief  
15 along the lines of what this motion is suggesting, 15  
16 is going to have its own problems that are associated  
17 with this.

18 So, that's my motion, Mr. Chairman,  
19 table this till the time certain being the October  
20 meeting.

21 COMMITTEE CHAIR RICHARD COLE: Okay.  
22 Seconded by Michelle. Do we need discussion on the  
23 motion? Pat.

24 PAT AUGUSTINE: Thank you, Mr.

1 Chairman. If you table it, we're going to have to  
2 take it from the table. If you just postpone to a  
3 date certain, meaning that October meeting, I believe  
4 it will just show up on the agenda automatically? Am  
5 I correct, Mr. Chairman? Mr. Executive Director?

6 COMMITTEE CHAIR RICHARD COLE: Again,  
7 I don't know that it's that big an issue. If this  
8 motion would go forward, we would address it in  
9 October, Pat, cut and dry.

10 PAT AUGUSTINE: Thank you.

11 COMMITTEE CHAIR RICHARD COLE: Ray, to  
12 this motion to table?

13 RAY BOGAN: Yes. Thank you. A  
14 comment with regard to Joel. Joel, you and I  
15 disagree, and unfortunately Judge \*Weinstein didn't  
16 give us a whole lot of guidance on whether the Ninth  
17 Circuit case has any impact, the Oceana case. But in  
18 terms of extending a rebuilding period, that's  
19 something that I would ask -- if the Council is going  
20 to task you to do it, and you're permitted to be  
21 tasked to do it, consider it in that context, and  
22 that is the Ninth Circuit in essence said hey, why  
23 would there even be a provision within Magnuson  
24 talking about preserving fishing communities if you

1 couldn't incorporate it in when necessary.

2 Now, again we have a disagreement and  
3 unfortunately the judge that just considered the --  
4 in lower court that just considered it told us  
5 nothing whatsoever about his opinion of that case.  
6 But I would ask Joel to consider it and to go through  
7 an analysis of this as to whether or not Jimmy's  
8 motion, meaning extending the rebuilding period,  
9 could be looked at in that context because of the  
10 significant economic impact that it's going to have  
11 on fishing communities. Thanks.

12 COMMITTEE CHAIR RICHARD COLE: Greg,  
13 to the motion to table?

14 GREG DIDOMENICO: Yes, actually, we  
15 fully support Joel exploring the possibilities of the  
16 exemptions provided in Section 304. I know he's made  
17 it perfectly clear, but it would be great if the  
18 Council would take steps to request that he fully  
19 explore all those exemptions. Thank you.

20 COMMITTEE CHAIR RICHARD COLE: Any  
21 more discussion on the motion to table? Seeing none  
22 -- oh, Gene.

23 EUGENE KRAY: Before we table the  
24 motion, several times the discussion has come up

1 about a technical group being put together to look at  
2 the whole process and come back to us quickly. Is  
3 that still being considered as a possibility or could  
4 that be considered as a possibility -- it seems to me  
5 that that was something that's very urgent that could  
6 very quickly go through the process and give us some  
7 data, before we -- we're looking at a whole  
8 amendment. Because that's what I think -- and Pat  
9 Kurkul made reference to it in her comments back to  
10 me, in terms of what we could do in the short term.  
11 And someone else made reference to it here just  
12 recently.

13 So, I'd like to hear an answer to that  
14 before I vote on whether to table this motion or not,  
15 because this sort of is a longer term process than a  
16 technical review.

17 COMMITTEE CHAIR RICHARD COLE: George.

18 GEORGE DARCY: It's my understanding  
19 that these are two separate issues. That would still  
20 go forward as quickly as we can get it done. I don't  
21 know what time frame that would be, but that still  
22 needs to be done.

23 EUGENE KRAY: Thank you, Mr. Chairman.

24 COUNCIL CHAIR RON SMITH: Okay. On

1 the motion for the Council, all those in favor,  
2 please raise your right hand.

3 (Response)

4 COUNCIL CHAIR RON SMITH: 19 in favor.

5 Opposed?

6 (No response)

7 COUNCIL CHAIR RON SMITH: None.

8 Abstaining?

9 (No response)

10 COUNCIL CHAIR RON SMITH: None. The  
11 motion passes.

12 COMMITTEE CHAIR RICHARD COLE: Okay.

13 We've got a number of other issues that are on our  
14 agenda here for the spec-setting on summer flounder,  
15 and it's 12:30. Want to just -- are we going to keep  
16 on marching and finish up summer flounder? Jim.

17 JAMES RUHLE: Thank you, Mr. Chairman.

18 Included in the list of motions that I passed the  
19 girls up there I think would resolve your concerns  
20 here. And it is all based on the 19.9. So, if you  
21 wish, I could make these motions now, and it's  
22 entirely up to you. We can either -- I can put them  
23 on the board or we can -- actually they're on the  
24 board. If you would like, I can move those motions

1 now and we can go forward with it. There's actually  
2 one, two, three, four different motions the way you  
3 did scup yesterday.

4 The first one is I move the commercial  
5 quota for 2007 be set at 11.94 million pounds. Do  
6 you wish to offer -- what's your preference here,  
7 sir? Do you want to go forward with them or do it  
8 after lunch? It's entirely up to you. She's got  
9 them.

10 COMMITTEE CHAIR RICHARD COLE: We can  
11 do it now, Jim, if there's no major controversy about  
12 all these issues. Now, this particular breakdown, I  
13 mean that's in the plan. We don't really have to go  
14 there. We've recommended TAL, so we know how it's  
15 going to be broken down. The plan covers that. But  
16 we've got -- you know, if we're changing size limit,  
17 if we wish to change possession limits, those kind of  
18 things, we have to address them here today. So, I  
19 guess you can offer those, if you've got them all in  
20 that motion and we'll just see if anybody has an  
21 opposition. We could do it that way.

22 JAMES RUHLE: Take them one at a time,  
23 and again this is based on the 19.9. It's just the  
24 way it was presented in the -- by the monitoring

1 committee to the staff to the Council, so --

2 COMMITTEE CHAIR RICHARD COLE: But  
3 again the first two we don't need.

4 JAMES RUHLE: Okay. First two you  
5 don't need. And then let's just -- I guess we'll  
6 just -- I move that no change in mesh requirements,  
7 minimum fish size or other gear requirements. That's  
8 the first one. Actually I can roll it into the  
9 second one, no change in current small mesh  
10 exemptions. That takes them all in.

11 COMMITTEE CHAIR RICHARD COLE: Okay.  
12 And again, basically, for everybody's information,  
13 this was staff recommendation and the monitoring  
14 committee recommendation, also. Pat.

15 PAT AUGUSTINE: I second that, Mr.  
16 Chairman.

17 COMMITTEE CHAIR RICHARD COLE: Okay.  
18 Discussion on the motion? Everybody understand what  
19 we're doing here? These are the other  
20 specifications. In actuality, really we don't even  
21 need a motion since we're not suggesting any changes.

22 \*JAMES RUHLE (No microphone:)  
23 Withdraw the motion.

24 COMMITTEE CHAIR RICHARD COLE: So we

1 can just maintain status quo, if that's the consensus  
2 of the Council. And I see that as the consensus.  
3 Let the record show that we're maintaining status  
4 quo. Jim.

5 JAMES RUHLE: Thank you, Mr. Chairman.

6 That's the easiest way to resolve it, but I do  
7 believe we'll need a motion to suggest that three  
8 percent of the summer flounder TAL be set set aside  
9 for a research set-aside.

10 EUGENE KRAY: Second.

11 COMMITTEE CHAIR RICHARD COLE: Okay.

12 Yes, we do need a motion. It's been made and  
13 seconded. Discussion on the motion of the RSA?

14 (No response audible)

15 COUNCIL CHAIR RON SMITH: On the  
16 motion, all those in favor, please raise your right  
17 hand.

18 (Response)

19 COUNCIL CHAIR RON SMITH: 19 in favor.

20 Opposed?

21 (No response)

22 COUNCIL CHAIR RON SMITH: None.

23 Abstentions?

24 (No response)

1 COUNCIL CHAIR RON SMITH: None.

2 Motion passes.

3 COMMITTEE CHAIR RICHARD COLE: Okay.

4 I think that should cover summer flounder. Anybody  
5 have -- Eric.

6 ERIC SMITH: Thank you, Mr. Chairman.

7 I had asked for time before. Then when the board  
8 postponed its motion, I was in that neverland, I  
9 wasn't a Council member and I wasn't sitting in the  
10 audience, and I never got a chance to speak. And  
11 that's okay because I'll hold my comments for the  
12 board till the time the board takes it up.

13 The one thing I would like to leave us  
14 all with is to kind of capture where John Boreman and  
15 Mark and Pat were on the charge we get for this rapid  
16 technical review that some of us, I think, think is  
17 the silver bullet that's going to solve our problems.

18 It really isn't if we narrowly constrain that  
19 question simply to the things that John pointed out  
20 from that slide. Remember what Pat said. If you  
21 revise BMSY essentially because M has increased, the  
22 ultimate consequence is your quotas are going to go  
23 down. Your recreational harvest limit and your  
24 commercial quota are going to go down. And where the

1 rubber meets the road is how many fish people are  
2 catching when they're out fishing. And that  
3 consequence is going to be something that we may find  
4 ourselves backed into with new good science that is  
5 not something that we had ever anticipated.

6           Somehow I think the Council as you go  
7 forward -- I couldn't presume to give you the right  
8 language now, but as you go forward, the question  
9 needs to be more broadly constructed essentially to  
10 say given the kind of biology of the resource we're  
11 seeing now, could it be that 204,000 million -- 204  
12 million pounds as a BMSY is too large for the biology  
13 of that stock. And if it's narrowly constrained the  
14 way we talked about it before, bad things are going  
15 to happen.

16           And if you're careful about when  
17 Jessica and Mark and the rest of the monitoring  
18 committee go off and look at this, it may need to be  
19 broadened in a way that looks at the methodology,  
20 even though it may have been looked at at the past  
21 two or three assessments, in light of all of this  
22 debate and new thinking, keep -- the group needs to  
23 keep an open mind so that we don't simply come back  
24 with the answer to the question we thought we asked,

1 but the answer is a disaster. Thank you.

2 COMMITTEE CHAIR RICHARD COLE:

3 Quickly, Dave, please.

4 DAVID PIERCE: Yeah, very quickly.

5 I'm not going to make a motion on behalf of the  
6 board. I'll cover this at the board meeting coming  
7 up later on this fall. However, I did want to call  
8 attention to this Council an important point made by  
9 the monitoring committee, and it's very relevant to  
10 what the National Marine Fisheries Service may feel  
11 it's obliged to do relative to the TAL, and that's a  
12 special comment in the report that was provided by  
13 Jessica.

14 And that is if indeed we do go with  
15 lower quotas that additional observer coverage is  
16 going to be needed in order for us to monitor  
17 discarding. It's already been alluded to -- not  
18 alluded to, it's been stated very specifically that  
19 more discarding would occur. That's a great concern.

20 So, I would hope that this Council  
21 eventually considers an action along those lines to  
22 accompany whatever -- whatever final action that the  
23 Service may want to take. It's extremely important  
24 we get that information since it will enable us to

1 determine whether or not the Service is being  
2 successful with a lower number, if indeed it decides  
3 to go with a lower number.

4 COMMITTEE CHAIR RICHARD COLE: Okay.  
5 Mr. Chairman, we're going to start again at 1:30 for  
6 sea bass?

7 COUNCIL CHAIR RON SMITH: Yes, and if  
8 anybody in the audience or the table has to leave, I  
9 would personally like to thank everybody for their  
10 very orderly and thoughtful comments this morning.

11 (LUNCH, 12:34-1:50\* p.m.)