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MID-ATLANTIC FISHERY MANAGEMENT COUNCIL  
Room 2115 Federal Building  
300 South New Street  
Dover, Delaware 19901-6790

COUNCIL MEETING

14 OCTOBER 2009

at

Princess Royal Hotel  
9100 Coastal Highway  
Ocean City, MD 21842

WEDNESDAY, OCTOBER 14, 2009

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1 [8:35 a.m.]

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

4 COUNCIL CHAIR RICK ROBINS: Let's  
5 take our seats so we can go ahead and get started  
6 here in a minute. Thank you.

7 (Pause.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:  
9 Good morning and welcome to the October Council  
10 meeting. Dan Furlong has just informed me that we  
11 are having some technical problems with the webcast.  
12 This is the first meeting that we're broadcasting  
13 live via webcast so that we can more accessible to  
14 our constituents.

15 And I promised yesterday when we were  
16 televising the Executive Committee meeting that we  
17 would be at least twice as exciting as CSpan-3. Jim  
18 Armstrong informs me that we had seven viewers  
19 yesterday. I understand CSpan-3 only had three  
20 viewers. So, I think we've cleared the hurdle.

21 The Vice Chairman has pointed out  
22 that if I didn't have a face made for radio that we  
23 might have had higher Nielsen ratings.

24 VICE CHAIRMAN LEE ANDERSON: My wife

1 was one of the viewers; making sure I was here.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Well, again, welcome, and I'm pleased to introduce  
4 four new members of the Council.

5 We have fellow Virginian Peter deFur  
6 of Richmond, who's on staff at Virginia Commonwealth  
7 University as a faculty member.

8 We also have Chris Zeman of New  
9 Jersey. Chris serves as an attorney with Zurich.  
10 He's previously worked with Oceana and the U.S. EPA.

11 We have Steve Schafer from New York.  
12 Steve works as the retail director for Wild Edibles  
13 in New York, which is a sea food distribution  
14 business.

15 And we have Preston Pate from North  
16 Carolina. Pres, as you know, is working on the  
17 development of the MRIP program and has formerly  
18 served as the Chair of the ASMFC.

19 We have four members that bring a lot  
20 of excitement, diverse backgrounds and enthusiasm to  
21 the table. We're very glad to be able to welcome  
22 you at this point in time, and I just want to let  
23 you know you'll find the staff I think to be  
24 extremely helpful and available to you as we go

1 forward. And I have received your requests for  
2 committee assignments and look forward to discussing  
3 those with you in the near future.

4 But with that, I'll turn it over to  
5 Pat for the oath of office.

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6  
7 OATH OF OFFICE

8 PATRICIA KURKUL: Thank you, Mr.  
9 Chair. I'd like to ask our new Council members to  
10 stand please, and raise your right hand. And then  
11 please repeat after me. And the state your name  
12 part, that means actually state your name.

13 So, I, as a duly appointed member of  
14 a Regional Fishery Management Council established  
15 under the Magnuson-Stevens Fishery Conservation and  
16 Management Act, hereby promise to conserve and  
17 manage the living marine resources of the United  
18 States of America by carrying out the business of  
19 the Council for the greatest overall benefit of the  
20 nation.

21 I recognize my responsibility to  
22 serve as a knowledgeable and experienced trustee of  
23 the nation's marine fishery resources, being careful  
24 to balance competing private or regional interests,

1 and always aware and protective of the public  
2 interest in those resources.

3 I commit myself to uphold the  
4 provisions, standards and requirements of the  
5 Magnuson-Stevens Fishery Conservation and Management  
6 Act, and other applicable law, and shall conduct  
7 myself at all times according to the rules of  
8 conduct prescribed by the Secretary of Commerce.

9 This oath is freely given and without  
10 mental reservation or purpose of evasion.

11 PATRICIA KURKUL: Congratulations,  
12 gentlemen.

13 (Applause.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:  
15 Congratulations and welcome.

16 \_\_\_\_\_  
17 ELECTION OF OFFICERS

18 COUNCIL CHAIRMAN RICHARD ROBINS: At  
19 this point I'll turn to Rick Cole for the elections.

20 Rick chairs the Elections Committee. And I will  
21 point out that Joel MacDonald, who is normally with  
22 us for this process is not here today, so I'll ask  
23 Dan Furlong to serve in his place and call for  
24 nominations from the floor at the appropriate point

1 in time.

2 Rick.

3 RICHARD COLE: Thank you, Mr.  
4 Chairman. I was notified of one candidate for the  
5 chairmanship, and that was Mr. Robins, and that's  
6 the only candidate that I'm aware of.

7 DANIEL FURLONG: Okay. We have one  
8 candidate for the position of Chairman of the  
9 Council. Are there any other nominations from the  
10 floor?

11 (No response audible.)

12 DANIEL FURLONG: Are there any other  
13 nominations from the floor?

14 (No response audible.)

15 DANIEL FURLONG: Are there any other  
16 nominations from the floor? Larry Simns.

17 LAWRENCE SIMNS: I'd like to make a  
18 motion to close the nominations.

19 DANIEL FURLONG: Is there a second to  
20 the motion? Second by Pete Himchak.

21 UNIDENTIFIED: No microphone on  
22 Larry's part. I don't know what that was.

23 COUNCIL CHAIRMAN RICHARD ROBINS:  
24 Larry, can you restate your motion, please?

1                   LAWRENCE SIMNS: I make a motion to  
2 close the nominations for Chair.

3                   COUNCIL CHAIRMAN RICHARD ROBINS:  
4 Second by Pete Himchak.

5                   PETER HIMCHAK: Second.

6                   COUNCIL CHAIRMAN RICHARD ROBINS: All  
7 in favor, please raise your hand.

8                   (Response.)

9                   COUNCIL CHAIRMAN RICHARD ROBINS:  
10 Nineteen. Opposed, like sign.

11                   (No response.)

12                   COUNCIL CHAIRMAN RICHARD ROBINS:  
13 Abstentions, like sign.

14                   (No response.)

15                   COUNCIL CHAIRMAN RICHARD ROBINS:  
16 Motion carries.

17                   DANIEL FURLONG: Okay. Given that  
18 there are no other nominations except by  
19 acclamation, Rick Robins is elected our Council  
20 Chairman for the next Council year.

21                   COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Thank you. Mr. Cole.

23                   RICHARD COLE: I was notified of one  
24 candidate for Vice Chair. That was Dr. Anderson.

1 DANIEL FURLONG: Okay. We have one  
2 nomination for our Vice Chair. Are there any other  
3 nominations for the position of Vice Chairman of the  
4 Council from the floor?

5 (No response audible.)

6 DANIEL FURLONG: Are there any other  
7 nominations for Vice Chairman of our Council from  
8 the floor?

9 (No response audible.)

10 DANIEL FURLONG: Are there any other  
11 nominations for Vice Chair from the floor?

12 (No response audible.)

13 DANIEL FURLONG: Okay. Seeing no  
14 such nominations, I declare that the Vice Chairman  
15 is elected by acclamation of the Council and Lee  
16 Anderson will serve in that role for the next  
17 Council year.

18 UNIDENTIFIED: Congratulations.

19 (Applause.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:  
21 Thank you very much, and I'll ask Lee if he'd like  
22 to say anything when I'm done. But I'll be brief  
23 and just say that I continue to be humbled by the  
24 Council's confidence and the opportunity to serve

1 you all in this capacity.

2 Lee and I said at the beginning of  
3 last year that we hoped to make significant process  
4 on some of the transitional challenges in front of  
5 us. Certainly the Act put some major institutional  
6 challenges to us in terms of integrating the SSC  
7 into the decision-making process, coming to terms  
8 with the ACL and AM requirements. I feel like we've  
9 made a lot of progress on the omnibus action over  
10 the course of the last year, and am quite pleased  
11 with the progress on that.

12 I think over the course of this  
13 coming year, we can look to conclude that and have a  
14 strong product in place when we finish the process.

15 And obviously we still have a lot of -- a lot of  
16 work to do with the SSC integration. I think we've  
17 had some significant challenges there in the last  
18 year and certainly in recent months, but I look  
19 forward to working with the Council and the SSC  
20 leadership, to continue to work on that integration.

21 The state and federal alignment is  
22 another challenge that continues to loom large in  
23 front of us. It's part of who we are. We're so  
24 closely aligned with the Commission and look forward

1 to working with the Commission to address some of  
2 those structural challenges. And I think we made a  
3 nice step in that direction yesterday, working with  
4 Commission leadership.

5 So, again, I'd like to just take  
6 another opportunity to welcome the new members  
7 aboard. They do bring of a lot of excitement and  
8 experience to the table, and we're very pleased to  
9 have the opportunity to work with you over the next  
10 year.

11 Dr. Anderson.

12 COUNCIL VICE CHAIRMAN LEE ANDERSON:

13 Thank you. As I said last year, I'm a happy camper  
14 in this position and I continue to be a happy  
15 camper, and I'm very pleased to work with this guy.

16 He is really a brilliant man and he's a good  
17 leader. He amazes me with his energy, and at the  
18 same time, he's cooperative and allows me to have my  
19 input and I know that I'm listened to, as all of you  
20 do I'm sure when you work with him.

21 One thing though that I'm very  
22 pleased with is both Rick and I have the philosophy  
23 that we want to be cooperative with our other  
24 colleagues in this business, ASMFC, the Centers, the

1 Regional Office. We have an open policy of talking  
2 and open communication, and I think that is working  
3 and we certainly intend to keep that up. Thank you  
4 again, and I look forward to a good year.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you, Lee.

---

7  
8 APPROVAL OF JULY AND AUGUST MEETING MINUTES

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 With that, our next item is the approval of the  
11 August minutes. And I have one change at Page 80.  
12 Where it says protagonist hermaphrodite, which would  
13 read like a really interesting Greek tragedy, I  
14 guess; I think what we had in view there was a  
15 protogenous hermaphrodite.

16 That's the only change I have to the  
17 minutes. Are there any other changes to the  
18 minutes?

19 COUNCIL VICE CHAIRMAN LEE ANDERSON:

20 You're just bragging by pointing that out.

21 COUNCIL CHAIRMAN RICHARD ROBINS: No,  
22 no, no, no. There may have been protagonists and  
23 hermaphrodites in the discussion, but I don't think  
24 that they were intended to be commingled like that.

1                   So, are there any other changes to  
2 the minutes?

3                   (No response audible.)

4                   COUNCIL CHAIRMAN RICHARD ROBINS: Is  
5 there any objection to approving the minutes as  
6 amended?

7                   (No response audible.)

8                   COUNCIL CHAIRMAN RICHARD ROBINS:  
9 Seeing none, they're approved by consent.

10                  Pete?

11                  PETER HIMCHAK: Not an objection on  
12 the minutes, Mr. Chairman. Just a small bit of  
13 housekeeping. At the August meeting, we said that  
14 we would approve the minutes of the July 14th  
15 Philadelphia meeting on ACL and AMs that we had,  
16 that we would approve them at this meeting. Is that  
17 on the agenda for today as -- have people gone  
18 through the minutes from that January 14th meeting?

19                  I have a correction to make, and  
20 that's why I bring it up.

21                  COUNCIL CHAIRMAN RICHARD ROBINS:  
22 Pete, thanks for bringing it up. We did say that we  
23 would approve those minutes here. Are there any  
24 modifications to those minutes? Would you like to

1 offer one?

2 PETER HIMCHAK: I bring this up  
3 because I read something that I had said on Page 228  
4 and I'll give this to Mr. Wallace. I must have been  
5 talking with marbles in my mouth, but it said into  
6 account 40 boatload; it should have been party  
7 boats.

8 So, it happened twice. I'll give  
9 this to Mr. Wallace, a revised page, --

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Thank you.

12 PETER HIMCHAK: -- and he can make  
13 the correction. Thank you.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Thank you, Pete.

16 Are there any other modifications to  
17 the July 14th ACL/AM workshop minute meeting (sic)?

18 (No response audible.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Okay. Is there any objection to approving those as  
21 amended?

22 (No response audible.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Seeing none, those are approved by consent, as well.

1 Thank you.

2 All right. Pat, are you ready for  
3 the Northeast Regional Report?

4 Oh, I'm sorry. Before you begin,  
5 Pat. There is a possibility -- it appears that the  
6 catch shares presentation that was originally  
7 scheduled for tomorrow has been postponed. I  
8 believe Monica Medina is out of the country, and  
9 that would probably be rescheduled for the December  
10 meeting at this point in time.

11 In light of that, there is a  
12 possibility that we will be able to conclude the  
13 agenda today, because some of the times in here that  
14 are blocked off are fairly generous for today's  
15 action items, and we do have a hearing scheduled for  
16 12:30 today on the proposed MPAs. I would suggest  
17 that we try to keep that at 12:30 in case  
18 constituents were planning on being here for that  
19 specific hearing.

20 But in light of the cancellation of  
21 tomorrow's action item or presentation, there is a  
22 possibility that we could conclude today, but I  
23 would suggest that we see where we are at about  
24 11:30 or 12:00, and if it looks like we're going to

1 conclude today, we'll take a break so we can make  
2 arrangements to check out, if need be, or make  
3 alternate travel plans.

4 Okay? With that, Pat.

---

6 NORTHEAST REGIONAL ADMINISTRATOR'S REPORT

7 PATRICIA KURKUL: Thank you, Mr.  
8 Chair. Okay. So, starting with Squid, Mackerel,  
9 Butterfish, on October 6th the agency on behalf of  
10 the Secretary of Commerce approved Amendment 10 to  
11 the Atlantic Mackerel, Squid and Butterfish Fishery  
12 Management Plan, with all the management measures  
13 proposed by the Council approved.

14 A proposed rule for Amendment 10  
15 published on September 3rd, 2009, and the comment  
16 period closes on October 19th. We expect to publish  
17 a final rule implementing Amendment 10 as soon as  
18 possible.

19 As you may recall, the purpose of  
20 Amendment 10 is to bring the mackerel, squid,  
21 butterfish FMP into compliance with the Magnuson-  
22 Stevens Act by establishing a rebuilding program for  
23 the butterfish stock.

24 Black sea bass, effective October 5th

1 the agency took emergency action to close the  
2 recreational black sea bass fishery in federal  
3 waters north of Cape Hatteras.

4 The best available information for  
5 black sea bass indicates that recreational landings  
6 for 2009 have substantially exceeded the  
7 recreational harvest limit.

8 The magnitude of the overage in fact  
9 threatens to exceed the overall mortality objectives  
10 established of the total landing level; that means  
11 including both commercial and recreational sectors  
12 combined.

13 Scup, effective October 8th, the scup  
14 commercial coastwide fishery closed for the  
15 remainder of the summer period. Based on recent  
16 projections, it was determined that the commercial  
17 quota of approximately 2.9 million pounds for the  
18 summer period would be fully harvested by that date;  
19 therefore, the fishery was closed. The Winter 2  
20 period for commercial scup harvest will open on  
21 November 1st.

22 We determined that the -- for  
23 dogfish, we determined that the 2009 Period 1 quota  
24 for spiny dogfish has been harvested. Therefore,

1 the fishery was closed September 26th.

2 Let's see. Scallop. For the limited  
3 access general category scallop fishery, the fishery  
4 closed to IFQ vessels, including vessels fishing  
5 with Letters of Authorization, LOAs, on September  
6 15th. The IFQ scallop fishery was allocated over --  
7 just over 688,000 pounds for the third quarter of  
8 the 2009 fishing year. The allocation was reduced  
9 to just over 309,000 pounds due to an overage in the  
10 first quarter.

11 The limited access general scallop  
12 fishery is scheduled to reopen to IFQ scallop  
13 vessels on December 1st.

14 The sea scallop observer set-aside of  
15 days-at-sea was fully utilized on September 9th.  
16 This was a result of assumptions that we made with  
17 respect to the compensation rate, as well as the  
18 level of coverage in the fishery, and ultimately the  
19 one percent that's set aside for this fishery was  
20 utilized before the end of the year.

21 We do try to set those rates in a way  
22 that would allow the compensation rate to be -- to  
23 be available through the fishing year. However, in  
24 order to remain available at the one percent set-

1       aside level the compensation rate would have had to  
2       have been less than .1 days-at-sea per days-at-sea  
3       used.

4                       We set the rate at .15. The industry  
5       has indicated that even the .15 does not fully  
6       compensate them for the observer trips.

7                       We'd like to announce a new research  
8       set-aside policy with respect to compensation  
9       fishing vessels. The Regional Office recently  
10      adopted a new policy that will cap the RSA  
11      compensation fishing vessels at 50 vessels per  
12      project starting in 2010. As a result of the  
13      increasing number of vessels conducting compensation  
14      fishing for some projects funded under the Mid-  
15      Atlantic RSA program, the following concerns were  
16      identified:

17                      Non-compliance with the terms and  
18      conditions of compensation fishing.

19                      Authorizations has increased.

20                      The administrative burden to process  
21      compensation fishing authorizations has increased.

22                      Oversight of the compensation fishing  
23      terms and conditions has become increasingly  
24      difficult.

1                   Effective RSA quota monitoring  
2 oversight has become increasingly difficulty, and  
3 enforcement capability has diminished.

4                   Therefore, as I said, starting in  
5 2010, each project will be restricted to 50 vessels  
6 that may be authorized to participate in  
7 compensation fishing activities at any given time.

8                   For multispecies, the Northeast  
9 Regional Office has now received 17 sector  
10 operations plans for the 2010 fishing year. The  
11 sector operations plans are under review.

12                   At the September meeting of the New  
13 England Fishery Management Council, the Council  
14 voted to consider additional restrictions for the  
15 common pool, that is those vessels that are not in  
16 sectors.

17                   They will be considering these  
18 additional restrictions at their November Council  
19 meeting. This decision came after the September 1  
20 deadline for sectors to submit rosters, operations  
21 plans and environmental assessments for the May 1  
22 start of the 2010 fishing year.

23                   And the Regional Office and the New  
24 England Fishery Management Council will be sending a

1 joint letter to notify common pool vessels of this  
2 development and the possibility to join one of the  
3 two sectors included in Amendment 16 that have not  
4 yet submitted their 2010 operations plans.

5 Any sector submitting documents to  
6 NMFS now would not be approved until after the start  
7 of the fishing year in 2010.

8 On September 14th we published a  
9 final rule in the Federal Register that implements  
10 minor modifications to the existing requirements  
11 regarding the use of chain mat modified dredges in  
12 the Atlantic scallop fishery. These regulations are  
13 effective October 14th.

14 On October 5th, we sent a letter to  
15 Dan, to the Council, notifying the Council that the  
16 bluefish stock is now formally considered by the  
17 National Marine Fisheries Service to be rebuilt,  
18 according to the criteria established in its  
19 respective Magnuson Act rebuilding program.

20 We also sent a letter to Dan on  
21 October 1st as a result of a request to add  
22 additional members to several of the Mid-Atlantic's  
23 FMATs, and so this letter now indicates that for the  
24 ACL and AM omnibus amendment, we now have six

1 Regional Office members -- not just Regional Office,  
2 that also includes General Counsel -- but six  
3 National Marine Fisheries Service members -- I'm  
4 sorry, includes General Counsel and the Center.

5 For Amendment 14 to mackerel, squid  
6 and butterfish, we now have nine; and for Amendment  
7 2 to spiny dogfish, there are eight National Marine  
8 Fisheries Service members for the FMAT.

9 And then finally, we did recently --  
10 and I can't remember the dates -- October -- in  
11 early October, I have a Northeast Region  
12 Coordinating Council meeting, which for the benefit  
13 of the new members is a group consisting of the  
14 Executive Directors of the two Councils in the  
15 Region and the Atlantic States Marine Fisheries  
16 Commission, the Chairs and the Vice Chairs of the  
17 two Councils, and representatives from the Regional  
18 Office and the Northeast Fisheries Science Center.  
19 We meet twice a year. October is our priority-  
20 setting meeting. That is where we discuss our  
21 priorities for the following year and make  
22 commitments to work plans for all the various groups  
23 for the following year.

24 And so we had that priority-setting

1 discussion that I'm sure Dan will talk about later.

2 We also at each of the NRCC meetings set the Stock  
3 Assessment Workshop schedule for the upcoming years.

4 I think we actually went out to 2013 this time, and  
5 I'm sure Jim will talk about that a little bit in  
6 his report.

7 And then have various other  
8 discussions of mutual interest and exchange of  
9 information between the groups, and I think in the  
10 binder under Tab 12 there's an agenda for the NRCC.  
11 So, if you have any questions on any of the agenda  
12 items -- you know, feel free to talk to any of us  
13 that were there in attendance.

14 And that's all I have, Mr. Chair.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Thank you, Pat. Pat, for the gen. cat. IFQ scallop  
17 fishery, I know that there are still some appeals  
18 pending. Is it the Service's expectation that those  
19 will be completed in time for the 2010 fishing year  
20 such that the gen. cat. would move forward on an IFQ  
21 basis for the 2010 management year?

22 PATRICIA KURKUL: Yes, we've got --  
23 as of yesterday -- 29 appeals still pending; and as  
24 you know, we're working with the Alaska Regional

1 Office and their appeals office to complete those  
2 appeals. They have committed to completing the  
3 appeals by early November, which will allow us to  
4 just meet the time line for implementing in March.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Okay. Thank you very much.

7 Other questions for Pat? Pete.

8 PETER HIMCHAK: Mr. Chairman, I had a  
9 comment and not a question on the report; so, I'll  
10 wait.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Okay. Other questions for Pat? Greg DiDomenico.

13 GREG DIDOMENICO: Greg DiDomenico,  
14 just speaking on behalf of NFI Scientific Monitoring  
15 Committee. I had a quick question, Ms. Kurkul.

16 We've been intimately involved in the  
17 programmatic review of the research set-aside  
18 program. We were told that no substantive changes  
19 would be made until 2011. We were somewhat aware of  
20 the issue of limiting vessels, but we were a little  
21 surprised that that's going to take place January 1,  
22 2010.

23 The question I have is would you  
24 consider that it would be 50 recreational vessels

1 and a smaller number of commercial vessels to be  
2 allowed to have compensation fishing, research set-  
3 aside, per project? Because quite frankly, this  
4 year, with the amount of fish that we have to fund  
5 these programs for and the amount of interest in  
6 research set-aside, I would imagine that 50 vessels  
7 is going to be easily -- easily -- there will be 50  
8 recreational -- there will probably be 150  
9 recreational vessels who want to get into the  
10 research set-aside program.

11 Is there a way to consider -- because  
12 we've actually talked a lot about splitting up the  
13 auction, having a recreational auction, and then a  
14 commercial auction.

15 Is there a way to get a number of  
16 vessels per project, one group of recreational, one  
17 group of commercial? Because it's going to severely  
18 limit the number of people who participate, and I  
19 would imagine at this point we're going to have to  
20 not only notify people of that, but also tell them  
21 that if we exceed that number, we're going to have  
22 to pull you out of a hat to determine whether or not  
23 your auction is taken.

24 If you could consider that, that

1 would be a big help.

2 PATRICIA KURKUL: Well, we'll look at  
3 it, but frankly the program has become -- for the  
4 reasons I said -- extremely problematic, not just  
5 for us, but for the states, as well, I believe.

6 GREG DIDOMENICO: Yeah.

7 PATRICIA KURKUL: And so we're trying  
8 to put some kind of bounds on it so that we don't  
9 completely lose control of it. We're willing to  
10 talk with you and work -- you know, work through  
11 some reasonable accommodations that --

12 GREG DIDOMENICO: Sure.

13 PATRICIA KURKUL: -- that still allow  
14 us to achieve our goal.

15 GREG DIDOMENICO: Okay. Thank you  
16 very much.

17 COUNCIL CHAIRMAN RICHARD ROBINS:  
18 Thanks, Pat. Pete Himchak.

19 PETER HIMCHAK: Yes, thank you, Mr.  
20 Chairman. I have to bring up an issue -- and I  
21 don't want to violate the integrity of the agenda,  
22 but certainly the closure of the black sea bass  
23 fishery in the EEZ elicited a tremendous uproar; and  
24 it did -- it did put a lot of pressure on Council

1 members to do something.

2 And in fact, Dan was requested to  
3 modify the agenda, and I understand the difficulties  
4 of administrative procedures and publication of  
5 agenda items. So, suffice it to say that the agenda  
6 as written could not accommodate their wishes of --  
7 essentially they want to revisit the ACL for black  
8 sea bass in 2010.

9 So, not to belabor the point, but I  
10 can't let it go unnoticed that they did request that  
11 it be put on the agenda. For perfectly good  
12 administrative reasons, it cannot be discussed here,  
13 but are there any options for the future, say at the  
14 December meeting? I don't know.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Well, the response I would have to that, I have  
17 discussed this with our counsel; and frankly, if you  
18 think about the state of rulemaking that the Service  
19 is in, it would really be moot to put it on the  
20 December agenda.

21 We could do it. I think it would  
22 basically be somewhat fruitless, because we've  
23 already submitted the specs package to the Service.

24 At this point, it's in the Service's hands. I'll

1 let Pat speak on where they are in terms of  
2 rulemaking and how that's -- how that's progressing,  
3 what the state is. But if you consider any action  
4 that we might take as a Council; again, it's already  
5 been submitted to the Service. But -- Pat.

6 PATRICIA KURKUL: I'm not entirely  
7 sure where we are. I know we haven't published a  
8 proposed rule. Have we gotten the package from the  
9 Council? Okay.

10 DANIEL FURLONG (No microphone):  
11 September 16th.

12 PATRICIA KURKUL: September 16th,  
13 okay. So, still under review, but we should be  
14 publishing a proposed rule soon.

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

17 PETER HIMCHAK: So, if I may, Mr.  
18 Chairman; then the recreational community should  
19 essentially comment on the proposed rule. That's  
20 their vehicle for effecting any kind of change for  
21 2010?

22 COUNCIL CHAIRMAN RICHARD ROBINS:  
23 Pete, that's right. That's the best place for  
24 comment to be directed at this point in time;

1 because again the Council has already taken a final  
2 action and the spec package was submitted mid-  
3 September, September 16th, I think. And so it's  
4 already in the rulemaking process.

5 Northeast Science Center, Dr.

6 Weinberg.

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7  
8 NMFS NEFSC DIRECTOR'S REPORT

9 JAMES WEINBERG: Thank you very much.

10 I'd like to review, first of all, some of the  
11 survey activities and then go on to stock assessment  
12 scheduling.

13 The Bigelow is currently conducting  
14 the autumn bottom trawl survey. It began this year  
15 on September the 12th. And as you know, the Bigelow  
16 replaced the Albatross in the last year.

17 Last year, there were a series of  
18 studies that were done while we had both vessels,  
19 and a lot of data was collected. Having the two  
20 vessels side-by-side towing -- doing tows side-by-  
21 side to see what -- how that would compare. And the  
22 whole goal of that was to develop calibration  
23 coefficients so that the Science Center could move  
24 forward and basically stitch together the Albatross

1 historical survey with the Bigelow data that are  
2 coming in now. And it was a relatively brief period  
3 where we had both vessels overlapping, shorter than  
4 the Science Center had initially requested.

5           Nevertheless, this August we had a  
6 peer review meeting of the results that -- all the  
7 data that were collected for the calibration studies  
8 were brought together in papers and there was a peer  
9 reviewed meeting in Woods Hole from August the 11th  
10 to the 14th. And the peer reviewers, there were  
11 three gentlemen from outside of the Science Center  
12 who were totally independent, and then they've  
13 prepared a summary report.

14           Wendy Gabriel from our Science Center  
15 is the point of contact for that meeting. She led  
16 the meeting. But the Science Center will be  
17 prepared to present to both Councils a summary of  
18 the results of that meeting at a future Council  
19 meeting. So, I'll be sending an email to both  
20 Councils and we'll try to schedule that.

21           But the -- I can tell you that for  
22 some stocks it appears that the calibration  
23 coefficient will be estimable and fairly precise,  
24 and for other stocks there doesn't seem to be all

1 that tight of a relationship, of course, due to  
2 species differences.

3 And those are the sorts of things  
4 that we'll be able to report to you when we give the  
5 summary. There are also a number of technical  
6 issues that the reviewers mentioned that will  
7 require further analysis by people at the Science  
8 Center, digging into the data more, for instance, to  
9 look at not just the number of fish that are caught,  
10 but for instance are there differences with respect  
11 to the lengths or sizes of the fish that are  
12 captured. So, the analysis can actually be quite  
13 complex and differ from stock to stock.

14 Then, moving on to assessment results  
15 and meetings, the SARC 48 took place last June and  
16 as you know, that was with ocean quahogs, tilefish  
17 and weakfish. Those were benchmark stock  
18 assessments and all the reports from the reviewers  
19 and the science reports, as well, are all posted on  
20 our Northeast Fisheries Science Center SAW website.

21 We've also had a number of TRAC stock  
22 assessments, and these are transboundary stocks,  
23 primarily of more interest to the New England  
24 Council.

1                   This summer, the Science Center was  
2 involved with updates for a number of Mid-Atlantic  
3 stocks, including bluefish, black sea bass, scup.  
4 Currently doing a dogfish update. And perhaps there  
5 are one or two others.

6                   And we're working now on doing the  
7 final step to publish Center reference documents for  
8 those updates. I believe the black sea bass report  
9 is actually -- passed through our technical review  
10 and will be published this week.

11                   The next SARC that's coming up will  
12 be with surfclam and butterfish, and the dates for  
13 that meeting are November the 30th through December  
14 the 3rd. And the terms of reference for that  
15 meeting, we were able to get feedback from both  
16 Councils and SSC members of both Councils to try to  
17 incorporate some of the specific issues that the  
18 Councils are concerned about, in addition to the  
19 regular kind of thing of just determining the  
20 landings and fishing mortality rates and so forth.

21                   For instance, with surfclam, they've  
22 had very low recruitment over the last five or ten  
23 years, and one of the terms of reference is to try  
24 to look at the factors responsible for that low

1 recruitment.

2 And in butterfish, actually written  
3 into the -- one of the terms of reference, it makes  
4 a specific reference to looking at discards of  
5 butterfish in the loligo fishery.

6 Then going on to -- we did in the  
7 NRCC meeting do some scheduling through December of  
8 2012, and the schedule that the NRCC approved is  
9 also posted on our SAW/SARC website. But I'll just  
10 mention that for this coming June 2010, there are  
11 three stocks on the SARC: Atlantic sea scallop,  
12 monkfish and pollock. And then for December of  
13 2010, loligo is on and three different hake species.

14 So, I'll take any questions. Thank  
15 you.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Jim, thank you. And I appreciate your participation  
18 yesterday in the discussion with the ASMFC  
19 leadership, as well.

20 That discussion led to some question  
21 I think about the calendar for the SARC and  
22 subsequent CIE review process on benchmarks; and I  
23 think that's something that we'll probably need to  
24 have some follow-up discussions on to ensure that

1 the proposed calendar we're using is going to work.

2 But obviously we have a very  
3 compressed time period in which to get the reviews  
4 done prior to the spec-setting process, and I think  
5 we're probably going to want to have some additional  
6 follow-up on that -- on that specific issue.

7 But questions for Jim? John.

8 JOHN BOREMAN: Yes, just a comment  
9 that the upcoming SARC the Chair will be a member of  
10 the Mid-Atlantic SSC, Rob Latour. So, I just wanted  
11 to add to that.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you, John. Any other questions or comments  
14 for Jim?

15 (No response audible.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: All  
17 right. Seeing none, we'll move on.

18 Lieutenant Commander Brown.

19 \_\_\_\_\_  
20 U.S. COAST GUARD REPORT

21 LCDR TIM BROWN: Good morning, Mr.  
22 Chairman, fellow Council members. I'll be speaking  
23 to the Coast Guard Enforcement Report, which you  
24 should all have in front of you.

1                   From 15 July to 30 September, the  
2                   Coast Guard stations and cutters in District 5 did  
3                   over 215 -- did -- excuse me -- conducted 215  
4                   fisheries boardings, across the range of fisheries  
5                   in the Mid-Atlantic. In addition, over 1670 cutter  
6                   hours, 430 small boat station hours and 85 aircraft  
7                   hours were dedicated to fisheries law enforcement  
8                   during this time.

9                   This level of effort is on par with  
10                  previous years. You can see in the middle half of  
11                  Page 1 there the comparison from this year to last  
12                  year, and how that stacks up.

13                  Also during this period, we did have  
14                  -- as Ms. Kurkul mentioned -- the scallop opening  
15                  for the limited access general category fishery, and  
16                  we had an enforcement operation focused on that. We  
17                  did 35 boardings in that two-week opening on that  
18                  fleet, noting one significant violation.

19                  There were a total of three  
20                  significant fisheries violations detected during  
21                  this period. That's one correction to the table on  
22                  Page 1.

23                  On Pages 2 and 3 there, you can see  
24                  how our boardings break down by gear type and by

1 fishery during this period. And then on Page 4 of  
2 the report, I detail the three significant  
3 violations that were detected during this period.

4 In early August, off the North  
5 Carolina coast in the Snowy Grouper Marine Protected  
6 Area, the Cutter Block Island detected two fishing  
7 vessels actively engaged in fishing in that MPA.  
8 Approximately 1,000 pounds of mixed snapper/grouper  
9 catch on each vessel. The vessels were escorted to  
10 port and were met by NOAA OLE and the catches were  
11 seized and an EAR was issued by -- Enforcement  
12 Action Report was issued by NOAA OLE.

13 And then during the scallop opening  
14 on 3 September, monitoring of VMS by both us and the  
15 NOAA Northeast Region detected a fishing vessel  
16 operating in the Hudson Canyon closed area while  
17 broadcasting a scallop activity code.

18 We continued monitoring the vessel  
19 and met the vessel, along with our New Jersey Fish  
20 and Wildlife partners; and based on information  
21 gathered during the boarding and the information  
22 from the VMS, the vessel's catch was seized of  
23 approximately 380 pounds of scallops and an  
24 Enforcement Action Report was issued, as well, in

1 that case.

2 The next section details the six  
3 commercial fishing vessel safety terminations that  
4 occurred during this period. You can see the  
5 reasoning for those safety terminations.

6 Page 5 details some marine protected  
7 species efforts from Coast Guard units in the Mid-  
8 Atlantic during this period. I think we continue to  
9 have good and close cooperation with the stranding  
10 team network throughout the AOR -- throughout our  
11 area.

12 Moving on, on Page 6, commercial  
13 fishing vessel safety efforts during this period, 65  
14 decals, commercial fishing vessel safety dockside  
15 exam decals issued this period out of 92 dockside  
16 exams conducted.

17 Quick highlights on search and  
18 rescue, 20 marine casualties in the commercial  
19 fishing vessel fleet reported in the Mid-Atlantic  
20 during this period, including the loss of three  
21 vessels and one fatality. That was from a man  
22 overboard during fishing operations.

23 And then the final sections of the  
24 report are the traditional outreach information,

1 continue to highlight that home port site that I  
2 referenced there on Page 7. There are good and  
3 pertinent safety alerts and other information there  
4 for your information. And then the last section of  
5 the report just outlines all the boardings conducted  
6 during this period.

7 I do want to take this opportunity,  
8 as well, to thank the Chairman for graciously  
9 hosting our District Commander and several local  
10 Coast Guard representatives during a processing  
11 plant tour last week. That was very informative for  
12 myself and for the others that were able to attend,  
13 and good to keep us all engaged in that operation.  
14 So, I appreciate your time, Mr. Chairman. I'd  
15 welcome any questions.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Thank you for the report, Lieutenant Commander, and  
18 I likewise appreciate the outreach opportunity and  
19 your new admiral's willingness to reach out to the  
20 local industry and that was a great opportunity to  
21 have a day and spend some informal time with your  
22 delegation, and we really appreciated that, as well.

23 Had a good opportunity to discuss the scallop  
24 industry's approach to dealing with some Protected

1 Resources issues, with the use of turtle excluder  
2 devices in the gear, and it was a nice opportunity  
3 to have that time together with your delegation.  
4 So, thank you very much.

5 Andy Cohen.

6 I'm sorry. Before I move on to Andy,  
7 are there any other questions for Lieutenant  
8 Commander Brown?

9 (No response audible.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: All  
11 right. Welcome, Andy.

12 \_\_\_\_\_  
13 FEDERAL LAW ENFORCEMENT REPORT

14 ANDREW COHEN: Thank you, Mr.  
15 Chairman. Good morning, everybody. I have a very  
16 brief report today. You have the report in your  
17 binder. I'd like to point out on Page 6, please  
18 take note of the observer report. 28 complaints  
19 were received from the observer program, of which  
20 four have so far resulted in recommendations for  
21 prosecution. The others are either unfounded,  
22 didn't reach a level for prosecution, or are still  
23 under investigation.

24 We continue to receive intelligence

1 and complaints about violations in the RSA program  
2 pertaining to non-reporting, people reporting when -  
3 - after they land, if they determine that the  
4 likelihood of being inspected or boarded is very  
5 low. The complaints are both in the charter and  
6 recreational sectors.

7 That's all I have that is not in the  
8 report. I'd be happy to field questions.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you, Andy. Any questions for Andy?

11 (No response audible.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Andy, again, the status of the RSA issues? Those  
14 are under investigation now?

15 ANDREW COHEN: Yes, they are.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Thank you. We'll look forward to an update on that,  
18 hopefully at the December meeting then. Thank you.

19 All right. ASMFC Executive Director.

20 Vince.

21 \_\_\_\_\_  
22 ASMFC EXECUTIVE DIRECTOR REPORT

23 VINCE O'SHEA: Good morning, Mr.  
24 Chairman. First of all, thank you very much for

1 including the Commission in yesterday's discussion  
2 about the monitoring committee and the SSC. I very  
3 much appreciate having our Commissioners at the  
4 table for that meeting. Thank you and the Council  
5 support for reaching out to the Commission, so ...

6 And also behind Tab 4 is the  
7 Commission's report from our summer meeting, as well  
8 as the agenda for our next meeting, which is in  
9 Newport, Rhode Island, the first week in November at  
10 the Hyatt Hotel.

11 With regard to that agenda, there's  
12 probably perhaps five items on there I might mention  
13 to you. The Commission's contemplating action on  
14 weakfish. We got a stock assessment. And in our  
15 summer meeting report you can see -- you can see the  
16 results of that stock assessment, which basically  
17 shows that the biomass line is now converging with  
18 the removal line in the stock. And the Commission  
19 has an addendum out right now for possible action to  
20 address this. I think we're down about 1300 metric  
21 tons of weakfish, with about 800 metric tons of  
22 removal.

23 We also have an addendum out -- we're  
24 going to get a new stock assessment on striped bass

1 and we have an addendum out proposing various  
2 options to rollover on used quota in the commercial  
3 fishery for striped bass. We have another addendum  
4 out to extend the menhaden cap in the Chesapeake  
5 Bay. There's a range of options in there, the  
6 longest being three years.

7 And Mr. Chairman, I think there'll  
8 also be a discussion about the potential expansion  
9 of the bait fishery on menhaden in view of the stock  
10 assessment news about sea herring up in New England  
11 and the expected pressure that's going to put on  
12 bait supplies going forward.

13 We have an addendum out on lobster.  
14 We have a new stock assessment came out and it's  
15 among other things indicating that the Southern New  
16 England stock is still depleted and there's going to  
17 be management action required first to adopt new  
18 reference points, and then the Board needs to decide  
19 whether it wants to take action, what specific  
20 action it wants to take to the stock assessment they  
21 received earlier this year.

22 And we have another management action  
23 for shad. We did complete a stock assessment from  
24 that last year, and it showed that the stock in

1 general is severely depressed compared to historical  
2 levels and that the proposed management action looks  
3 at a variety of different responses to address that  
4 condition.

5 So, I think there's constituents  
6 within the Mid-Atlantic Council family, Mr.  
7 Chairman, that have an interest in some or all of  
8 these species.

9 So, as always, our meetings are open  
10 to the public and we -- certainly anybody that would  
11 like to be there, we certainly would enjoy seeing  
12 you all there.

13 So, again, thank you, Mr. Chairman,  
14 for your hospitality this week, and also to my  
15 fellow Executive Director, Dan, for including our  
16 materials in the briefing book. Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Vince, thank you, and thanks again for your  
19 participation yesterday in our discussion.  
20 Obviously, we think it's critical that the  
21 Commission be at the table so that we can  
22 successfully evolve a plan for collaborative  
23 management of these species that we share together.

24 On the issue of river herring, as you

1 know, we're planning on moving forward with an  
2 addendum, or an amendment rather, that would address  
3 the question of river herring interactions in our  
4 mackerel fishery.

5 And so as probably a first step,  
6 we'll be collecting as much information as we can on  
7 these interactions, but I think it would probably be  
8 helpful if we could get any preliminary information  
9 that the ASMFC might have regarding the state of  
10 science on its stock assessment, which I know is  
11 ongoing, but perhaps some updates as we go along  
12 would be helpful there for the committee as we take  
13 our first steps. But that's on the horizon for us  
14 over the course of the next year.

15 Questions for Vince? Pete.

16 PETER HIMCHAK: Mr. Chairman, I just  
17 wanted to follow up on one issue. This isn't a Mid-  
18 Atlantic Council species, obviously, but yeah, the  
19 Atlantic herring reduced ACL and -- that's being  
20 discussed for 2010 has already created a tremendous  
21 amount of angst in New Jersey.

22 Our Council's Menhaden Committee is  
23 meeting August -- I mean October 21st because we see  
24 an onslaught of bait demands off New Jersey.

1 Currently New Jersey harvests just under 40 million  
2 pounds a year. We're second to Virginia, the  
3 Virginia snap ring. But that could really get out  
4 of hand in 2010, and we're already planning on any  
5 kind of limited entry program or something, or  
6 capping bait permits or something.

7 But it's a real -- it could be a real  
8 nightmare in 2010 for us, because of the Atlantic --  
9 the lack of Atlantic herring. So, we see a train  
10 wreck coming. Thank you.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Pete, I am familiar with that situation. Now, if  
13 your state were to move forward with limitations on  
14 that fishery, is that something that would have to  
15 be done by legislation or can your -- can you  
16 develop those rules administratively in time for the  
17 2010 fishing year?

18 PETER HIMCHAK: No. By regulation,  
19 we would never be able to accomplish anything by  
20 regulation. There might be legislative -- some kind  
21 of control rule or we start issuing permits in  
22 January and February of 2010 and something would  
23 have to be done between now and then that's -- it's  
24 pretty ambitious. Thank you.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you for that update, Pete. Okay. Any other  
3 questions or comments for Vince?

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Seeing none, we'll move on to the New England  
7 Council Report. Erling.

8  
9 NEW ENGLAND COUNCIL LIAISON REPORT

10 ERLING BERG: Thank you, Mr.  
11 Chairman. This report is from three different  
12 meetings, actually. We had a whiting meeting in  
13 Mansfield, Massachusetts on September 14th, a  
14 Council meeting in Plymouth, Mass. on September 22nd  
15 through the 24th, and then there was a herring  
16 meeting, which was a joint meeting with the Herring  
17 Board from the Commission, and that was in October  
18 6th -- I've got to go back here -- yeah, October 6th  
19 in Portland, Maine. So, I've been around since the  
20 last meeting.

21 On the whiting, there were six issues  
22 that were addressed and I'm going to go through  
23 them, because I think there's some importance here  
24 in the Mid-Atlantic in whiting, especially in

1 northern New Jersey. And I'm going to do them in  
2 the order of priorities. So, the first one was ACLs  
3 and AMs; a three-year specification process  
4 beginning in 2011; improved reporting and VMS  
5 requirements for vessels targeting whiting; bycatch  
6 of whiting in all fisheries and finfish bycatch in  
7 the directed whiting fishery; limited access and  
8 catch shares sectors, ITQs. This is a fishery  
9 that's probably valued at between 30 and 35 million  
10 dollars a year.

11 And the Council when the -- in  
12 Plymouth, Mass., John Pappalardo and Rip Cunningham  
13 were both re-elected as Chair and Vice Chair of  
14 their Council, and they also elected three Executive  
15 Committee members. They select their Executive  
16 Committee by vote, and they don't do like we do  
17 where the Chairs of the different committees are on  
18 the Executive Committee. They vote it in. It's a  
19 lengthy process.

20 Monkfish, the Council voted to narrow  
21 the scope of issues to be addressed in Amendment 5  
22 to the Monkfish FMP. They deferred further  
23 development of catch shares, sectors, ITQs, to the  
24 next monkfish management action

1                   They're scheduled to vote on this  
2                   Draft Amendment 5 at its November meeting in  
3                   Newport, Rhode Island. And that comes the middle of  
4                   next month.

5                   Groundfish, I'm going to skip that.  
6                   I think scallops -- Rick, I think, is going to give  
7                   a report on scallops. I'm going to try to make this  
8                   as brief as possible.

9                   For herring, it was the Portland  
10                  meeting, and I guess you know that the quota was  
11                  reduced from 145,000 metric tons to 90,000 metric  
12                  tons and there's a lot of concern over how this is  
13                  going to work out, how they're going to distribute  
14                  the new quota.

15                 So, we don't know exactly what this  
16                 is going to do. There was one motion made to retain  
17                 the 145,000 metric tons for 2010. There's going to  
18                 be another meeting in Portsmouth, New Hampshire on  
19                 November 10th to deal with this issue again. The  
20                 staff was going to look at different options and  
21                 come up with whatever they could come up with, and  
22                 you heard Pete and Vince both concerned about the --  
23                 how this will affect the menhaden stocks.

24                 Pete told you about the meeting we're

1 having next week on our menhaden committee, which  
2 I've been on that Council now for ten years and I  
3 don't think we ever met. So, this is a very  
4 important item.

5 So, I'm going to stop with that, and  
6 if you have any questions, I'll try to answer them.

7 If not, Rick will probably do the scallops.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Erling, thanks for your report and thanks for  
10 representing our Council there in New England.  
11 You're doing a lot of work and spending a lot of  
12 time up there; so, I appreciate all that.

13 Questions for Erling or comments?

14 (No response audible.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: As  
16 Erling said -- Dan, go ahead.

17 DANIEL FURLONG: Yeah, Erling, you  
18 happened to mention that John and Rip were re-  
19 elected Chair and Vice Chair and then that there was  
20 a big process to get the Executive Committee  
21 populated with three more; then you didn't say who  
22 it was. Do you happen to know who the other three  
23 were?

24 ERLING BERG: Yeah, I'm sorry, Dan. I

1 should have said who they were. It's a lengthy  
2 process, quite different from ours.

3 Jim Odlin, who's a fisherman from  
4 Portland, Maine. Dave Pierce. I'm sure everybody  
5 knows Dave, so -- and who he is. And then the --  
6 who was the other one? Terry Stockwell, who's very  
7 familiar to the Commission. So, that's who it was,  
8 Dan. State of Maine. Sorry. So, I apologize for  
9 the omission.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Thank you, Erling. Any other questions for Erling?

12 All right. I'll give a quick update on Amendment  
13 15 on scallops. I was up there for those meetings  
14 and Amendment 15 is the amendment that will deal  
15 comprehensively with the number of issues, including  
16 ACLs and AMs, not just for the scallop fishery, but  
17 also for a yellowtail sub-allocation to the scallop  
18 fishery, which is a very, very complex question.

19 The AMs for yellowtail are quite  
20 tricky. That's a -- that's an area of interest  
21 that's still probably going to get a lot of  
22 attention as we go forward over the next year from  
23 that committee and all the different interests  
24 there.

1                   But as I said yesterday, there is a  
2                   proposed ABC control rule in that document now  
3                   that's basically a PSTAR of 25 percent for the  
4                   scallop fishery. So, it also includes ACLs and AMs,  
5                   but this is the amendment that would allow for some  
6                   degree of consolidation in the scallop fleet in the  
7                   interest of reducing excess capacity. And right now  
8                   the scallop fleet -- the limited access fleet spends  
9                   about 75 to 80 days a year on the water. There are  
10                  250-some permits that are full-time limited access  
11                  permits, and obviously there's an opportunity if  
12                  stacking or permit-leasing is allowed to more  
13                  efficiently utilize those fishing boats and permits.

14                  So, the Council approves stacking and  
15                  leasing as preferred alternatives in the document,  
16                  and that document is now out for -- will be going  
17                  out for public hearing. Stacking and leasing is a  
18                  contentious issue there in New England, but it was  
19                  approved as a preferred alternative at this point.  
20                  So, we look forward to any developments that may  
21                  occur with Amendment 15.

22                  The other item in there that was a  
23                  late development that just went in was the option to  
24                  establish what's called a CFA, which is a community

1 fishing association. And CFA's are interesting as a  
2 concept. It would allow not-for-profit community  
3 organizations to buy permits and the option is in  
4 there with a five percent limit, which is similar to  
5 the current ownership cap that applies to the  
6 scallop industry in those permits.

7 But it would allow for communities  
8 that have an interest in preserving their fishing  
9 community to actually go out and buy the permits and  
10 keep them essentially in a permit bank and then  
11 lease those permits to the local fishermen. And it  
12 would allow for some community support of the local  
13 fishing industry.

14 So, it's somewhat of a novel concept.

15 It's also being worked on in the west coast, in the  
16 Pacific Council, but that's a new development.  
17 That's in the amendment and that was approved for  
18 hearings, as well.

19 So, it will be interesting to see how  
20 that goes forward, but I'll continue to keep the  
21 Council abreast of those developments on the Scallop  
22 Plan.

23 With that, any questions on scallops?

24 (No response audible.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Okay. We'll go to the South Atlantic update. Red  
3 Munden.

---

4  
5 SOUTH ATLANTIC COUNCIL LIAISON REPORT

6 RED MUNDEN: Thank you, Mr. Chairman.

7 I attended the South Atlantic Council meeting in  
8 Charleston, South Carolina, which was scheduled  
9 September 14th through the 18th, and I attended all  
10 but the last day.

11 My primary reason for being there was  
12 to serve as a voting member on the snapper/grouper  
13 committee, and the snapper/grouper committee was  
14 initially scheduled for a day and a half meeting.  
15 The committee got behind schedule when looking at  
16 options that will be included in several amendments.

17 And the meeting actually lasted two and a half  
18 days.

19 If you look behind Tab 5, you'll see  
20 some briefing info from the South Atlantic Council  
21 meeting, and this is midway in the material in Tab 5  
22 following the New England Council.

23 And I will call your attention to the  
24 first item pertaining to South Atlantic, and that's

1 a news release dated September 21st. And it goes  
2 through and mentions the three addenda to --  
3 amendment, rather, to the Snapper/Grouper FMP.

4 Amendment 17A will focus on red  
5 snapper and it mentions that there will be large  
6 closures from South Carolina down through Florida.  
7 The amounts and the information that follows this  
8 news release on Page 5 shows different options for  
9 the closures that will occur.

10 If you read down through this news  
11 release, it points out that the 2008 stock  
12 assessment for red snapper in the South Atlantic  
13 shows the stock to be overfished and it's undergoing  
14 overfishing at eight times the sustainable level.

15 The South Atlantic has determined  
16 that if they close the red snapper fishery it will  
17 still not recover because of discards and so they  
18 are proposing these large-scale closures.

19 At the spring meeting, the South  
20 Atlantic voted to separate 17A -- I mean Amendment  
21 17 into 17A, which will pertain to red snapper  
22 primarily, and then 17B, which will include measures  
23 to address other species that are under -- overgoing  
24 underfishing. Those species are speckled hind,

1 Warsaw grouper, golden tilefish, snowy grouper,  
2 black grouper, black sea bass, gag, red grouper and  
3 vermillion snapper. So, these are moving along on  
4 parallel track, 17A and 17B.

5 We also discussed Amendment 18. This  
6 is the amendment that I have briefed the Council on  
7 numerous times, and this amendment would extend the  
8 northern boundary of the snapper grouper from the  
9 current North Carolina/Virginia border northward  
10 into the Mid-Atlantic area jurisdiction and even  
11 possibly into the New England area jurisdiction.

12 The South Atlantic Council approved  
13 taking all three of these amendments out for public  
14 hearing and I sent an email to Dan asking that he  
15 notify the Council membership of the fact that the  
16 South Atlantic would like to know whether or not  
17 states want to hold public hearings. And last week,  
18 towards the latter part of the week, I did receive  
19 an email from the South Atlantic that has listed the  
20 public hearings that are going to be held for  
21 snapper/grouper -- three amendments to the  
22 snapper/grouper FMP.

23 The only one that's listed is one in  
24 Virginia, and that is scheduled for November 16th at

1 the Virginia Marine Resources Commission Office.

2 And I believe that meeting starts at 6 o'clock. Is  
3 that correct, Jack? 6 o'clock in the evening.

4 If any of the Council members or any  
5 state representatives or whoever would like to have  
6 a public hearing in your state, you need to contact  
7 the South Atlantic Council. The contact point is  
8 Rick DeVictor, and his phone number is 843-571-4366,  
9 or I'll be glad to pass the information on to Rick.

10 They have already scheduled these meetings, but  
11 they said they would be more than willing to  
12 schedule additional public hearings should states  
13 desire to do so.

14 And one other important thing, Mr.  
15 Chairman, relative to the South Atlantic Council  
16 meeting. When they got so far behind with  
17 snapper/grouper, they met as a Council of the Whole  
18 and then continued to discuss snapper/grouper. But  
19 during that time period, they had a presentation  
20 from the National Marine Fisheries Service Highly  
21 Migratory folks on Draft Amendment 3 to the HMS FMP.

22 And after that presentation, the South Atlantic  
23 Council members discussed a gillnet closure for the  
24 shark fishery off South Carolina and Georgia and

1 asked to -- and they made a motion to send the  
2 letter to the Secretary of Commerce supporting this  
3 option in Draft Amendment 3.

4 I was sitting at the table and I  
5 raised my hand and was recognized by the Chairman,  
6 and I said Mr. Chairman, I'm not a member of the  
7 full Council, I'm not a voting member of the full  
8 Council, I said but if I were, I would offer a  
9 motion that the South Atlantic Council support the  
10 Mid-Atlantic's request for management authority for  
11 smooth dogfish.

12 And the Chairman turned to me and he  
13 says, well, Mr. Munden, he says, why don't you make  
14 that on behalf of your fellow North Carolina  
15 representatives? So, I made the motion and the  
16 North Carolina representative accepted it as her  
17 motion, and so the South Atlantic Council did vote  
18 to send a letter to the National Marine Fisheries  
19 Service supporting our request for management  
20 authority for smooth dogfish.

21 And my reason for that is when I  
22 asked the HMS folks why they even had it on the  
23 agenda when it had been -- we had been advised by  
24 the Secretary of Commerce that -- with the

1 appropriate for smooth dogs to be managed by HMS,  
2 the individual said well, we want public comments  
3 because it's not a done deal that HMS will manage  
4 smooth dogfish.

5 So, anyway, that's one of the things  
6 that we have talked about at this Council level and  
7 hopefully support from the South Atlantic Council as  
8 well as the New England Council will strengthen our  
9 request for management of smooth dogs.

10 And Mr. Chairman, that concludes my  
11 South Atlantic report.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Red, thank you. And just a follow-up on the  
14 snapper/grouper question, I was looking through here  
15 and in the minutes -- I guess it's a summary of  
16 motions from the South Atlantic Council and Motion  
17 19 -- this is on Amendment 18 -- Motion 19, which is  
18 Page 10 in the South Atlantic report reads establish  
19 a management regime for snapper/grouper in the Mid-  
20 Atlantic, similar to how Gulf group king mackerel  
21 northern zone is managed.

22 And I talked to Dwayne Harris two  
23 days ago and he gave me some assurance that he  
24 thinks that's essentially responsive to the request

1 that we had made. I think the last updated request  
2 that we made to them was that we would not have a  
3 full-blown joint plan but that we would manage it  
4 essentially by committee. We're -- we comprised a  
5 committee primarily of Mid-Atlantic representatives  
6 and that committee would report to the South  
7 Atlantic for the management measures of the northern  
8 management unit.

9 So, he indicated that he thinks that  
10 that's responsive to that. I haven't seen all the  
11 details, but we would look forward to further  
12 collaboration with the South Atlantic to ensure that  
13 the folks around this table have a voice in the  
14 management of that fishery north of the  
15 Virginia/Carolina line. Red.

16 RED MUNDEN: Mr. Chairman, if Jan can  
17 project the email that I received last night from  
18 Gregg Waugh with the South Atlantic Council, it  
19 fleshes out what you and Dwayne had talked about and  
20 yes, Gregg Waugh with the South Atlantic Council has  
21 asked that we review this and provide comments back  
22 if this captures what we would like to see, if  
23 indeed the decision is made to move the northern  
24 boundary of the management area into the Mid-

1 Atlantic area of jurisdiction.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Okay. So, it appears they're going to give us a  
4 sub-ACL essentially for that region -- for this  
5 region, and we'd be able to work with that ACL.

6 RED MUNDEN: That's correct, and we  
7 intended to make a copy of everyone -- a copy of  
8 this for everyone, but the computers weren't very  
9 cooperative this morning. But that's the info that  
10 Gregg would like for us to look at.

11 COUNCIL CHAIRMAN RICHARD ROBINS: All  
12 right. Thank you, Red. Well, it appears that that  
13 would give us the opportunity to have management  
14 authority in the northern management unit without  
15 formally having a joint plan.

16 So, I think that would be acceptable.

17 And the only concern I would have is how they go  
18 about developing a basis for that ACL for the  
19 northern FMU, because right now we have very little  
20 data.

21 The state of Virginia has just  
22 adopted mandatory reporting for the recreational  
23 sector. For this deepwater fishery, you have to  
24 have a snapper/grouper recreational permit with the

1 reporting requirement. It's primarily a  
2 recreational fishery in our area. But hopefully, as  
3 the data -- catch data get better, that can feed  
4 into the process somehow.

5 Red.

6 RED MUNDEN: And one final comment.  
7 And this is the take-home message relative to the  
8 public hearings that are being held so far as the  
9 Mid-Atlantic and New England Councils are concerned.

10 This would be language in Amendment 18 and this is  
11 what we've been concerned about all along.

12 So, again, if you do desire to hold a  
13 public hearing, get in touch with either Rick  
14 DeVictor or myself and we will certainly pass this  
15 information on. Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Red, thanks again for the report and for your  
18 representation down there.

19 Pete, did you have your hand up?

20 PETER HIMCHAK: Just a quick  
21 question, Mr. Chairman. You know, and I never like  
22 to assume anything, but does the Mid-Atlantic  
23 Council -- should we still send a letter during the  
24 public comment period regarding the separate

1 management area for the snapper/grouper or, as you  
2 say, is it a done deal, or should we be on record as  
3 saying we prefer that and -- I didn't speed-read  
4 this projection, but do we still need to reaffirm  
5 our intent?

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Pete, thanks for raising the question. I think we  
8 should.

9 Red, what is the deadline for  
10 comments for 18? Do you have that information?

11 RED MUNDEN: November 25th, 2009.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Okay. Well, with the consent of the Council, I  
14 guess I would ask if we could go ahead and send a  
15 letter supporting that option to the South Atlantic  
16 Council so we're on record.

17 Is there any objection to that? All  
18 right. So done. Very well. Thanks again, Red.

19 Pres.

20 PRESTON PATE: Rick, is there any  
21 precedent for this approach with any other species  
22 management for either the South Atlantic or the New  
23 England Council?

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Pres, I think the way they worded that motion when  
2 they passed it -- and this is basically a fleshing  
3 out by their staff of that motion -- is that the  
4 management regime would be similar to how the Gulf  
5 king mackerel northern zone is managed.

6 So, apparently there is a parallel  
7 between the Gulf Council and the South Atlantic in  
8 terms of how they manage the mackerel fishery.

9 Red, did you have a comment on that?

10 RED MUNDEN: That's correct, Mr.  
11 Chairman. And for the benefit of the new Council  
12 members, the extension of the management area  
13 northward would not apply to Mid-Atlantic black sea  
14 bass, scup or tilefish, because we already have  
15 those included under our current Mid-Atlantic plans.  
16 And that's recognized in Amendment 18. Those three  
17 species would not fall under the South Atlantic  
18 management.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 That's a good point of clarification. And the basic  
21 driver here behind this expansion is the fact that  
22 now under ACLs they have to account for all known  
23 mortality.

24 There's known to be an evolving

1 fishery, most notably in Virginia for this complex.

2 And so they want to ensure that they're accounting  
3 for that mortality.

4 And so they had originally proposed  
5 to extend the FMU throughout our jurisdiction and  
6 even through New England, and also they had proposed  
7 to extend the existing management measures for those  
8 species that are in effect in the South Atlantic  
9 throughout our range. That would have raised some  
10 serious complications because they propose a total  
11 prohibition on deepwater fishing. And so we wanted  
12 to have some management flexibility here in the Mid  
13 to develop regionally appropriate management  
14 measures that would still constrain mortality to an  
15 appropriate rate.

16 But it is a -- snowy grouper is, in  
17 particular, relatively data poor; so, how they go  
18 about developing an ACL for the northern FMU is to  
19 be determined. But it will be interesting to see  
20 how that plays out.

21 But this will at least afford us an  
22 opportunity to develop the management measures that  
23 would appropriately fit the region.

24 Peter.

1                   PETER deFUR: Yeah, thank you, Mr.  
2 Chairman. Two questions. Can we get copies of that  
3 language that was up there? And number two, does  
4 the implementation of Amendment 18 depend both on  
5 New England and Mid-Atlantic taking appropriate  
6 actions?

7                   I mean we've got to coordinate three  
8 Councils here and -- we're assuming that New  
9 England's going to take the same approach that we  
10 did.

11                  COUNCIL CHAIRMAN RICHARD ROBINS: In  
12 fact, the plan would not be a joint plan, per se,  
13 but they would defer to us on the -- it appears on  
14 the management measures that govern the fishing in  
15 that FMU.

16                  So, it would require coordination,  
17 but it would not require the approval of the South  
18 Atlantic Council, which would be the case if it were  
19 a joint plan, like we have with New England on  
20 monkfish and spiny dogfish.

21                  So, it's a little bit of a hybrid  
22 type option. It's less formal than a joint plan, so  
23 ...

24                  Any other questions?

1 (No response audible.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: All  
3 right. Well, we'll plan on sending a letter to that  
4 effect to the South Atlantic.

5 Executive Director's Report. Dan.

6  
7 EXECUTIVE DIRECTOR'S REPORT

8 DANIEL FURLONG: Thank you, Mr.  
9 Chairman. And congratulations on your re-election  
10 and same to Lee Anderson, who disappeared when I got  
11 the mike here, so ...

12 You'll find the information that I'll  
13 be covering behind Tab 6.

14 COUNCIL CHAIRMAN RICHARD ROBINS:  
15 Actually, Dan, before I go on, I'd like to  
16 acknowledge that we do have two former Chairmen with  
17 us today, Ricks Savage and Ron Smith. I'd like to  
18 say welcome to you gentlemen in the back. Glad to  
19 have you all with us today. Thank you.

20 Go ahead, Dan.

21 DANIEL FURLONG: Again, thank you,  
22 Mr. Chairman. The information I'll be covering is  
23 behind Tab 6. You'll note that Tab 6 is divided  
24 into two sections, by a green insert. The

1 information in front of the green insert relates to  
2 all the actions that occurred at our August meeting.

3 The first one up is an email to  
4 Jessica, indicating the motions that were voted upon  
5 at the last meeting for establishing the Summer  
6 Flounder, Scup and Black Sea Bass specifications for  
7 2010.

8 You'll see that my close-out was  
9 please have this done by September 25th; and in  
10 fact, the letter transmitting our package went out  
11 on September 16th.

12 The next one relates to bluefish.  
13 This related to Jim Armstrong, as he's the plan  
14 coordinator for that species. Also he's the plan  
15 coordinator with the New England Council related to  
16 monkfish. So, the actions that were taken at our  
17 August meeting were addressed there.

18 And Jim is finalizing a bluefish  
19 package this month, actually will finish it the end  
20 of this week, I believe.

21 The next one relates to the  
22 designation of MPAs by our Council. You'll see that  
23 as part of our agenda at this meeting, we'll be  
24 taking up public comment related to designating

1 Marine Protected Areas. This information is behind  
2 Tab 8 if you want to advance into the book and see  
3 what we're going to be doing later today.

4 The next one relates to our RSA  
5 program. Clay Heaton has addressed the issues  
6 there. If you'd turn the page, you'll see that Clay  
7 was a couple days late getting our response to them.

8 Nonetheless, we did establish our priorities and  
9 communicate the priorities that the Council had  
10 established at its August meeting.

11 The next one is an email to Jason  
12 Didden -- or to Rich Seagraves and Jason Didden on a  
13 copy. You'll see that we are initiating Amendment  
14 14 to the Squid, Mackerel, Butterfish Plan regarding  
15 addressing river herring and catch shares for both  
16 loligo and illex.

17 If you looked at our annual work  
18 plan, you'll see that this amendment is addressed  
19 during the 2010 year. We also sent forward an FMAT  
20 letter on August the 14th, requesting that the  
21 Regional Office provide people to support and  
22 populate that team to address this amendment.

23 Recall that Pat said this morning  
24 that on October 1st she responded to that letter, as

1 well as a couple others that you'll see later.

2 Also under New Business, the idea  
3 about the loligo being a control date of May 20th.  
4 There was a little bit of confusion if it was just  
5 loligo, did this control date also include illex?  
6 And under new business, the very last time in our  
7 book, Tab 15, you see we're going to address that  
8 question at that time.

9 Then you have a press release that  
10 kind of memorializes what went on at our August  
11 meeting. And then there's a big smiley face from  
12 Laurie Nolan thanking us for the lovely farewell  
13 evening that we had there in Alexandria.

14 And then finally the last item is the  
15 press release indicating that we're going to be live  
16 at this meeting. A little technical glitch today.  
17 For whatever reason, we couldn't get our camera to  
18 pick up the signal. The computer -- the laptop has  
19 an embedded camera in it, and we're broadcasting  
20 using that camera. But I understand the sound  
21 quality is not as good as it was yesterday. So, my  
22 apologies to those out there in cyberspace watching  
23 this, but we will improve.

24 Following the green separation, just

1 a series of memos or emails that kind of highlight  
2 the actions that have been going on since our last  
3 meeting. You'll see the first one is a July 23rd  
4 memo that actually predated our August meeting, but  
5 it has to do with establishing closed areas off of  
6 Long Island for gear purposes or gear restricted  
7 areas rather than closed.

8 And this is an issue that goes back  
9 all the way to May where Hank Lackner out of  
10 Montauk, Long Island in New York wrote to the  
11 Council, indicating that he thought we could do a  
12 better job separating fixed gear and mobile gear  
13 related to interactions in the loligo fleet for  
14 purposes of reducing butterflyfish bycatch.

15 We have raised that with the Atlantic  
16 States Marine Fisheries Commission. There's a  
17 letter to me from Captain O'Shea there on August the  
18 20th, indicating that hey, the Lobster Board has  
19 taken a look at this question about mobile gear  
20 restrictions and fixed gear and would be willing --  
21 we, the Commission, would be willing to look at this  
22 if you can provide some more information.

23 Because of the fact that the area is  
24 closed, the only thing that goes in there is the

1 survey. So we're looking forward to getting a  
2 survey update from the agency, what their catch  
3 rates were in these areas, to kind of be responsive  
4 to the Commission's request.

5 So, we're still working on that --  
6 you know, to provide any more available data to the  
7 Commission, and we will be looking into this.

8 The next thing is the request -- it's  
9 one of the requests for the omnibus amendment. As  
10 Pat indicated, she has responded and she has listed  
11 on her October 1st memo, which I don't have a copy  
12 of at this meeting, indicating who will be on the  
13 FMAT for the omnibus.

14 The next email is an -- or not email,  
15 but letter -- is an August 7th letter from Jane  
16 Lubchenko to John Pappalardo, and the subject deals  
17 with the fact that there's an office within NOAA  
18 called the Program Planning and Integration Office  
19 that's developing an administrative order that  
20 provides guidance related to fulfilling NEPA  
21 obligations, National Environmental Policy Act  
22 responsibilities.

23 And the question the New England  
24 Council had was well, the Magnuson Act when it was

1 reauthorized said that that process was supposed to  
2 be collapsed into one Secretarial review process,  
3 and we think that this process that your Program  
4 Planning and Initiation -- or Integration Office is  
5 doing is inconsistent with that.

6 And as you can read, the letter came  
7 back, said that well, no, the two were independent  
8 and we're still working on it, and the fisheries  
9 agency will in fact deal with the Magnuson Act  
10 requirement to address the integration of NEPA and  
11 MSA review into one process.

12 The next letter is a comment letter  
13 regarding the sea turtle conservation and recovery  
14 plan. This was the Council's position. You can  
15 read through that and we've highlighted the areas  
16 where we have some concerns about what the proposals  
17 are.

18 Recall that this presentation was  
19 made to our Protected Resources Committee at our  
20 August meeting. This is our response to that  
21 presentation.

22 The next letter is a letter  
23 indicating that with regards to the New York lawsuit  
24 related to summer flounder that we provided the

1 information that was generated by our Council,  
2 related the 2009 summer flounder recreational  
3 management measures.

4 This just completed the  
5 administrative record for the agency when it goes to  
6 court. And as I indicated in that letter, they  
7 already had the Environmental Assessment, the  
8 Regulatory Impact Review and the initial Regulatory  
9 Flexibility Act information. So, all that we're  
10 looking at were the minutes from our meeting and the  
11 minutes related to our committee meetings in the  
12 establishment of our specifications for the 2009  
13 recreational sector.

14 The next letter is a letter to Pat  
15 Kurkul. Again, it's another request, consistent  
16 with the August meeting, related to Amendment 14  
17 where we asked to have the FMAT formed and populated  
18 by staff from the National Marine Fisheries Service.

19 Pat indicated again she did all three  
20 in an October 1 memo.

21 The next one's an email to George  
22 Darcy. George has always been good about notifying  
23 us when they have made staff changes in his office  
24 in terms of who's responsible for different plans.

1 And this was a courtesy to him indicating that we've  
2 kind of switched some people in-house.

3 Clay Heaton will be supporting our  
4 Summer Flounder, Scup and Black Sea Bass program in  
5 terms of economic advice, and Jose will be relieved  
6 on that and work on the Surfclam Ocean Quahog Plan.

7 Next is a summary of the Executive  
8 Directors' meeting up in Portsmouth, New Hampshire  
9 that occurred late August. The principal focus of  
10 this meeting is that with the reauthorization there  
11 was a thing called a Council Coordinating Committee  
12 established, and that's basically the progeny of the  
13 Council Chairmen's meeting.

14 And in that regard, there weren't any  
15 ground rules for how that committee was supposed to  
16 operate. So, the Executive Committee -- or the  
17 Executive Directors met as a group and actually for  
18 whatever reason we knew one west coast member wasn't  
19 going to be there, and then there were another two  
20 no-shows. So, it was strictly an east coast  
21 session. It was a great opportunity to hijack the  
22 whole process and make it an east coast process, but  
23 we didn't do that.

24 But this highlights the issues that

1 were discussed at our meeting and the  
2 recommendations that will be made at the upcoming  
3 January Council Chairmen's meeting or Council  
4 Coordination Committee meeting. And this will be  
5 presented to that group by Paul Howard.

6 Another FMAT letter requesting help  
7 on Amendment 3 to the Joint Dogfish Plan.

8 Another comment letter here. This is  
9 related to a CITES proposal where the U.S. Fish and  
10 Wildlife Service have put out a proposal Federal  
11 Register Notice, indicating that they wanted to get  
12 feedback about listing spiny dogfish as an  
13 Endangered Species under CITES, which is an acronym  
14 for Convention for International Trade and  
15 Endangered Species.

16 And our position was that -- bad  
17 idea. Dogfish are rebuilt. Overfishing is not  
18 occurring. And the stock is recovering nicely. We  
19 don't really see a need to add dogfish as a listed  
20 item under Appendix 2, which is a tiering of degrees  
21 of endangerment, if you will, to species that are  
22 traded internationally.

23 The next one is a letter regarding  
24 development of Amendment 15. This will be discussed

1 later today. The information that we'll be dealing  
2 with this particular letter relates to getting  
3 clarification for what defines cost recovery. The  
4 information under Tab 11, which as I said, will be  
5 occurring later today, will be dealing with this  
6 subject, as well as the amendment itself.

7 Pat did respond, and that's the  
8 September 30 letter that follows our Council's -- I  
9 think it was a September 11th letter. Yeah. So,  
10 you see Pat's response to that, where basically she  
11 says bottom line is that incremental costs are  
12 really the costs associated with the program to  
13 implement some sort of LAPP or ITQ program. So, a  
14 little bit different position than what we see -- we  
15 saw the cost to be.

16 The next two letters, there's an  
17 incoming letter from Congressman Pallone,  
18 congratulating us related to summer flounder in  
19 terms of the increase in quota for the 2010 fishing  
20 year. And kind of a close-out that -- he indicated  
21 that because of the excessive regulatory discarding  
22 and decreased angler satisfaction, this has a  
23 negative socioeconomic impact in terms of the  
24 regulations that are impacting the recreational

1 fishery, and he thought his legislation was a good  
2 idea, this Flexibility in Rebuilding America  
3 Fisheries Act of 2009.

4 On the opposing page, September 15th,  
5 we went back and thanked the Congressman for  
6 recognizing the good work that we've been doing, and  
7 we're confident that things will work out in the  
8 future.

9 As for our move, we did meet with the  
10 landlord. This is the email of September 15th to  
11 Carol -- or actually to Colleen McGann who is the  
12 GSA coordinator for our space in the federal  
13 building. We asked that our space there be extended  
14 until the end of December, the end of this calendar  
15 year. We now have a targeted move date of December  
16 the 1st. We expect that the build-out of our new  
17 space will be completed by then; so, we'll be moving  
18 sometime in December. So, we'll have an early  
19 Christmas present.

20 The next email has to do with marine  
21 spacial planning. This is a significant initiative  
22 by the Administration. Back on June 12th, the  
23 President signed a letter and established a task  
24 force on ocean policy that charged them that within

1 six months they come up with a framework that  
2 engages the concept of spacial planning -- marine  
3 spacial planning.

4 Thus far, we've had a couple of  
5 meetings with CEQ and basically they're just trying  
6 to get the players to the table and find out what's  
7 the best way to organize a Council on marine spacial  
8 planning.

9 We highly recommend that the Council  
10 process -- even people that weren't involved in our  
11 Fisheries Council process -- are supportive of that  
12 idea because of the regional aspect. And so long as  
13 all the different players are at the table, and  
14 there are significant numbers of players, the idea  
15 that they should have some sort of regional  
16 governance in a coordination sense is going to come  
17 to pass in my opinion.

18 The next one is a little email that  
19 was a cut and paste out of Jim Balsinger's weekly  
20 indicating that the agency has created a national --  
21 or NOAA Ocean Council, and they too are directly  
22 involved with this White House initiative on ocean  
23 policy task force to come up with some sort of  
24 marine spacial planning. I think the last letter

1 here -- there's a letter back to the HMS Office.  
2 This is kind of what Red Munden was talking about a  
3 little bit earlier where we were commenting on the  
4 Amendment 3 to the HMS Plan. And that's the one  
5 where it did talk about smooth dogfish, but  
6 previously going in and asking the agency to  
7 consider that this Council be given responsibility  
8 for smooth dogfish under it's Spiny Dogfish Plan.  
9 And we got an answer and it said, well, no.

10 And based on Red's comment that at  
11 the South Atlantic Council this option was still on  
12 the table, we went back in and said again that, hey,  
13 we think Alternative F1 take no action is still the  
14 best way to treat smooth dogfish. And that was the  
15 -- the essential comments.

16 But that's the documentations that  
17 support why our position on smooth dogfish is what  
18 it is.

19 And the next one is the notice on the  
20 left page here from the Northeast Region closing  
21 notice to emergency rule implementing the closure of  
22 the black sea bass fishery for six months. And  
23 there's a letter in here from -- jointly to New  
24 Jersey Congressman Pallone and Congressman Adler

1           indicating their dissatisfaction with this action.

2                           And finally, the very last thing in  
3 this tab, is just informational. As I said before,  
4 one of my earlier e-mails to George notifying  
5 tasking assignments within our office. This is not  
6 only for the benefit of new members but for all  
7 members.

8                           This is a wiring diagram,  
9 organizationally, that shows who does what for the  
10 National Marine Fisheries Service and who the  
11 players are in those positions. So, this is a good,  
12 if you will, organizational chart that's very  
13 current. It's September the 8th. And should you  
14 have any questions about any of those activities,  
15 this is an opportunity with the phone numbers given,  
16 to deal with these people directly.

17                          So, Mr. Chairman, that concludes my  
18 comments. And if I have any questions, I'll be glad  
19 to take them.

20                          COUNCIL CHAIRMAN RICK ROBINS: Thank  
21 you, Dan.

22                          And one item that I have not yet  
23 followed up on from the last meeting was that we  
24 passed a motion regarding Monkfish Amendment 5. You

1 may recall we had made a motion that we would split  
2 -- we would support splitting Amendment 5 consistent  
3 with the Committee's recommendation.

4 The second part of that amendment is  
5 going to deal with catch shares. And we had then,  
6 as part of that motion, suggested writing a joint  
7 letter together with New England to the Service  
8 requesting additional resources in order to develop  
9 that catch shares program -- recognizing that we  
10 would have to do a fair amount of outreach with the  
11 constituents and get all the stakeholders to the  
12 table. We anticipated additional meetings and  
13 resources that we don't have. And we have not yet  
14 issued that letter.

15 The New England Council just made the  
16 same motion essentially at their last meeting. And  
17 New England has a catch shares workshop set up in  
18 the coming weeks. And so, they've scheduled --  
19 right now in their work schedule that they previewed  
20 at the NRCC meeting last week, they're proposing to  
21 develop the second half of that amendment beginning  
22 in the middle of next year.

23 So, it would be premature to send  
24 that letter today. But I talked to John Pappalardo

1 last week and indicated that we'll coordinate at the  
2 appropriate time to send that joint letter  
3 requesting some additional resources. But it's  
4 going to have to be timed to coincide with the  
5 development of the addendum -- or the amendment  
6 rather and we'll just coordinate that at the  
7 appropriate time.

8 Any questions for Dan on his report?

9 Comment? All right. Seeing none, we'll go on to  
10 Rich Seagraves.

11 VINCE O'SHEA: (Inaudible comments  
12 away from the microphone.)

13 COUNCIL CHAIRMAN RICK ROBINS: Oh,  
14 Vince, go ahead. I'm sorry.

15 VINCE O'SHEA: Yeah. I'm sorry. On  
16 the Congressman Pallone letter that was sent to the  
17 Commission and the Council, I was wondering -- I  
18 thought we had sent you all a copy of our response -  
19 - and I'm just -- if we haven't and it was just an  
20 oversight that you didn't mention it or put it in  
21 the book, I'll be happy to make sure you get one.  
22 But our intent was to copy you all, Mr. Chairman, on  
23 our letter.

24 COUNCIL CHAIRMAN RICK ROBINS: Vince,

1 you did copy me, and I'll be sure to distribute it  
2 to the Council members by direct e-mail.

3 UNIDENTIFIED SPEAKER: (Inaudible  
4 comments away from the microphone.)

5 COUNCIL CHAIRMAN RICK ROBINS: It is  
6 in there? Okay. Thank you. Rich.

---

7  
8 STATUS OF MAFMC FMPs

9 RICHARD SEAGRAVES: Thank you, Mr.  
10 Chairman. The information I'll be covering is  
11 behind Tab 7. The first item is a table showing the  
12 status of Mid-Atlantic Council's spec packages. As  
13 is indicated, summer flounder, scup, black sea bass  
14 was submitted November -- I'm sorry, September 16th;  
15 squid, mackerel, butterfish and bluefish packages  
16 were also submitted the first week of August.

17 The next table is a matrix of the  
18 status of Mid-Atlantic FMP's amendments and  
19 frameworks.

20 And then that's followed by the 2009  
21 work plan.

22 The next item, Item 4, is a small  
23 entity compliance guide to part-time tilefish permit  
24 holders indicating that effective August 21st, the

1 part-time limited access tilefish category was  
2 closed and will reopen with the start of the next  
3 fishing year, which is November 1st.

4 The next item is a small entity  
5 compliance guide to tilefish permit holders  
6 outlining provisions of Amendment 1, recently  
7 approved Amendment 1 to the Tilefish FMP, notifying  
8 those interested parties all measures are effective  
9 November 1, 2009.

10 And then following that letter is a  
11 description of what is contained -- the approved  
12 measures for Amendment 1 to the Tilefish FMP. So,  
13 that goes for nine pages, just for FYI.

14 The next item is a letter dated  
15 August 24th. It's a cover letter to vessel owners  
16 outlining the steps necessary to apply for tilefish  
17 IFQ allocation permits.

18 The next item is a small entity  
19 compliance guide indicating that vessels holding  
20 commercial permits for summer flounder are no longer  
21 able to land summer flounder in Massachusetts  
22 effective September 1, 2009.

23 The next issue -- the next item is a  
24 September 9th compliance guide to permit holders

1 indicating there was a transfer of unused Winter 1,  
2 2009 Winter 1, scup quota to Winter 2 of about  
3 15,000 pounds.

4 The next item is a letter to spiny  
5 dogfish permit holders indicating that effective  
6 September 26 the fishery for spiny dogfish fishery  
7 Period 1 was closed. The fishery reopens November  
8 1, 2009.

9 The next item is the letter to permit  
10 holders indicating effective -- it's already been  
11 discussed a couple of times -- the August -- October  
12 5th, 2009, prohibiting possession of black sea bass  
13 in the EEZ -- closure of the recreational fishery.

14 And then the last item I did include  
15 was the RIR and Environmental Justice Reviews for  
16 the temporary emergency rule action for black sea  
17 bass.

18 And that concludes my report.

19 COUNCIL CHAIRMAN RICK ROBINS: Thank  
20 you very much, Rich. Any questions for Rich?  
21 Comments?

22 (No response audible.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:  
24 Okay. Seeing none, at this point, we are ahead in

1 the schedule. We've just received confirmation from  
2 the Service that, in fact, the catch shares policy  
3 presentation that was scheduled for tomorrow is not  
4 going to be given. I would think that we could get  
5 through the rest of the agenda today then in that  
6 case. And I would suggest that we take a 15-minute  
7 break at this point. We can use that time to check  
8 out or try to make travel arrangements if necessary.

9 When we come back, we received a  
10 number of nominees for awards. And those awards go  
11 through two different committees. The Fisheries  
12 Achievement Awards go through the Law Enforcement  
13 Committee. The Rick C. Savage Award nominees go to  
14 our Executive Committee. That Rick C. Savage Award  
15 has a confidentiality clause associated with it so  
16 we need to meet in closed session to do that. I  
17 would suggest that we actually take the Executive  
18 Committee meeting first immediately after our break  
19 and handle the award part of that first. And then  
20 we'll reopen the meeting to the public, finish the  
21 rest of the executive session and then go onto the  
22 Law Enforcement Committee and see what all we can  
23 get through before lunch.

24 And then we'll come back and at

1 12:30, we're scheduled to have the MPA Hearing. And  
2 so, I would suggest that we keep that on the agenda  
3 as scheduled in case there are members of the public  
4 that want to be here for that.

5 So, why don't we take 15 minutes now.

6 UNIDENTIFIED SPEAKER: We'll need  
7 more than 15 (inaudible).

8 COUNCIL CHAIRMAN RICK ROBINS: Well,  
9 all right. We'll take 20 now so we can check out as  
10 well. Thank you.

11 (Break: 10:15 a.m. to 11:00 a.m.)

12 COUNCIL CHAIRMAN RICK ROBINS: We are  
13 convening the Executive Committee. Members are  
14 welcome to stay with us for the meeting, but the  
15 first section of the meeting will be closed to the  
16 public. We'll be in closed session for the first  
17 few minutes while we make an award determination.

18 Let's come back to our seats so we  
19 can get started with the Executive Committee. Thank  
20 you.

21 All right. We're going to go into a  
22 closed session right now for the Executive  
23 Committee.

24 (EXECUTIVE COMMITTEE CLOSED SESSION)

1 COUNCIL CHAIRMAN RICK ROBINS: With  
2 that, Dan, we're into the highlights of the NRCC --  
3 or rather the 2010 Annual Work Plan and the NRCC  
4 highlights.

5 (11:22 a.m.)

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6  
7 2010 ANNUAL WORK PLAN REVIEW

8 DANIEL FURLONG: Okay. Thank you,  
9 Mr. Chairman. And on those points, if you'll take a  
10 look behind Tab 12, the first thing in there is our  
11 annual work plan. And I think the best thing to do  
12 is just go to the last page, and on the last page,  
13 there's a summary that indicates the likely FMP's in  
14 terms of amendments and frameworks that will be  
15 addressed during 2010, and you see that Amendment 11  
16 to the Squid, Mackerel, Butterfish Plan is on the  
17 docket.

18 And if you're interested in what  
19 Amendment 11 relates to, if you go to the front of  
20 the book, right behind the opening page, you'll have  
21 our agenda, and then you have a page that talks  
22 about the status -- you know, of species. And  
23 following that is the status of open amendment and  
24 framework actions. And you'll see right up there

1 that Amendment 11 deals with the mackerel limited  
2 access program, mackerel overfishing definition, EFH  
3 updates and at-sea processing cap. That's currently  
4 the alternatives that are in play for Amendment 11.

5 Now, if you go to the actual  
6 calendar, you'll see by meeting that in February of  
7 2010, that at the current schedule -- I mean, this  
8 is a draft schedule and I hope you understand that --  
9 -- this was as of October 1 -- we're looking forward  
10 to February to review and approve Amendment 11 to  
11 the secretarial submission. So, we're downstream  
12 and we'll be working on Amendment 11 at our December  
13 meeting.

14 The next one is the Omnibus  
15 Amendment. And again -- you know, if you flip back  
16 to the opening page there, I think you'll see that  
17 the Omnibus Amendment is to establish an FMP  
18 mechanism to address annual catch limits and  
19 accountability measures. And you'll see that we're  
20 scheduling a secretarial submission -- that's what  
21 that SS is -- in August of 2010.

22 And you can go through the rest of  
23 these. For the benefit of being brief, I'll just  
24 point out that we're working on Amendment 15. It's

1 ticketed a year from now. A year from this meeting,  
2 we hope to have Amendment 15 -- and in fact, there  
3 is a Surf Clam, Ocean Quahog Committee meeting today  
4 that is going to be dealing with Amendment 15 and  
5 trying to finalize the measures that will be  
6 incorporated into that amendment.

7 Likewise, Amendment 3 to the Dogfish  
8 Plan is docketed for a year from this month next  
9 year.

10 We're going to start Amendment 14. I  
11 think we mentioned that in the August meeting. We  
12 decided as a Council to begin implementation or  
13 initiation of a new amendment. And we've asked the  
14 Regional Office to form an F-mat with us. And you  
15 can tell from the schedule where we are in terms of  
16 dealing with Amendment 14.

17 And again, if you take a look -- you  
18 know, at this little table, it summarizes that we're  
19 dealing with catch shares for both our squids and  
20 herring bycatch.

21 So, there's a correspondence -- you  
22 know, between what's on the end of our annual work  
23 plan and what we've listed here in terms of the  
24 status of open amendments. So, it's an easy cross-

1 reference for you. And you'll always have this  
2 behind the opening page.

3 Behind the agenda, is the status of  
4 our species as well as what actions are being  
5 contemplated by the Council in amendments or  
6 frameworks that are open for processing.

7 You'll see that we have six meetings.

8 And again, the meetings are on the even months.  
9 So, if you can divide by two, you've got it made.  
10 You'll find out when the meetings are. And then  
11 generally, using two, we usually have it in the  
12 second week. But for August next year, we have  
13 pushed back to the third week of August. In fact,  
14 the dates are 17 through 19. You see the dates  
15 there. And that's because of this issue that we've  
16 been discussing over the past two days of trying to  
17 integrate/coordinate the Center's activity in terms  
18 of stock assessment updates; when the date is  
19 available to them to do that; when they can hand it  
20 off; when our staff can analyze things, when we can  
21 have the SSC and the Monitoring Committee; all that  
22 discussion we had yesterday, it's always in play  
23 here in this schedule. So, just to point those  
24 things out to you.

1                   And I think that's really all I have  
2 to say.

3                   COUNCIL CHAIRMAN RICK ROBINS: Dan,  
4 thank you. And if you look at the meeting calendar,  
5 you'll notice -- I told Dan I wanted to follow the  
6 geese because we had been snowed out of some of our  
7 northern most meetings in December and February.  
8 So, we will be north in the summer and south in the  
9 winter to the greatest extent that we can be. We're  
10 in the shoulder of the seasons and some of the  
11 coastal towns so that we can afford to get in there,  
12 but we won't be in there in the dead of winter.

13                   So, Peter.

14                   PETER deFUR: Thank you, Mr.  
15 Chairman. Does the coordination of the effort mean  
16 that we're going to always be moving our August  
17 meeting to the third week? I mean, if that's going  
18 to be necessary for next year, why not for future  
19 years?

20                   COUNCIL CHAIRMAN RICK ROBINS: Well,  
21 Peter, that's a first. In other words, this is the  
22 first time we've moved it to that week. But I would  
23 anticipate that it will need to remain there. We're  
24 trying to accommodate the longer time that it takes

1 to get the benchmark assessment in. And I would  
2 anticipate that we would need to keep it there.

3 Although you heard yesterday from Jim  
4 Weinberg in the discussion about the difficulties in  
5 getting the SCC Review done in a timely way, and I'm  
6 not sure that discussion is over. In fact, I think  
7 we need to continue talking about the scheduling and  
8 what date is going to be considered in the spec  
9 setting process, because obviously we have to have  
10 the SSC Review. And for that to be meaningful, we  
11 want to include the Monitoring Committee on the  
12 joint plans so we have an extra step involved and  
13 the calendar becomes that much more critical.

14 PETER deFUR: I fancy that  
15 conversation has probably just started.

16 COUNCIL CHAIRMAN RICK ROBINS: Any  
17 additional questions on the work plan for Dan? Pat.

18 PAT AUGUSTINE: Yeah. Just a side  
19 issue here. Are we locked into Duck forever. I  
20 know there was a decision made, north/south,  
21 north/south, north/south. I just wondered if  
22 sometime in one of our meetings we should discuss is  
23 that the most convenient place for the bulk of the  
24 people. As I recall, the few commercial fishermen

1 that attend those meetings, there's less than a  
2 handful most of the time. And I know we've agreed  
3 to have it down there somewhere, but would there be  
4 a place that would be more amenable to airports for  
5 folks that travel both from the north and from the  
6 south.

7 I had a little sidebar with Pres this  
8 morning and even he has to travel and he's in North  
9 Carolina, three or four hours of travel. Just could  
10 we go back and look to see if there's another city  
11 in that area that would accommodate the closeness of  
12 commercial fishermen to come attend and yet be  
13 closer to an airport to be convenient, no matter  
14 which way we come from the north, whether it's  
15 Pennsylvania or Maryland or whatever. It's into  
16 Norfolk, rent a car and drive down. It's a ten-hour  
17 day. So, just to think about.

18 COUNCIL CHAIRMAN RICK ROBINS: Pat,  
19 one of the basic challenges is the highway system in  
20 eastern North Carolina is significantly broken up.  
21 And consequently, you're either going into southern  
22 North Carolina or northern North Carolina. And  
23 there is a significant recreational and commercial  
24 fishing fleet in the Wanchese area which is adjacent

1 to that. So, you know, it's sort of a northern  
2 center and a southern center. But I think last  
3 year, the folks that flew in from the north did not  
4 have direct flights. They flew into Norfolk. And  
5 there's actually a direct AirTran flight from Boston  
6 to Newport News that's about 15 minutes further by  
7 car. But I think that's actually a much easier way  
8 to get in, and I've already shared that information  
9 with the Regional Office.

10 PAT AUGUSTINE: (Inaudible comments  
11 away from the microphone.)

12 COUNCIL CHAIRMAN RICK ROBINS: I'm  
13 sorry. Right. They can go into Newport News direct  
14 out of Boston. But again, we can rotate. You know,  
15 we're set up for that for this next time around and  
16 we can look at some destinations in southern/eastern  
17 North Carolina next time.

18 PAT AUGUSTINE: That's probably a  
19 good idea.

20 PRESTON PATE: If you're going to  
21 look at it that's fine, Rick, and I understand why  
22 we're locked into it this year. But New Bern would  
23 be a convenient location for most travelers. There  
24 are no direct flights except from Charlotte and

1 Atlanta into New Bern, but certainly it has  
2 facilities to accommodate a meeting such as this and  
3 it's centrally located between the commercial and  
4 the recreational interests in both the southern and  
5 northern part of the state.

6 COUNCIL CHAIRMAN RICK ROBINS: That's  
7 great, Preston, we'll take that into consideration  
8 for the next go-round.

9 Dan, did you have a comment?

10 DANIEL FURLONG: Yeah. In fact,  
11 we've gone as far south as Wilmington, North  
12 Carolina.

13 PRESTON PATE: Uh-huh. I'm sorry?

14 DANIEL FURLONG: I said, we're gone  
15 as far south as Wilmington.

16 PRESTON PATE: Oh, I understand that.

17 DANIEL FURLONG: So, we have moved it  
18 up and down the coast. And we have met at least two  
19 times in the last ten years in New Bern. We do try  
20 to -- I usually try to work with the state directors  
21 in terms of, hey, we're going to be meeting. And  
22 that's nothing -- just again for the benefit of the  
23 new members, we have six meetings a year. We have  
24 seven states. Arithmetic doesn't work. So, we

1 combine Delaware and Pennsylvania as one state. So,  
2 sometimes we'll meet in Delaware. Sometimes we'll  
3 meet in Philadelphia. And that's the one annual  
4 meeting. Otherwise, all the other five states have  
5 one meeting a year. And then, as I say, I try to  
6 rotate with the state directors along the coast. We  
7 move it up and down in New Jersey. We move it in  
8 and out on Long Island. So, that's basically how we  
9 do it. And everybody gets a meeting except for  
10 Delaware and Pennsylvania; and then every other  
11 year, they get a meeting.

12 COUNCIL CHAIRMAN RICK ROBINS: All  
13 right. Additional questions? Red.

14 RED MUNDEN: Thank you, Mr. Chairman.  
15 Just very briefly to address Pat's concern. In my  
16 years of experience from attending public meetings  
17 for the benefit of fishermen, if there's an interest  
18 in a particular item, they'll show up. And if not,  
19 you can do everything you possibly can, you can have  
20 it in their backyard, and they don't show up. So,  
21 you know, again, I would just support what Dan said.  
22 We've tried to cover North Carolina. And I get a  
23 lot of positive comments about holding meetings in  
24 Duck.

1                   Mr. Chairman, while I have the mike,  
2 I do have the South Atlantic Council meetings for  
3 2010. And if you would like, I could make those  
4 available to the Council members right now.

5                   COUNCIL CHAIRMAN RICK ROBINS: Thank  
6 you very much. If you can.

7                   RED MUNDEN: The first meeting will  
8 be March 1st through the 5th, Jekyll Island,  
9 Georgia. The second meeting will be June 6th  
10 through the 11th in Orlando, Florida. The third  
11 meeting, September 13th through 17th in Charleston,  
12 South Carolina. And the final meeting will be  
13 December 5th through the 10th in New Bern, North  
14 Carolina.

15                  COUNCIL CHAIRMAN RICK ROBINS: Thank  
16 you, Red. Any additional comments or questions on  
17 the work plan? All right.

18                  Dan, you have the NRCC update?

19 \_\_\_\_\_  
20                                   NRCC UPDATE

21                  DANIEL FURLONG: Yes, I do. Again,  
22 we're still in Tab 12. And behind the annual work  
23 plan, is a summary of actions from the spring  
24 meeting. What I'm going to do now is, I'm going to

1 hand out a copy of the agenda. I hope I have  
2 enough.

3 And we met in Providence on Wednesday  
4 and Thursday of last week. And the comment that Pat  
5 made this morning in her report is that this meeting  
6 is one that concentrates on coordinating Council  
7 activities, Commission activities, with Center and  
8 Regional Office activities in the context of trying  
9 to align -- you know, labor and time resources to  
10 achieve common purpose activities.

11 So, with that in mind, I didn't  
12 include in the briefing book -- because the briefing  
13 book goes out two weeks before our meetings -- so,  
14 we didn't get the -- we didn't get, if you will,  
15 their briefing book until like the Friday before the  
16 meeting. So, we were kind of handicapped in getting  
17 you information, but I have the entire briefing  
18 book.

19 But I think some of the important  
20 things to come out of this meeting -- and I have  
21 made copies of them -- are what Jim Weinberg alluded  
22 to, the idea of the schedule of stock assessments.  
23 So, I'm going to hand those out so that you have an  
24 appreciation for when our stocks are going to be

1 addressed either through some sort of benchmark  
2 assessment or some sort of peer review process.

3 And, also going to hand out a history  
4 of when our stocks -- as well as all the other  
5 stocks -- were last reviewed in the context of  
6 benchmark assessments. Again, hand this out. And  
7 you'll see that when we look to the SARC 49 on this  
8 document, it's an 8½ by 11 piece of paper, there's a  
9 gray field that is history. You know, that's  
10 already done and gone. The remaining open white  
11 fields are what are on the docket. And you'll see  
12 this cycle, two of our species are in the process of  
13 having a SARC review, a full benchmark assessment,  
14 that's surf clams and butterfish.

15 In addition to that, you'll see that  
16 this track is Trans Resource Assessment Committee.  
17 This is where the Center works with their Canadian  
18 counterparts and they'll be doing a data mackerel  
19 update later this month. So, that's the cycle we  
20 have. We have about three or four -- excuse me --  
21 three stocks that are being addressed of ours in  
22 this current cycle.

23 When you go in the next year, 2010,  
24 you see that the spring cycle, the June 1 through

1 June 4, again, the track process deals with two of  
2 our species, dogfish and mackerel. And then this  
3 time next year for the winter SARC, you see that  
4 loligo is on the docket there. So, I'll describe  
5 that for you. You can kind of see it for yourself.

6 Jim Weinberg, you're welcome to give  
7 any comments as we get into discussions.

8 The simple arithmetic of it is, if  
9 you took -- take a look at this legal piece of  
10 paper, 8½ by 14, and you go down the extreme right  
11 column there, these are all the species that the  
12 Center is involved with in terms of engaging some  
13 sort of update or engaging some sort of benchmark or  
14 engaging in some sort of other peer review process.

15 I think if you do the arithmetic here, what are  
16 there, Jim, like 48 species here? Okay. 48. Okay.

17 They do two assessments a year, that means they can  
18 do 24 in a perfect world. Well, that doesn't  
19 happen. They usually do three. Okay. So, three  
20 into 24 means, once every eight years. So, that's  
21 the trick here.

22 I mean, the resources, if you have 48  
23 of these things and you want to look at them in a  
24 fair share -- you know, kind of algorithm, you'd be

1 looking at these things like once every eight years.

2 That's about as quick as you can do it assuming you  
3 can only do -- you know, three and three, six a  
4 year. You know, six into 48, that's your eight.  
5 So, it would be once every eight years that we'd be  
6 doing these things.

7 But it doesn't work that way -- you  
8 know. The Commission has some species that  
9 percolate up through their technical review outside  
10 of the SARC process that allows for decisions to be  
11 made in that context.

12 So, as you look at this table here,  
13 again, the convention on the bottom tells you who's  
14 doing what. And the filled in gray field means it's  
15 been completed. And the white open field means it's  
16 on schedule. So, you can look at 2010, and you see  
17 that there are a couple of track species that  
18 correspond to this table, and there are a couple of  
19 species which relate to some sort of SARC review,  
20 and again, they track with this table.

21 So, this is an important decision  
22 process at the NRCC in terms of building the  
23 schedule for future stock assessments to give us an  
24 idea how we're going to be dealing with the latest

1 information available for our specification setting  
2 process.

3 I'm going to take a break there and  
4 see if there's any questions, because I did see at  
5 least one hand.

6 COUNCIL CHAIRMAN RICK ROBINS: Pete  
7 Himchak.

8 PETER HIMCHAK: Yes. Thank you, Dan.  
9 Was there any discussion on Atlantic herring stock  
10 -- benchmark stock assessment through the SAW-SARC  
11 in 2010? This has become a very -- a flashpoint  
12 from discussion and both -- some letters had been  
13 written to the Service to expedite this benchmark  
14 stock assessment. Thank you.

15 COUNCIL CHAIRMAN RICK ROBINS: Dan.

16 DANIEL FURLONG: Yes. In fact, this  
17 was very aggressively discussed especially by the  
18 New England Council, my counterpart Paul Howard, at  
19 least three times raised this issue. And if you  
20 take a look at the current stock assessment  
21 schedule, you'll see that herring is due up in SARC  
22 54, which is June of 2012. Now, I know industry had  
23 asked that, hey, instead of dealing with mackerel  
24 this year on the track, why not substitute resources

1 to do an update on herring? But if you look in the  
2 gray field, you'll take a look and you'll see that  
3 herring was, in fact, dealt with -- where is this --

4 Jim, when did we do herring? 48.

5 There you go. Thank you. Under track, it's like  
6 the third track down, herring in June. Okay. So,  
7 just -- what is that, two months ago? I'll do my  
8 arithmetic here. Four months ago, there was a  
9 formal track review process, which again, Trans  
10 Resource -- or Trans Boundary Resource Assessment  
11 Committee, Canada/US, sat down with all the  
12 information that was available, came up with -- you  
13 know, a herring benchmark at that time. And the  
14 Center Director, Nancy Thompson, said, well, what  
15 new information can we add to what we looked at in  
16 June? It's just not practical to go back and try to  
17 refashion -- you know, an update assessment when  
18 there's no new information. And in fact -- you  
19 know, that's why it's on a schedule for three years  
20 out; because within the next three years, there  
21 should be -- you know, some better information about  
22 year classes, about recruitment, about what's going  
23 on and maybe some further model development.

24 So, it was discussed. The decision

1 stands as memorialized in this schedule.

2 COUNCIL CHAIRMAN RICK ROBINS: Thank  
3 you. Pete?

4 PETER HIMCHAK: Yes. Just one follow  
5 up, Dan. Yeah. There was a lot of dissatisfaction  
6 expressed on the presentation of the track. And  
7 again, it gets into data sets, input parameters in  
8 different models. I'm not the one to explain all  
9 this. But the argument was basically, yeah, there's  
10 no new information, but how it's treated, the hydro-  
11 acoustics, what surveys were done, there was a lot  
12 of dissatisfaction with the track results and just  
13 discontent with the model results and all the --  
14 well, it's uncertainties.

15 COUNCIL CHAIRMAN RICK ROBINS: Pete,  
16 thanks for that follow up. And the discussion at  
17 the NRCC was responsive to a request from the New  
18 England Council that was made in the form of a  
19 motion requesting a new benchmark assessment. As  
20 you know, there have also been congressional  
21 letters, I think, that have come in since then  
22 requesting the same type of initiative. But as Dan  
23 points out, the Center's response was that there  
24 really wasn't any new information to be considered.



1 work plan. And our annual work plan corresponds to  
2 these matrixes that, as I say, you'd have to -- like  
3 yesterday when I was talking about the table of when  
4 information is available, the sideways table, it  
5 keeps spreading out -- you know, to my left -- you  
6 know, your right from my perspective -- I don't  
7 bother to hammer it out -- but I want you to know  
8 that as we go into a new calendar year, it's not as  
9 though people haven't been thinking about what needs  
10 to be done -- you know, at all levels. At the  
11 Regional Office level. At the Center level. At the  
12 Council level. At the Commission level. The  
13 leadership of those groups sit down and have this  
14 meeting and kind of layout -- now, you're not going  
15 to be nailed down to this because stuff happens --  
16 but by and large, we have an idea of what needs to  
17 be done and when it needs to be done and what  
18 resources are necessary to get those things done.  
19 It may not always work that way. But in any case,  
20 there is a good-faith effort -- you know, amongst  
21 the leadership to make things happen along this  
22 schedule. It doesn't always happen.

23 The last thing I would like to  
24 comment about unless there was a question about that

1 -- as I say -- I'm just letting you be aware that  
2 this stuff goes on and it's not as though we do  
3 things willy-nilly. There is a grand design, if you  
4 will. It doesn't always work, but at least there is  
5 the good-faith effort to try to make it work.

6 I see Vince waving back there.

7 COUNCIL CHAIRMAN RICK ROBINS: Vince,  
8 go ahead.

9 VINCE O'SHEA: Yeah, thanks, Mr.  
10 Chairman. I think the other important part is,  
11 since the Northeast Region services two councils, if  
12 you will, that the members of this Council need to  
13 know that there is a process for the two councils  
14 and the council chairmen to come together to make  
15 sure that the councils respectively are getting the  
16 attention that they need. And that was part of the  
17 genesis for this group being formed a number of  
18 years ago, perception by where the resources were  
19 going in the region to support the two councils.  
20 So, that's another benefit, Dan, beside the  
21 coordination, is the allocation of resources to  
22 support -- at least from my perspective -- and that  
23 applies to the Commission as well. Thank you.

24 COUNCIL CHAIRMAN RICK ROBINS: Thank

1 you, Vince.

2 DANIEL FURLONG: That's a great segue  
3 for my closing comment about the NRCC. At the NRCC,  
4 we were presented with an evaluation of scientific  
5 and assessment needs to support the development of  
6 acceptable biological catches and annual catch  
7 limits for managed fishery resources in the  
8 Northeast. And this is a white paper that was  
9 prepared by the Northeast Fishery Science Center  
10 Annual Catch Limit Working Group, and it was with a  
11 review and consultation with our Council, the New  
12 England Council, the Regional Office and the  
13 external working group.

14 And I didn't have a chance to get  
15 this reproduced. And at one time, this was one of  
16 those hush-hush -- you know, eyes-only, you can't  
17 see it. But at this point, it is a public document  
18 and I will provide it to you. But the reason I  
19 mentioned that it's a great segue from what Vince  
20 was talking about is that it may be that in the  
21 future, if you go back to this 8½ by 11 piece of  
22 paper that shows the schedule, you'll see that we  
23 have updates on our stocks in the year 2010. But  
24 after 2010, they disappear.

1                   And I'm personally very concerned  
2                   about this because if you look at our performance as  
3                   a Council, hey, we're pretty good. There isn't any  
4                   overfishing. You know, we've got one bad stock,  
5                   butterfish; two that are not overfished; and  
6                   everything else is rebuilt. So, we're pretty good.

7                   And I think the reason we're pretty good is that we  
8                   do get annual assessment updates. But in the  
9                   future, again, resource crunch and new workload  
10                  crunch, we may not be getting these traditional  
11                  updates that we normally have gotten in years past.

12                  And in fact, they're going to something called  
13                  signpost. And this signpost concept -- it was  
14                  described somewhat like on the dashboard of your  
15                  car, where you have an engine indicator light -- and  
16                  that if there's a problem with that fishery, you'll  
17                  get this signpost -- this indicator light will come  
18                  on, and then the Council will be notified that, hey,  
19                  there's an issue here and you may need to do  
20                  something a little bit different in terms of your  
21                  specification setting process.

22                  Now, this isn't a final document and,  
23                  again, this isn't cast in concrete, but it is a  
24                  concept that you should be aware of. The conceptual

1 process in the future is going to be different from  
2 what it has been in the past. And in that context -  
3 - you know, there'll always be growing pains and  
4 problems as we transition into this mode, if we  
5 transition into this mode, because I personally  
6 raised my objection. I would like to continue to  
7 get annual updates.

8 But with the New England Council  
9 moving to a quota-managed process because of the  
10 Magnuson Reauthorization requiring ACL's and AM's,  
11 it's a whole new world to them in a lot of ways and  
12 they're going to be demanding -- just as Vince  
13 pointed out -- the idea that our sister council is  
14 going to placing the demands that heretofore hadn't  
15 been placed on the Center. And so now, the Center  
16 is going to be diluted in its ability to serve us by  
17 serving the New England Council.

18 And that's my view of it. Other  
19 people may have a different view, but that's my  
20 quick and dirty of it. So, I will get to all of you  
21 a copy of this paper so that you have an opportunity  
22 to review it. And just be aware that, as I say,  
23 conceptually, we're probably going to be moving away  
24 from the annual updates that we've had in the past

1 that have gotten us to where we are and we'll be  
2 doing something a little bit different. I'm not  
3 quite sure what that's going to be other than these  
4 concept of signpost.

5 So, Mr. Chairman, that kind of  
6 completes it. And you were there. You were there.  
7 George was there. Jim was there. Vince was there.  
8 So, I welcome anybody to supplement my report.

9 COUNCIL CHAIRMAN RICK ROBINS: And I  
10 will, briefly. The paper that Dan highlights is an  
11 important paper. He said he was going to circulate  
12 it to the Council. And I would encourage everybody  
13 to take a look at least at the summary and the --  
14 perhaps the first 15 or 20 pages.

15 LEE ANDERSON: Look at the  
16 appendices, that's fun too.

17 COUNCIL CHAIRMAN RICK ROBINS: And we  
18 did express, I think, as a group significant  
19 reservation about this fundamental change in the  
20 scientific information that we might be receiving  
21 from the Center. The Center has resource  
22 constraints. They've cited the fact that now the  
23 assessments are becoming much more complex. The  
24 updates themselves are more complex because of

1 expanded terms of reference. And now the SSC is  
2 looking for -- in the terms of reference -- more  
3 information about uncertainty. So, the requirements  
4 for each action have increased. The number of  
5 updates that are being requested -- as Dan pointed  
6 out -- because of the demands now in New England are  
7 bound to increase; and the Center has indicated that  
8 they have very significant limitations in their  
9 ability to meet those increased demands.

10 But we have significant and  
11 fundamental questions about the efficacy of moving  
12 to what's called a signpost in terms of the  
13 information we'd receive from the Center. And so,  
14 what we've suggested as an initial step is that we  
15 have some analysis done, to go back and look at the  
16 -- the efficacy of signposts. In other words, look  
17 back over the last five or ten years of some of our  
18 managed species and look at the decisions that we  
19 made based on the updates; look at what signpost  
20 might have informed us or how they might have guided  
21 us; and look at the comparative effectiveness of  
22 those types of matrix.

23 And, you know, I think if this is  
24 going to be done, it ought to be done sort of on a

1 pilot basis with stocks that are in a safe  
2 biological conditions, stocks that are perhaps less  
3 significant in the terms of their overall importance  
4 to the fisheries. But again, I think this is a  
5 fundamental change that's being contemplated and  
6 suggested by the Center. It could have significant  
7 implications. It's not clear at all to me of how we  
8 would use so-called signpost or develop a framework  
9 for responding to changes in those relative to our  
10 existing FMP's and management practices.

11 So, there are a lot of questions  
12 associated with this initiative. We've requested  
13 some analysis to begin with. And I would expect  
14 that we would see some of that in the coming months.

15 But I'll also ask Lee to share his  
16 observations, because this was a very significant  
17 source of discussion at the meeting.

18 LEE ANDERSON: Thank you. I would  
19 just really suggest you read the paper. And I was  
20 joking, but kind of read the appendices, because  
21 some of the stuff they're promising to do with the  
22 signposts are kind of interesting how that's going  
23 to happen and I'm concerned about what other kinds  
24 of layers of uncertainty that's going to put into

1 this session that we're supposed to address. So,  
2 I'm -- I said before, my objective and Rick -- both  
3 our objectives is to work cooperatively with the  
4 people. There's a problem there, they don't have  
5 enough resources. But we are concerned about the  
6 quality of data that we need to do our job. And so,  
7 we need to keep our eye on that. Please read the  
8 document so we can discuss it more fully at a later  
9 time.

10 COUNCIL CHAIRMAN RICK ROBINS:

11 Thanks, Lee. I have Rich Seagraves and then Peter.

12 RICH SEAGRAVES: Yeah. Thank you,  
13 Mr. Chairman. I think one important point may have  
14 gotten kind of glossed over in both your  
15 descriptions. Pretty complete, but the fundamental  
16 change with the signpost would be we would be  
17 setting multiple year quotas in the area of three to  
18 five years between benchmark assessments. So, you  
19 wouldn't -- you'd get a benchmark three to five  
20 years. You'd set the quota for three to five years.

21 And then the signpost would kick in if -- you know,  
22 some key indicator in the stock indicated between  
23 those benchmarks action was necessary.

24 Now, the concern is you now have the

1       SSC specifying ABC, they would specify ABC for three  
2       to five years. The further forward you project a  
3       constant quota or whatever that quota is going to be  
4       for three to five years, the less certainty you're  
5       going to have, the greater the buffer that you'd  
6       have to probably built in for scientific  
7       uncertainty.

8                 So, this is a key issue because, all  
9       things being equal, it's likely that we would  
10      probably have to forego some yield if that comes to  
11      play. It may not be that Draconian, but it's the  
12      multiple year quota aspect of it, I think, that's a  
13      key thing to recognize.

14                COUNCIL CHAIRMAN RICK ROBINS: Well,  
15      that's a great point, Rich, and it really begs the  
16      question of what the cost to the decision-making  
17      process is going to be associated with that. So,  
18      there are a lot of issues associated with this that  
19      are in front of us.

20                Peter.

21                PETER HIMCHAK: Yeah. Thank you.  
22      Rich answered one of my questions, because you  
23      confirmed that.

24                The other one is, when we get a copy

1 of the paper, can we get an electronically, Dan, do  
2 you have it?

3 DANIEL FURLONG: I don't have it  
4 electronically. But I can scan it in and give you a  
5 PDF.

6 PETER HIMCHAK: Yeah. That would be  
7 better.

8 And then, Mr. Chairman, when you ask  
9 for the data analysis on what was available for  
10 assessments related to decision making, it would  
11 also be good to get them to focus not just on a time  
12 period, a prescribed five or ten years, but a time  
13 period around important decisions on critical  
14 stocks. That way we'd have a couple of years  
15 before, a couple of years after, maybe two before  
16 and three after, critical decision-making points.  
17 That way we know and we can demonstrate -- you know,  
18 what data were used to support which decision that  
19 we're not going to have the data for.

20 COUNCIL CHAIRMAN RICK ROBINS: Thank  
21 you, Peter. All right. Additional comments or  
22 questions? Jim.

23 JAMES WEINBERG: Yeah. Just a couple  
24 of things. The working paper was the -- initiated

1 by people at the Science Center recognizing that  
2 there were a lot more demands on the Science Center  
3 for assessments from all parties and requirements  
4 with the reauthorization of the Magnuson Act. And  
5 at the other, internally, we were also hearing from  
6 the people that do the aging of the fish that things  
7 were becoming pretty chaotic there with all the  
8 requests. They can't age every fish species every  
9 year. It requires a lot of skill to do that.

10 And for them to work efficiently,  
11 it's best if they collect about three years worth of  
12 age odolets or scales, pull them all out and then  
13 process the whole chunk of three years of samples,  
14 and they can do that with the most accuracy and  
15 efficiency. So, to randomly have requests coming in  
16 all the time, hey, switch over to bluefish, switch  
17 over to summer flounder. They were pulling their  
18 hair out and saying, you've got to do something to  
19 give us a little more order in our lives so that we  
20 can get the work done to provide this to you. And  
21 more and more of our stock assessments are becoming  
22 more complex. And based on age information rather  
23 than just looking at the latest survey index. And  
24 this is something we talked a lot about in the

1 Executive Committee yesterday.

2 So, these updates that we used to  
3 sort of crank out routinely by just getting the  
4 latest survey index and updating the assessment,  
5 it's no longer a simple exercise. Now, to do an  
6 update say for scup or black sea bass or bluefish  
7 requires people that do the aging to age all the  
8 fish for those years that will go into the  
9 assessment that will be input data. And then the  
10 person can update the stock assessment model. And  
11 because these models are rather complex, it's --  
12 they also have to be examined for the residual  
13 patterns and all the sorts of things retrospective  
14 patterns, all the things we talk about.

15 So, that's also more complicated at  
16 the level of doing the assessment analytically. So,  
17 the -- and we raised this to the NRCC about a year  
18 ago. And they said, well, let's tackle this by  
19 forming two working groups. And one of the working  
20 groups was within the Science Center. And the other  
21 working group was to work hand-in-hand with that.  
22 And it was comprised of people from -- the lead  
23 people from both of the council's SSC's, lead staff  
24 people from both councils, Rich and Chris Kellogg,

1 and several people from the Science Center.

2 So, we worked over the last six  
3 months writing this white paper. It was a real  
4 collaborative effort. We put our heads together and  
5 said, if we can't continue to do business as usual,  
6 what can we suggest; what are some recommendations  
7 that would work for all parties. And so, the  
8 signposts, which has been mentioned already, is an  
9 approach that the group came up with as a way to go  
10 forward; where for every single stock on the list,  
11 the Science Center could potentially produce an  
12 analysis of signposts which are -- signposts are  
13 backing off from doing the full stock assessment.  
14 It's more like looking at whether the recruitment  
15 index seems to be within limits that seem  
16 acceptable; have the landings from the last couple  
17 of years fallen into an area that are acceptable;  
18 are they way over, way under; and other things that  
19 could pretty easily be looked at.

20 And the collection of signposts for a  
21 particular stock would allow the Science Center to  
22 give a pretty quick evaluation of whether that stock  
23 seems to be within the bounds that are reasonable.  
24 And this would be done between the benchmark stock

1 assessments.

2 So, the trick here is to find which  
3 signposts actually work and there hasn't been a lot  
4 of analysis of that yet. So, that remains to be  
5 done and that's what's explained in those  
6 appendices: that finding the signposts that  
7 actually tell you about how well the stock is doing,  
8 that's a critical step. And I think when the white  
9 paper was presented to the NRCC, they saw some good  
10 in it, but they weren't ready to just accept the  
11 whole thing and abandon what we were doing before.

12 So, they told us to reform the  
13 working group and to continue doing our work. So, I  
14 think what will likely happen in the next year or so  
15 is, that there will be some sort of phasing in of  
16 the signpost approach, but it won't be for all 50  
17 stocks that are on the table. There probably will  
18 be some experimentation of phasing in the process.

19 But the need to transition somewhat  
20 rapidly is because of this issue I've described  
21 earlier about the difficulty with providing age data  
22 for all these stocks, and the increased demand for  
23 more and more assessments. That gives you a little  
24 bit of the background for the white paper. So, I do

1 hope you read it. And a lot of people put quite a  
2 bit of energy into it and it was a very good  
3 collaborative effort between all parties.

4 COUNCIL CHAIRMAN RICK ROBINS: Thank  
5 you, Jim. Rich.

6 RICHARD SEAGRAVES: Yeah. Just a  
7 quick follow up to Jim's comments. First, I think  
8 they should be commended. The Science Center did a  
9 tremendous job pulling together a lot of  
10 information, evaluating what their potential  
11 resources are, and how they can be applied. There  
12 was a lot of work got done in a little over a month  
13 on that white paper. It was pretty impressive and  
14 they're to be commended for that.

15 I think though when you step back, I  
16 think sometimes as a Council we need to look and  
17 say, well, okay, this is how -- what current or past  
18 resources were. Here's what our anticipated demands  
19 are. And in one of the appendices, they -- like  
20 they give the economic analogy that demand has  
21 increased, supply is the same or less for scientific  
22 information.

23 So, I think the -- what we haven't  
24 done is said, okay, what do we need in terms of

1 increased resources to meet the level that satisfies  
2 the councils.

3 And so, I'm not sure how that job  
4 gets done, but we really need to not just accept, I  
5 think, and do a triage -- part of the deal is going  
6 to be a triage, saying, okay, what's most important  
7 in the short term. But longer term, I think it  
8 really demands that we look -- take a hard look at  
9 funding the Science Center, the surveys, the  
10 supplemental sampling, the RSA Program, all  
11 together, and try to bring supply up to meet demand.

12 COUNCIL CHAIRMAN RICK ROBINS: Thank  
13 you, Rich. I think it is clear that for some  
14 species -- you know, it's not going to be reasonable  
15 to use such a different method on the most  
16 significant of our fisheries. I just -- I don't see  
17 how we could possibly go to use of signposts on the  
18 management of summer flounder, for example, here in  
19 our region, or sea scallops in the Northeast. It  
20 almost seems untenable.

21 So, I think as Rich said, it is going  
22 to require some triaging, but the long-term solution  
23 would be to add additional resources and identify  
24 what resources are needed to do that.



1 COUNCIL CHAIRMAN RICK ROBINS: All  
2 right. We're going to be operating behind Tab  
3 Number 8. And at this point, we're going to be  
4 holding a hearing on the Council's proposed MPA's.

5 Gene Kray, would you like to  
6 introduce this item briefly, and we'll go to the  
7 public and see if there's any public comment or  
8 testimony on this issue? This is the first of two  
9 hearings that we're scheduled to hold. The second  
10 will occur at the December meeting of the Council.

---

11  
12 REVIEW ELIGIBLE SITES FOR MPA DESIGNATION

13 AND SOLICIT PUBLIC COMMENT

14 EUGENE KRAY: Thank you, Mr.  
15 Chairman. You will recall that at our last two  
16 meetings we've had folks from the MPA Center. At  
17 the June meeting, we had Lauren Wentzel, who's the  
18 National System Coordinator. And then at the August  
19 meeting, we had Joe Yourovich, who is the Director  
20 of the Center.

21 The major issue, at least from my  
22 perspective, that was brought up by members of the  
23 Council was concern about authority, authority over  
24 the MPA site. And I think it was made very clear by

1 both Lauren and Joe that the Council retains all the  
2 authority. And basically the MPA Center -- I  
3 likened it to a cataloging system -- where they are  
4 literally cataloging all sites that meet the  
5 criteria for being considered as marine protected  
6 areas.

7           The two areas that we have that the  
8 Ecosystems Ocean Planning Committee has identified,  
9 with the help of our Regional Administrator, would  
10 be the scup northern gear-restricted area and the  
11 southern gear restricted area for scup. Likewise,  
12 the tilefish GRA in the Oceanographer and Ladonia  
13 Canyons, and the tilefish GRA in the Veach end of  
14 Norfolk Canyons.

15           So, as the Chairman has indicated,  
16 this is the first of two hearings. We expect that  
17 we will have another round of hearings at our  
18 December meeting. And then it will be brought to  
19 the Council for a vote in order to send this on to  
20 the Regional Administrator for her action and for  
21 being put into the system. So, with that  
22 introduction, I'll ask is there any public comment  
23 either from the audience or from Council members  
24 with regard to these MPA's that are being proposed?

1                   Seeing none, we're finished, Mr.  
2                   Chairman.

3                   COUNCIL CHAIRMAN RICK ROBINS: Thank  
4                   you, Gene. That was done very efficiently.  
5                   Appreciate that. Perhaps we'll have some input at  
6                   the December Council meeting on this question.

7                   Okay. Why don't we move onto a  
8                   couple of committee reports while we're still  
9                   convened as a full Council. We have two, I think,  
10                  that we would need to take that took place outside  
11                  of this venue, that is, HMS and dogfish. And then  
12                  also we'll hear from John Boreman from the SSC. And  
13                  then why don't we remain convened as a committee of  
14                  the whole, which would preclude the need for any  
15                  additional committee reports when we're done. And  
16                  we'll go through the Law Enforcement Committee, the  
17                  Protected Resources and Surf Clam Committees. And  
18                  immediately after these committee reports, we'll  
19                  take continuing and new business while we're still  
20                  convened as a full Council.

21                  So, I'll go to Pat Augustine to  
22                  provide us with the report of the HMS Committee.  
23                  The HMS Committee met jointly with the Dogfish  
24                  Committee recently to develop our Council's position

1 on Amendment 3.

2  
3 HIGHLY MIGRATORY SPECIES COMMITTEE REPORT

4 PAT AUGUSTINE: Thank you, Mr.  
5 Chairman. I went to the HMS meeting in Silver  
6 Springs in September, September 8th through the  
7 11th. And then to the ICCAT meeting the following  
8 week, which was the 16th, 17th and part of the 18th.

9 That was followed up with a meeting that our  
10 Chairman organized for the HMS and Dogfish Committee  
11 to review and make recommendations to the HMS  
12 Amendment 3 folks on September 21st. We also  
13 addressed the dogfish issue and what direction we  
14 should go.

15 So, if you'd refer -- I'll refer you  
16 back to Tab 14, toward the end of it, and I'll just  
17 touch on the first part. Toward the end of it,  
18 you'll see a slide presentation, which is a summary  
19 -- to give you an idea of the extent of note-taking,  
20 it's a PowerPoint presentation -- the extent of  
21 note-taking that the HMS staff does, they do write  
22 down every single reasonable recommendation from the  
23 Advisory Panel, which consists of about 35 folks.  
24 All the councils are represented. We had the

1 Caribbean Council with us this year.

2 And you'll see the issues that are  
3 mentioned or points that were mentioned were  
4 directly related to options that the HMSC could  
5 either develop for future management of HMS species.

6 And I won't take time to go through it, but we did  
7 touch on everything from the harpoon category. We  
8 talked about Amendment 3. We talked about bluefin  
9 tuna minimum sizes; squid trawls; HMS general  
10 category. They're all highlighted.

11 Further over, we talk about the  
12 general ANPR that was ready to be published. We  
13 talked about catch shares. We talked about shark  
14 issues concerning finning. We got into CITES, which  
15 was very lengthy conversation talking about the  
16 concerns. And we did have the folks from U.S. Fish  
17 and Wildlife. The ICCAT representative, who has  
18 been attending all the ICCAT meetings from a  
19 legalistic point of view and was telling us what the  
20 development of our position was going to be.

21 And so that's it. If you have any  
22 questions on that, again, that's a recap of what we  
23 did.

24 In the first part of that Section 14,

1 I asked Tom and Jan to include for you the kind of  
2 activity that's going on in ICCAT. ICCAT is an  
3 international organization. It does focus on all of  
4 the tunas, including now shark, billfishes and  
5 swordfish. And what we have here is a report on  
6 this working group that was put together to  
7 determine what was going to be the future success or  
8 failure of ICCAT. And this process was being driven  
9 by the fact that CITIES -- I'm sorry -- bluefin tuna  
10 was going to be listed possibly as being listed  
11 under CITIES, Attachment 1 and 2.

12 And so, this is what the working  
13 group went through to identify all the weaknesses  
14 and problems that have been going on and plaguing  
15 ICCAT for all these years. It gives you a brief  
16 history. Remember, the working group consisted of a  
17 number of countries. In this particular case, the  
18 U.S. had the lead. Diedre, our gal, who was the  
19 lead gal on it, and all the other countries  
20 participate. The idea is to offer up  
21 recommendations clearly to the other countries.  
22 Last year in Morocco, we had 73 countries  
23 participate. The European community has the largest  
24 number of countries under its title EU or EC. They

1 have 27 countries, so they carry a big stick.

2 And so, you can review that. Again,  
3 it's for your background and to get a feel for how  
4 complex the international arena is.

5 So, go back again to the page or two  
6 or three just before the PowerPoint presentation,  
7 and a couple of pages there on North Atlantic  
8 swordfish landings. It's an update by weight for  
9 fish of the north, of 35 north and south 35, the  
10 swordfish landings. And flip the page, we talk  
11 about landings of large, medium and giant bluefin  
12 tuna. Where we are in 2009 versus 2008.

13 You also received a handout -- where's my  
14 handout -- can I borrow that please -- you received  
15 a handout from Jan that gives you the other updates  
16 on the landings, swordfish landings,  
17 commercial/recreational fishing, first page, for  
18 your edification, any questions you might have. We  
19 have another follow-on swordfish report, followed by  
20 a final Atlantic shark commercial fisheries update.

21 And the last of that was, any folks  
22 that you know or any of your constituents, remind  
23 them that bluefin tuna landing cards must be  
24 submitted to NMFS within 24 hours of landing; and

1 that's an informational piece for you.

2 And that's the full of my report, Mr.  
3 Chairman. Thank you.

4 COUNCIL CHAIRMAN RICK ROBINS: Thank  
5 you very much. Any questions for Pat? I'll go to  
6 Red Munden on Spiny Dogfish.

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7  
8 DOGFISH COMMITTEE REPORT

9 RED MUNDEN: Thank you, Mr. Chairman.

10 I just wanted to bring the Council up to speed on a  
11 couple of things that have happened with spiny  
12 dogfish. The week after the last Council meeting,  
13 four scoping hearings were held. They were held  
14 during the week of August the 10th through the 13th.

15 Only about 12 speakers showed up and spoke -- or  
16 individuals spoke. And this public -- this scoping  
17 meeting, rather, was for Amendment 3 to the Spiny  
18 Dogfish FMP.

19 According to Jim Armstrong, comments  
20 were all over the board relative to the options that  
21 we took out. Some individuals supported a limited  
22 access permit, others spoke against it. Some were  
23 in favor of the male only fishery, and others were  
24 not in favor of that. All-in-all, it didn't provide

1 us a whole lot of input or direction for Draft  
2 Amendment 3. But staff is moving forward with that  
3 amendment based on the comments that were received.

4 Jim Armstrong also informed me last  
5 week that even though the Federal Notice Register  
6 had not been published as of last week, they intend  
7 to hold two meetings relative to the annual specs  
8 setting process for spiny dogfish. You may recall  
9 that generally at the October meeting is a meeting  
10 during which the Council sets the harvest specs for  
11 dogfish. The updated stock assessment is not yet  
12 available, but plans are to have a meeting of the  
13 SSC on October 27th, and that will be for setting  
14 the annual catch limits for dogfish. That meeting  
15 will be held at BWI, I believe. And then on October  
16 29th, the Monitoring Committee will meet in Warwick,  
17 Rhode Island. And then we'll be looking at spec  
18 setting by the Council at our December meeting.

19 Dan, do those dates jibe with what you  
20 have in your records?

21 DANIEL FURLONG: That's correct. And  
22 the locations are correct. October 27th at BWI; and  
23 October 29th at Warwick, Rhode Island.

24 We might also mention that the New

1 England Council will be setting specs on dogfish in  
2 November, and then we'll be doing it following them  
3 in December.

4 RED MUNDEN: I understand that's the  
5 reason why we wanted to have the SSC recommendation  
6 and the Monitoring Committee recommendation during  
7 October?

8 DANIEL FURLONG: Absolutely. That's  
9 the sequencing again.

10 RED MUNDEN: And that concludes my  
11 report, Mr. Chairman.

12 COUNCIL CHAIRMAN RICK ROBINS: Thank  
13 you very much, Red. And the work product from that  
14 joint committee meeting that was held in  
15 Philadelphia is behind Tab Number 6; that's the  
16 smooth dogfish letter. And I'll just point out  
17 there that one of the significant questions that we  
18 posed back to the Service was the fact that we  
19 really need to try to address Section 307.1P of  
20 Magnuson, which deals with the rebuttable  
21 presumption language as it relates to a five percent  
22 cap on fins. The way the smooth dogfish fishery is  
23 normally prosecuted, the fin weight runs about nine  
24 to ten percent; and if the tails are retained, it's

1 13 or 14 percent. So, that's at odds with the  
2 rebuttable presumption language and we've asked for  
3 some sort of clarification on that as it relates to  
4 smooth dogfish; perhaps exploring a letter of  
5 authorization or some other exemption for that  
6 fishery.

7 I know this is also an issue of  
8 legislative interest in Congress right now. So,  
9 we'll have to see how the legislative side of that  
10 plays out.

11 But, this is a unique attribute to  
12 the fishery and the thrust of our comments was that  
13 these unique characteristics ought to be taken into  
14 account in the interest of having an informed FMP  
15 for that species. We did recommend that no action  
16 be taken, which would be consistent with allowing  
17 the ASMFC to manage it effectively. And we  
18 recommended further that there be quota-based  
19 management of the species. So, while we recommended  
20 no action, that doesn't mean no management  
21 obviously. It would still be managed and we  
22 recommended some specific measures to go along with  
23 that.

24 Pat.

1 PAT AUGUSTINE: To that point, the  
2 reason I didn't cover it was Dan covered the first  
3 part of that letter in his report, the September  
4 24th letter, on the discussions that we had and the  
5 alternatives that our Council put forward. But I  
6 would bring your attention to what Rick was saying  
7 about the addition of smooth dogfish under NMFS.

8 He was kind enough, because of his  
9 business and association with that product, was able  
10 to supply some background information that totally  
11 discredits one of the points that was made in terms  
12 of how many fish or pounds of fish were being caught  
13 and reported. And if you take the time to look at  
14 that document, I think you'll find that it's very  
15 enlightening. And so, hopefully we'll get further  
16 reports on actual numbers of pounds of fish that  
17 were caught.

18 COUNCIL CHAIRMAN RICK ROBINS: Well,  
19 just to finalize, I think I'll try to follow up with  
20 the HMS Office and see if we can have some  
21 additional conversations subsequent to our comment.

22 John Boreman.

23 \_\_\_\_\_  
24 SSC REPORT

1                   JOHN BOREMAN: Thank you, Mr.  
2 Chairman. First, I want to thank the Chair for  
3 inviting members of the SSC to our meetings  
4 yesterday. It was productive. Besides myself, we  
5 had the Vice-Chair of the SSC, Tom Miller, and then  
6 Dr. Mike Wilberg, who Chairs our Scientific  
7 Uncertainty Subcommittee. I think it was very  
8 worthwhile to have them there and they asked me to  
9 pass along their thanks as well.

10                   As Red mentioned, the SSC is going to  
11 be meeting on October 27th. Half the day is going  
12 to be taken up with setting ABC for spiny dogfish.  
13 We're still waiting for a report from the Center, an  
14 update. That should have been to us three weeks  
15 prior to the meeting, which meant last week. We  
16 still haven't got it. We have some materials, the  
17 latest assessment and so on. But materials are  
18 still coming in. Hopefully, we'll have it in time  
19 to take a good look at it before our meeting and not  
20 have an 11th hour mad dash.

21                   Fortunately, the person on the SSC  
22 assigned to dogfish has been following the  
23 activities of the Technical Committee and the  
24 working groups participating in meetings, so we

1 should be informed.

2 At that meeting also, we're going to  
3 continue working on the ABC Control Rule  
4 recommendations for the Council. We'll be looking  
5 at research priorities for the next five years and  
6 making a recommendation to the Council.

7 And also be reviewing the role of the  
8 SSC relative to the SARC-SAW process. As I  
9 mentioned this morning, the upcoming SARC Number 49  
10 is going to be chaired by a member of the SSC. That  
11 member is also the lead for the SSC on butterfish.  
12 So, that person sat in on the Butterfish Technical  
13 meetings and made sure that he was -- he made sure  
14 everyone there that he was there as an observer and  
15 not a participant because he would be chairing the  
16 SARC on the same species.

17 So, we need to think about how we're  
18 going to handle that in the future so we don't get  
19 into any awkward situations and we have a clear non-  
20 conflict of interest issues if there were potential  
21 perceptions of such.

22 The last item I want to talk about  
23 is, at the last Council meeting in August, the SSC  
24 was asked by the Council to recommend new members

1 for the SSC. We went through a process by which we  
2 first started with about 18 names of people who  
3 would be good replacements. We were looking for a  
4 replacement for Jim Kirkley. Dr. Kirkley has been  
5 forced to drop off the SSC. He's an economist. So,  
6 we wanted to bring another economist onboard. But  
7 we're also looking for people with strong  
8 quantitative skills in the areas of stock assessment  
9 and ecosystem dynamics, because those are the two  
10 areas that we see we're going to be very busy in the  
11 next few years.

12 As I said, we had 18 names. I  
13 contacted those 18 people. Nine of them expressed  
14 interest in being on the SSC, which to me was  
15 surprisingly high, enthusiastic interest of all  
16 nine. We put those around to the committee to see  
17 who would best fit the profiles that we were looking  
18 for and four names rose to the top. We handled the  
19 economist separate from the quantitative ecologist  
20 and the fisheries positions. And I'll give those  
21 four names now: For the economist, the SSC is  
22 recommending Doug Lipton from the University of  
23 Maryland. A lot of people around here know Doug.  
24 He's been -- he's a fisheries economist.

1                   And for the other positions, three  
2 names came forward: Mike Frisk from Stoneybrook,  
3 he's a population dynamics expert. David Seacor  
4 from University of Maryland, Solomons. And Jason  
5 Link, who's a quantitative ecosystem ecologist from  
6 Woods Hole, from the Northeast Center.

7                   So, those four names, they rose to  
8 the top and they were in a group that was basically  
9 head and shoulders above the other five names on the  
10 list. So, I'm going to put those forward. I can  
11 forward the CV's to Dan. I asked each of them to  
12 provide me with a two-pager and they have. And I  
13 can forward those to Dan to circulate to the  
14 Council. So, hopefully, next meeting, we'll get to  
15 vote on them and -- you'll get to vote on them and  
16 we'll rebuild our ranks. But that's our  
17 recommendation at this time.

18                   Now, whether you choose to go with  
19 all four or not, that's up to you folks, but we gave  
20 you four names.

21                   COUNCIL CHAIRMAN RICK ROBINS: John,  
22 thank you for that report. And thanks again for the  
23 participation of the Committee members yesterday in  
24 our discussion of risk and ABC control rules. That

1 was quite helpful. I would suggest that we take  
2 John's advice and take these into consideration;  
3 that is, those recommendations for nominees to the  
4 SSC and then vote on them in December. If we voted  
5 on them today, frankly, they wouldn't have time to  
6 be at the next Committee meeting. That's just two  
7 weeks away. So, I don't think it makes sense to  
8 take action today on that, but perhaps we can put  
9 that off to the December meeting and then take  
10 action and replenish the ranks of the SSC.

11 Any questions for John on his report?

12 Jim.

13 JAMES WEINBERG: Yeah. John, I will  
14 contact people at the Center and try to get that  
15 paper out sooner.

16 COUNCIL CHAIRMAN RICK ROBINS: Thank  
17 you, Jim.

18 \_\_\_\_\_  
19 CONTINUING AND NEW BUSINESS

20 COUNCIL CHAIRMAN RICK ROBINS: Let's  
21 move onto then continuing and new business. I have  
22 a couple of items here. One relates back to the  
23 SSC; and that is, I would -- in light of the  
24 discussion we had at our last meeting as well as the

1 recent action at the New England Council meeting, I  
2 think it might be helpful to consider developing  
3 some standards for review of SSC decisions; that is,  
4 establish some standards under which we might ask an  
5 SSC to reconsider a recommendation to the Council so  
6 that we have essentially a standing policy that  
7 would govern those types of decisions.

8           And in the interest of doing that, I  
9 would suggest perhaps that we have a meeting with  
10 the SSC leadership and Council leadership just to  
11 begin to develop some draft ideas that we could  
12 bring back to the Council in December for further  
13 discussion. But the concern I have is that if we  
14 don't establish some guidelines and standards  
15 related to that, that every time we get an ABC  
16 recommendation from the SSC, it could end up being  
17 really a divisive issue; and I think we could end up  
18 spinning our wheels going down that path of  
19 challenging the SSC decisions. I think we are  
20 looking for them obviously to give us the ABC and I  
21 think that we would want to set a standard such that  
22 a reconsideration is essentially an exception and  
23 not the rule. But I think we could hash out some  
24 standards for that and come back to the Council.

1 Let's get the advice of the SSC and what their input  
2 is as well.

3 I think the other question is that we  
4 would want to review the process by which  
5 information can be introduced into the system for  
6 consideration by the SSC. In other words, we want  
7 to make sure that we have those standards in place  
8 and we can clearly communicate those to the public  
9 and to the members so that we understand when  
10 information is appropriate to come in.

11 There are certain steps back in the  
12 SAW-SARC process early on to the data workshops  
13 where most stock assessment type work would be best  
14 introduced. But I think we want to make sure that  
15 whatever we're acting on in the end as a Council is  
16 peer-reviewed information. And so, we just need to,  
17 I think, review the process by which that  
18 information comes into play. We did have some  
19 discussion about this at the NRCC meeting recently,  
20 and it's an area of interest. I think it's  
21 something we just need to continue to review and  
22 update and make sure that the process for receiving  
23 information is well understood and well  
24 communicated.

1                   The other issue with the SSC would be  
2                   to work collaboratively with them to develop terms  
3                   of reference for their recommendations. And you  
4                   heard yesterday in the discussion about our  
5                   interactions with the ASMFC how we want to possibly  
6                   consider how the information that goes to the SSC is  
7                   formatted when it comes from our staff, in terms of  
8                   their catch level document or whatever the initial  
9                   document is that comes into the SSC related to an  
10                  ABC development. But similarly, in terms of the  
11                  advice that we get from the SSC, it would make  
12                  sense, I think, to have some terms of reference  
13                  there. That might become part of the standard under  
14                  which we consider a reconsideration of the decision  
15                  too.

16                  So, I think these are all some  
17                  important components. But with the Council's  
18                  consent, I'll ask John if you have any comment on  
19                  this. But perhaps with the Council's consent, we  
20                  could consult with the SSC; come back to the Council  
21                  at the December meeting with some draft ideas and we  
22                  could begin working on that policy.

23                  Is there any objection to moving  
24                  forward in that direction? Pat.

1                   PAT AUGUSTINE: It's almost like a  
2 curve from where we had agreed to go with Option 2  
3 and what the process would be where there would be  
4 relatively strong interaction between the Monitoring  
5 Committee, Technical Committee and the SSC as we  
6 were going through the development of ABC. And I  
7 thought there was going to be a lot of emphasis put  
8 on inter-communication between staff, MC and SSC.

9                   Now, this is almost at the end of it  
10 where the SSC comes forward -- if I understand what  
11 you said -- the SSC comes forward with a quota --  
12 with an ABC. And then for some reason we believe  
13 that it should be questioned, it's almost as though  
14 -- it's a protective measure for the Council. It  
15 gives us an opportunity to again go back and say,  
16 hey, can you take a look at this, take a look at  
17 this.

18                   I refer back to the comment that Lee  
19 made at our last meeting where he had said that if  
20 we, the Council, don't like the ABC, that we can  
21 just go back and for some reason just question you  
22 folks as to why we did that. Do you remember that  
23 conversation?

24                   LEE ANDERSON: Well, there was

1 argument against that.

2 PAT AUGUSTINE: Well, you were  
3 arguing against it and that's what -- I am  
4 supporting what you said. Okay. That's why when I  
5 looked at Option 2 and then I saw where you were  
6 going -- I know we need a protective measure for the  
7 Council to go back and take one more look if we  
8 don't agree with the SSC. You're talking about  
9 agreeing with their ABC? That's what you're talking  
10 about?

11 COUNCIL CHAIRMAN RICK ROBINS: Pat,  
12 I'm talking about establishing a standard for  
13 reconsideration. In other words, having a policy in  
14 place or a procedure in place that we can operate  
15 with together with the SSC such that we would have a  
16 high standard for review or reconsideration. And  
17 the other part of that is -- you know, what  
18 information can be considered in the ABC  
19 recommendation process. I just think that needs to  
20 be spelled out fairly clearly. I think we already  
21 have practices in place. But I think it would be  
22 helpful to clarify that and communicate.

23 PAT AUGUSTINE: Yeah. I would hope  
24 so. I was going in another direction. I was

1 looking at it's a protective measure for the  
2 Council. You're looking at it as a guideline. And  
3 I took what you said out of context. I thought it  
4 was a way for us to rebut. You follow what I'm  
5 saying?

6 COUNCIL CHAIRMAN RICK ROBINS: Yeah.

7 PAT AUGUSTINE: You're talking about  
8 a guideline as to what should be presented to us,  
9 what the SSC assessment will be to get to an ABC.  
10 It allows the Council members to do what? Assure  
11 that they have met those standards when they set  
12 that? I'm lost. I've lost this translation  
13 somewhere.

14 COUNCIL CHAIRMAN RICK ROBINS: I  
15 think we've lost each other.

16 PAT AUGUSTINE: Go one more time.

17 COUNCIL CHAIRMAN RICK ROBINS: I  
18 think we've lost each other. There are two points.

19 One is that I think it would be helpful -- I've  
20 discussed this with John previously -- that it would  
21 be helpful to have some -- just some TOR's for the -  
22 - that go to the SSC. And right now, right now, I  
23 think they exist, but they're very simple. You  
24 know, it's give us an ABC recommendation for this

1 stock. But simply establish some standard TOR's  
2 perhaps for our interactions with the SSC; but also  
3 to have a standard for review. In other words, I  
4 think we need to make it clear that we're going to  
5 make it the exception and not the rule when we would  
6 ask the SSC to reconsider a question.

7 But I think together with the SSC's  
8 input on this -- you know, hopefully we could come  
9 up with some draft ideas about what that standard  
10 might be. And I think that would -- you talked  
11 about protecting the Council; I think that would  
12 protect the Council frankly. And I think it would  
13 protect the entire process. Because otherwise, if  
14 we don't have any standards and we move forward with  
15 ABC recommendations, I just see the potential for a  
16 lot of conflict on that.

17 But I think it would be in our  
18 interest to try to put our heads together and  
19 develop a standard, get the SSC's input on it, and  
20 come back to the Council with some ideas.

21 Pete.

22 PETER HIMCHAK: Mr. Chairman, I think  
23 a perfect example of this could be the two actions  
24 that were taken at the September New England

1 Council, where they sent the red crab recommendation  
2 back to the SSC, I believe, because there wasn't a  
3 quorum present when the recommendation was made.  
4 And that's one reason.

5 And then the Atlantic herring, of  
6 course, was sent back because of the dissatisfaction  
7 with the outcome of the model.

8 So, you can have a very legitimate  
9 basis for asking the SSC to look at something again.

10 And then you have all those other like, well, we're  
11 just not happy with the outcome, so, yeah, we have  
12 to distinguish between the two sets of criteria.

13 COUNCIL CHAIRMAN RICK ROBINS: I  
14 agree wholeheartedly and I think that's exactly what  
15 we'd want to get at with some sort of standard for  
16 remand. And I would submit that that's something  
17 that we need to develop. And I think the Council's  
18 interest would be well served by trying to develop  
19 that relatively early on in the process, recognizing  
20 that we can amend it as needed. But certainly, if a  
21 decision has an obvious error in fact, which has  
22 happened in the past -- New England at one point  
23 received a recommendation on skates that included a  
24 mathematical error that the Science Center picked up

1 on -- that was sent back and corrected.

2 And so, there are rare cases where it  
3 would be appropriate. But I think we need to  
4 establish some sort of standard so that we can move  
5 on with the development of the SSC integration and  
6 process.

7 Peter.

8 PETER HIMCHAK: Yes. Thank you very  
9 much, Rick. And I think you're exactly right on  
10 that about establishing guidelines for all of those  
11 things. And I think we'd be well to do it for both  
12 the SSC and the Council.

13 Will that conversation also include  
14 discussion with legal counsel in terms of admissible  
15 information? Because I know when you talked about  
16 peer-reviewed data, it also raises the question  
17 about if there are any legal implications to this.

18 COUNCIL CHAIRMAN RICK ROBINS: Well,  
19 the decisions have to be consistent with the Data  
20 Quality Act and there are other considerations. But  
21 I think in terms of the -- in terms of the review  
22 initially, I'm not sure that we would need legal  
23 counsel involved. I think we'd start out with  
24 reviewing the current standards and processes

1 through which we receive information. And also talk  
2 to the Science Center about the SAW-SARC process;  
3 what comes in then. And the data workshops are the  
4 place, typically, where the stock assessment type  
5 information or catch information or things of that  
6 nature would be considered.

7 But I think we need to update that  
8 and make it clear. And then, I think we need to do  
9 a little bit more to communicate that as we go  
10 forward.

11 Is there any objection then to moving  
12 forward in that direction and we'll consult with the  
13 SSC and report back to the Council? Okay. We'll do  
14 that then.

15 One other item under new business.  
16 It was brought to our attention that the Area 2  
17 herring fishery -- or herring quota was closed  
18 somewhat prematurely in that it was closed just  
19 before the trigger was actually achieved. That was  
20 based on projections. And I think there -- 1500 --  
21 is it 1500 metric tons that are left?

22 UNIDENTIFIED: Are on the table.

23 COUNCIL CHAIRMAN RICK ROBINS: Right.

24 So, there's more than 1500 tons of quota left, but

1 the discrepancy between what was projected and what  
2 was actually achieved in Area 2 has a difference of  
3 about 1500. And we received a request to just  
4 forward a request to the Service that they re-  
5 examine this issue to determine whether any herring  
6 retention could be allowed in Area 2 in the month of  
7 December. That has a direct bearing on our mackerel  
8 fleet, which would be -- the region mackerel fleet  
9 which would be operating in that area, in Area 2.

10 And if no retention is allowed, then  
11 the mackerel fishing operations in that area would  
12 result in dead discards of herring. So, it's simply  
13 a matter of whether the fish are going to be  
14 discarded dead or retained as part of the catch.  
15 So, I put this question to the New England Herring  
16 Committee and they agreed to move forward with that  
17 request. But it was never submitted to the New  
18 England Council. So -- as a formal motion.

19 So, that the issue is whether to  
20 simply send a letter to the Service asking if they  
21 can explore that possibility. There was some  
22 concern from the Service that the rate of catch in  
23 Area 2 could be as high as 1500 metric tons in a  
24 week. However, I think in the month of December,

1 the catch rates are lower. I think they've already  
2 started looking at that to some degree, at staff,  
3 because this has been discussed in the New England  
4 Committee; but would suggest that we simply send the  
5 letter to the Service asking them to consider  
6 whether or not that quota could be accessed during  
7 the month of December. Because again, the overlap -  
8 - there is no set-aside per se for the herring  
9 retention in the mackerel fleet other than 2500  
10 pounds a day. But there's not an allocation of that  
11 resource between the herring and mackerel fisheries.

12 So, we would want to just see if that  
13 could be retained rather than discarded.

14 UNIDENTIFIED SPEAKER: Yeah. Just a  
15 couple points of clarification for the record. That  
16 there's 1500 -- somewhere between 1500 and 1800 tons  
17 of the directed amount of herring. So, the problem  
18 is the fishery was closed. It closes, I think, at  
19 90 percent of the allocation for that area. So,  
20 there's 1500 from the directed and there's still  
21 2,000 left in reserve for the incidental, which  
22 you've already mentioned. The incidental rate is  
23 2,000 pounds per day. So, in fact, it looks like  
24 there's about 3500 to 3800 total left; 1500 from the

1 original directed allocation and then the balance  
2 being the incidental.

3 But the issue is, if the mackerel  
4 fleet is operating in these areas and they catch in  
5 excess of 2,000 pounds, they'd have a discard issue.

6 COUNCIL CHAIRMAN RICK ROBINS: Are  
7 there any questions on that request? Is there any  
8 objection to sending such a letter to the Service to  
9 explore the possibility of allowing some retention  
10 of herring in Area 2 in December? Okay. Seeing  
11 none, we'll make the request.

12 All right. Let's move on now to the

13 --

14 DANIEL FURLONG: Tab 15.

15 COUNCIL CHAIRMAN RICK ROBINS: Okay.

16 Our next item under new business is behind Tab 15,  
17 and that is an update on the illex control date.

18 DANIEL FURLONG: This sentence right  
19 here. For purposes of ... control date is also ...

20 COUNCIL CHAIRMAN RICK ROBINS: Okay.

21 Staff has asked a question in light of the last  
22 Council meeting when we took action to reaffirm the  
23 loligo control date and it wasn't clear to staff if  
24 we also intended to include the illex control date.

1           And essentially here in the memo on -- behind Tab  
2           15 it says for purposes of public notification,  
3           staff request clarification if the Council intended  
4           to include reaffirmation of the illex control date.

5           And they go on to explain that it doesn't bind the  
6           Council to any course of action, but puts the public  
7           in notice that landings after that control date may  
8           be treated differently to discourage speculative  
9           activation of latent effort.

10                   The control date that was reaffirmed  
11           by the Council for loligo was May 20th, 2003.  
12           That's the same date that we would reaffirm if we're  
13           going to reaffirm it for illex.

14                   What's the pleasure of the Council on  
15           this issue? Lee.

16                   COUNCIL VICE CHAIRMAN LEE ANDERSON:  
17           I would make a motion that we reaffirm the illex  
18           control date for 5/20/2003.

19                   COUNCIL CHAIRMAN RICHARD ROBINS: Is  
20           there a second to the motion? Erling. Discussion  
21           on the motion?

22                   (No response audible.)

23                   COUNCIL CHAIRMAN RICHARD ROBINS: Do  
24           we have any comments from the public on the motion?

1 Greg.

2 GREG DIDOMENICO: Thank you, Mr.  
3 Chairman. Greg DiDomenico, Garden State Seafood  
4 Association. We support the reaffirmation of the  
5 2000 control date -- and 3 control date -- for both  
6 illex and loligo fisheries, and would also ask that  
7 the Council -- when the time is appropriate, that  
8 the -- this next amendment that we'll be addressing  
9 the illex and loligo fisheries, that the Council  
10 considers specifically for the illex fishery that  
11 instead of a catch shares approach that perhaps the  
12 Council considers a tiered approach, similar to what  
13 we did in mackerel for the illex fishery.

14 We believe that the illex fishery is  
15 a relatively small universe of participants,  
16 probably 75 permits; 22 to 25 to 30 who are  
17 historically and most recently active in the  
18 fishery; and we think it's very possible to address  
19 latent effort of those other permits through a  
20 tiered approach where the individual vessels and the  
21 very active vessels in that fishery could be --  
22 could be put in the higher tier with a real directed  
23 -- a directed fishery or a trip limit large enough  
24 to consider it a directed fishery and those other

1 vessels be relegated to something else, probably a  
2 bycatch amount.

3 So, we'd like the Council to consider  
4 that. We think it would be supported by most of  
5 industry and we think it would be very effective in  
6 the illex fishery. So, thank you.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Greg, thanks for your comments. Any additional  
9 comments from the public or members of the Council  
10 on the motion?

11 (No response audible.)

12 DANIEL FURLONG: Jan, can you put up  
13 the motion?

14 (Pause.)

15 DANIEL FURLONG: Who's in favor of  
16 being in focus?

17 (Pause.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: All  
19 right. I'll just read the motion then. The motion  
20 is to reaffirm the illex control date May 20, 2003.  
21 There it is on the board. Motion by Lee Anderson,  
22 second by Erling Berg.

23 Are we ready for the question?

24 (Motion as voted.)

1 {Move to reaffirm the Illex control date.}

2 COUNCIL CHAIR RICK ROBINS: All those  
3 in favor, please raise your right hand.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:  
6 Eighteen. Opposed, like sign.

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:  
9 Abstentions, like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: One  
12 abstention. The motion carries. Thank you, Lee.

13 Is there any other new business to  
14 come before the Council from members?

15 (No response audible.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: Is  
17 there any other new business to come before the  
18 Council from the public? Greg.

19 GREG DIDOMENICO: Thank you, Mr.  
20 Chairman. Greg DiDomenico, Garden State Seafood  
21 Association.

22 I was wondering, also, the mackerel  
23 slash herring issue you guys are addressing in Area  
24 2, the recent reductions in the herring quota for --

1 well, the proposed reductions in 2010 are going to  
2 have a significant impact on the Area 2 quota, and  
3 we are trying to figure out and bracing for the  
4 impacts of that issue and its effect on the mackerel  
5 fishery.

6 It's very possible that a year from  
7 now we're going to be facing a closure in the Area 2  
8 fishery on herring and quite frankly be in the midst  
9 of hopefully a very productive mackerel season.

10 I don't know how to approach that  
11 issue, quite frankly. The industry's trying to  
12 figure it out as I speak here today, but if there's  
13 anything that the Council can do within the letter  
14 you're going to write, Mr. Chairman, and I know  
15 you've brought it up at several occasions with the  
16 New England Council and we appreciate that.

17 Is there possibly a way to look for  
18 some in-season adjustment of other area TACs into  
19 Area 2 if in fact we get into an emergency  
20 situation? Is there a way to take unused quota from  
21 2009 and roll it into 2010? Even if it was a  
22 minuscule amount, I think it would be -- prove to be  
23 helpful for the mackerel fishery.

24 Administratively, George, I don't

1 know if these are things that we can do, but your  
2 advice and your help in this issue would be most  
3 appreciated. Anything that could be -- could be  
4 done administratively would be helpful.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 George, do you have a response?

7 GEORGE DARCY: Yeah, I -- the kinds  
8 of things you're talking about are things that they  
9 -- the New England Council would have to do. I mean  
10 certainly my staff would work with the committee and  
11 so forth to see what kind of options might be  
12 available, whether they could be done through a  
13 framework, whether they could be done through  
14 specifications or whether it would require an  
15 amendment.

16 But they already have an amendment in  
17 the works, so beyond that I -- you know, I can't say  
18 any more right now.

19 GREG DIDOMENICO: Mr. Chairman, if  
20 there is a way to elevate this issue in the letter  
21 that the Council's going to be sending to the New  
22 England Council, that would be most appreciated.

23 Any possible -- you know, wording or  
24 any request to address that issue would be -- would

1 be helpful sooner than later.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Greg, one of the issues we are concerned about is  
4 the -- obviously there's going to be a major impact  
5 to the fleet from the new quota recommendations on  
6 herring. I mean that's very clear.

7 But what's not clear is whether or  
8 not the historic allocation between Area 1A and Area  
9 2 would be preserved. And certainly we are  
10 sensitive to whatever impacts might happen in Area 2  
11 if that allegation's changed. Erling Berg sits on  
12 the Herring Committee for us right now, and he's  
13 been delivering those concerns to the committee.

14 So, we are interested in seeing that  
15 preserved for the time being. It sounds like you're  
16 asking, though, in part for a quota rollover. And  
17 I'm not sure if there's any provision in the FMP. I  
18 don't know the FMP that well. I don't know if  
19 there's any provision for the rollover of the quota.

20 But obviously we're going to write this other  
21 letter to try to improve conditions in Area 2 for  
22 this year.

23 GREG DIDOMENICO: Anything that --  
24 you know, that could be done we certainly would be

1 supportive of, within reason, of course.

2 But the other thing I guess we were  
3 thinking about, is it possible to roll over quota  
4 from Area 3 into Area 2, if in fact we needed it  
5 this time next year.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 That's a question of -- you know, I don't know that  
8 George can answer it here. So, why don't we take  
9 that up with --

10 GREG DIDOMENICO: Sure.

11 COUNCIL CHAIRMAN RICHARD ROBINS: --

12 with the Regional Office after the meeting. Thank  
13 you.

14 GREG DIDOMENICO: Thank you.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Dan.

17 DANIEL FURLONG: As I understand it,  
18 Greg, the issue's really right now with the PDT, the  
19 Plan Development Team, and they're the ones that are  
20 going to be psyching out allocation at this reduced  
21 level. So, that's the first cut that the Council --  
22 New England Council will see is coming out of that  
23 group.

24 GREG DIDOMENICO: Thank you.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you. Any additional new business to come  
3 before the Council?

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: All

6 right. Seeing none, we'll move on to the Law  
7 Enforcement Committee. And we're convened as a  
8 committee of the whole for this discussion.

9  
10 WHEREUPON:

11  
12 THE MEETING WAS CONCLUDED AT 2:05 P.M.  
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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

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

In witness whereof, I have set my hand and Notary Seal this 24th, day of November, 2009.

\_\_\_\_\_  
PAUL T. WALLACE. Notary Public  
My Commission Expires

October 8, 2015

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