

Pages: 1-161

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
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Dover, Delaware 19901-6790

COUNCIL MEETING

11-12 JUNE 2008

at

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Two Miss America Way
Atlantic City, New Jersey 08401

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I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS PETER JENSEN	4
APRIL MINUTES PETER JENSEN	5
Motion To Approve	5
James Ruhle	5
Vote - (passed)	6
REGIONAL ADMINISTRATOR'S REPORT GEORGE DARCY	6
NMFS NEFSC DIRECTOR'S REPORT JAMES WEINBERG	12
NOAA OFFICE OF GENERAL COUNSEL REPORT JOEL MACDONALD	28
NMFS FEDERAL ENFORCEMENT REPORT SCOTT DOYLE	37
U.S. COAST GUARD REPORT TIM BROWN	40
ASMFC REPORT VINCE O'SHEA	47
NEW ENGLAND COUNCIL LIAISON REPORT JAMES RUHLE	52
SOUTH ATLANTIC COUNCIL LIAISON REPORT RED MUNDEN	83
EXECUTIVE DIRECTOR'S REPORT DANIEL FURLONG	92
STATUS OF PLANS RICHARD SEAGRAVES	107

SQUID, MACKEREL, BUTTERFISH SPECIFICATIONS	
JAMES RUHLE	109
Motion - Atlantic Mackerel Specifications	
James Ruhle	109
Vote - (passed)	110
Motion - Butterfish Specifications	
James Ruhle	114
Vote - (passed)	116
Motion - Illex Squid Specifications	
James Ruhle	117
Vote - (passed)	118
Motion - Loligo Squid Specifications	
James Ruhle	119
Vote - (passed)	123
LAW ENFORCEMENT COMMITTEE REPORT	
EDWARD GOLDMAN	125
Motion - Press Release	
Edward Goldman	129
Vote - (passed)	132
DEMERSAL COMMITTEE REPORT	
JACK TRAVELSTEAD	133
Motion - Postpone Work on Amendment 15	
Jack Travelstead	135
Vote - (passed)	140
SURFCLAM AND OCEAN QUAHOG SPECIFICATIONS	
LAURIE NOLAN	143
Motion - Specifications	
Laurie Nolan	143
Vote - (passed)	144
AD HOC EXCESSIVE SHARE COMMITTEE REPORT	
LEE ANDERSON	145
AD HOC SSC WORKING GROUP	
EUGENE KRAY	147

1 [1:05 p.m.]

2 _____
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIR PETER JENSEN: Let's
5 see if we can get started so we can finish on time.

6 Would everybody take their seats and we will get
7 started. We do have a quorum so we will convene.
8 Most of today's session is routine business we have
9 to take care of: the spec settings. Certainly as
10 all of you know there is a lot of stuff swirling
11 around and so in the course of this meeting we are
12 going to be talking about some of those new things.

13 The new proposed guidelines are out for ACL down
14 north in the National Standards. I don't know if
15 everyone has gotten a copy, we will talk a little
16 bit about that; and of course we are still dealing
17 with how the SSC is going to be operating, and so
18 there are just a lot of things swirling around and
19 we will deal with them the best we can as we come to
20 them.

21 The first item of business today is
22 the --

23 LEE ANDERSON: I am sorry to
24 interrupt but I would just like to tell everybody --

1 make an announcement here that I am back and the
2 doctor says that I am good; and the more important
3 thing is I wanted to thank people on the Council for
4 the staff and individually and as a group for the
5 cards and the greetings I got. It did help me with
6 my recuperation, so thank you very much for the kind
7 thoughts that were passed on to me.

8 COUNCIL CHAIR PETER JENSEN: Welcome
9 back. Does that mean we don't have to take it easy
10 on you now?

11 LEE ANDERSON: The doc says I am
12 okay.

13 COUNCIL CHAIR PETER JENSEN: Okay.
14 All right. The first item of business is approving
15 the April Minutes.

17 APRIL MINUTES

18 COUNCIL CHAIR PETER JENSEN: Do we
19 have a motion on the April minutes?

20 JAMES RUHLE: So moved.

21 COUNCIL CHAIR PETER JENSEN: Moved
22 and seconded. Any discussion, any discussion,
23 modifications or any changes people want to put
24 forward? Dennis.

1 DENNIS SPITSBERGEN: I need to point
2 out that Ed Mesunas is no longer with us.

3 COUNCIL CHAIR PETER JENSEN: Pardon?

4 DENNIS SPITSBERGEN: Ed Mesunas is no
5 longer on the Council. He shows up in the minutes a
6 couple of times.

7 PETER JENSEN: Okay. All right. Any
8 other questions or additions?

9 (Motion as voted.)

10 {Move to Approve April 2008 minutes.}

11 COUNCIL CHAIR PETER JENSEN: All
12 those in favor say aye.

13 (Response.)

14 COUNCIL CHAIR PETER JENSEN: Opposed.

15 (No Response.)

16 COUNCIL CHAIR PETER JENSEN: The
17 motion carries. The minutes are approved.

18 We will start off with the Regional
19 Administrator's Report.

20 _____
21 REGIONAL ADMINISTRATOR'S REPORT

22 GEORGE DARCY: Thank you Mr.
23 Chairman. I have several things to report. First
24 as you mentioned the long awaited proposed rule for

1 the National Standard One Guidelines what we call
2 the ACL/APM rule was published in the Federal
3 Register June 9th; and the comment period on that
4 will close on September 8th. The New England
5 Council got a presentation from headquarters office
6 on that rule last week and -- I mean you scheduled
7 that for your August meeting but I am sure that they
8 would be happy to do that for you.

9 COUNCIL CHAIR PETER JENSEN: George,
10 there is a 90 day comment period on that.

11 GEORGE DARCY: That's right.

12 COUNCIL CHAIR PETER JENSEN: And that
13 end when?

14 GEORGE DARCY: September 8th.

15 COUNCIL CHAIR PETER JENSEN:
16 September 8th.

17 GEORGE DARCY: Also heads up for you
18 -- we are working at the Regional Office on the
19 proposed rule regulatory amendment, largely
20 administrative but it probably will be coming out
21 sometime this summer; and there will be a comment
22 period that may well be open during your August
23 meeting. But it will revise portions of our
24 regulations that relate to VMS and prohibitions by

1 reorganizing those regulations for clarity -- or at
2 least what we think is clarity. It is also going to
3 standardize VMS unit and vendor requirements in the
4 Region with those of the National VMS program. It
5 is going to insert several new prohibitions not
6 other regulations to correct or clarify existing
7 policies and requirements.

8 They are not really new prohibitions,
9 they are really just rewording some things that are
10 in the regulations to help our enforcement attorneys
11 in court. They have had a few problems with the way
12 some of the prohibitions were worded. And finally
13 to correct any inadvertent errors or admissions. So
14 just a heads-up for that, you may want to comment on
15 it or at least take a look on it -- look at it to
16 see if you have any suggestions.

17 The 2008 Summer Flounder, Scup, Black
18 Sea Bass Recreational Measures were published May
19 23rd and became effective upon that date. A notice
20 of availability for the DSEIS -- the Draft
21 Supplemental Environmental Impact Statement for
22 Amendment 10 -- the Mackerel, Squid, Butterfish FMP
23 published on May 2nd, and that comment period was
24 originally scheduled to end on June 16th but it was

1 recently extended to June 23rd.

2 Monkfish Framework 5 -- framework for
3 adjustment 5 Federal Rule was published on April
4 28th and became effective May 1. That's the one
5 that established the new biological reference points
6 based on the stock assessment that was done last
7 year. And Framework 6 which is the framework that
8 would remove the default backstop measure which is
9 no longer necessary because of that assessment --
10 that proposed rule should be out shortly, it's
11 currently under review.

12 Atlantic Sea Scallops Amendments 11
13 and Framework 19 were both published and both became
14 effective on June 1. And effective on June 1 with
15 the exception that the limited access general
16 category scallop permit are not required until July
17 1. We allowed some additional time because both of
18 those rules were out a little later than we had
19 expected.

20 We received close to 300 applications
21 for all categories of limited access general
22 category scallop permits with the majority of those
23 being for IFQ scallop permits.

24 Atlantic Herring Amendment 4 Notice

1 of Intent to prepare an EIS for Amendment 4 was
2 published in the Federal Register on May 8th, and
3 the comment period on that Notice of Intent closes
4 June 30th, 2008. That Amendment is intended to
5 improve monitoring the catch of the herring fishery
6 and to manage the fishery long term sustainable
7 yields.

8 In multispecies there is one action -
9 - two actions, there may be of interest to you; we
10 published a Proposed Rule on April 29th, 2008, that
11 would modify the existing scallop dredge exemption
12 areas to allow an incidental catch of monkfish at 50
13 pounds/tail weight per trip. The comment period on
14 that closed May 14th and we are currently preparing
15 a final rule.

16 And the eliminator trawl proposed
17 rule was published in the Federal Register on May
18 20th. That would allow the use of the eliminator
19 trawl in the regular B days-at-sea program in
20 Eastern Canada Haddock SAP -- Special Access
21 Program. The comment period on that closed last
22 week June 4th and we have the final rule under
23 development for that.

24 Finally, Protected Resources Item,

1 Proposed Rule was published on June 6th that would
2 amend the Atlantic Large Whale Take Reduction Plan
3 to provide an additional 6 months to April 5th, 2009
4 for trap and pot fisherman subject to the Atlantic
5 Large Whale Take Reduction program regs along the
6 east coast to comply with the broad based sinking
7 ground line requirement. And the comment period on
8 that closed this July 7th.

9 I should mention also that the
10 Proposed Rule that would try to conform the NEPA
11 Process and the Magnuson Act Process is out for
12 public comment. You will be receiving a
13 presentation on that tomorrow I believe.

14 That completes my report.

15 COUNCIL CHAIR PETER JENSEN: Thanks
16 George. Any questions, comments?

17 DENNIS SPITSBERGEN: As I understand
18 George, 300 applicants for the IFQ permit -- general
19 category?

20 GEORGE DARCY: Three hundred for all
21 categories, the majority of which were IFQ.

22 DENNIS SPITSBERGEN: Okay. Do you
23 know how many were IFQ?

24 GEORGE DARCY: No, not off the top of

1 my head.

2 DENNIS SPITSBERGEN: The majority of
3 them?

4 GEORGE DARCY: The majority of them.

5 COUNCIL CHAIR PETER JENSEN: Further
6 questions, comments?

7 I should also mention that our Vice
8 Chair is not with us because he is over with the SSC
9 and so he won't be with us during this session. He
10 is Chair of our ad-hoc committee on the SSC and it's
11 appropriate that he spend time with the SSC this
12 afternoon.

13 The Center.

14
15 NMFS NEFSC DIRECTOR'S REPORT

16 JAMES WEINBERG: Thank you, Pete.
17 I'd like to start off with a kind of a personal
18 announcement. Many of you know Terry Smith who was
19 -- I basically inherited his job when he left the
20 Science Center, and that I wanted to mention that
21 Terry rides a bike and he was -- about three weeks
22 ago he had a serious accident. He was hit by a car.
23 And he is recovering but sustained really serious
24 injuries, so there is an email going around on that,

1 but I just wanted to make a general announcement
2 about Terry.

3 Now getting down to what's going on
4 with our ships and a few notes about stock
5 assessments. First of all the ships -- the spring
6 survey with the Albatross was completed on May the
7 2nd, and the Bigelow which is our new vessel
8 shadowed the Albatross for most of the spring
9 survey. And there were a couple of periods where
10 the Bigelow had mechanical issues and wasn't out
11 there; but for most of the survey the Bigelow was
12 shadowing the Albatross.

13 The two vessels are doing basically
14 side by side sampling to gather enough data to do
15 calibrations for each of the species that we assess;
16 and I think as of this week we are up to
17 approximately 300 pairs of tows where both vessels
18 collected good data that can be compared against one
19 another. And people are getting busy at the Science
20 Center examining those data and they are also
21 determining which species we need to target places
22 where we are likely to catch certain species to
23 collect more data on those species where we don't
24 have enough already, and this will continue into --

1 and through next fall. So that's going pretty well
2 right now.

3 The spring survey data from the
4 survey will be -- the release will be delayed a
5 little bit due to the expended -- the extended
6 bottom trawl survey operations in May and early June
7 and shell fish survey operations. The scallop
8 dredge survey will be conducted this year with the
9 RV Hugh R. Sharp beginning on June the 21st, and the
10 survey will be conducted on two 18 day legs
11 concluding on August the 6th. And the Sharp is a
12 large research vessel from the University of
13 Delaware, and it's part of the UNALs fleet which is
14 the Government Navy operated fleet of ships for --
15 use for research.

16 The clam dredge survey will be
17 conducted on the NOAA ship Delaware II as it has
18 been for quite a while. That survey will begin on
19 June the 30th and it will be conducted in three 12
20 day legs concluding on August the 8th.

21 On red tide or what some people refer
22 to as PSP, which is the paralytic shellfish poison,
23 the red tide sampling will be conducted on both the
24 scallop and clam surveys in conjunction with the FDA

1 and a HOEY -- that's the Woods Hole Oceanographic
2 Institute -- coordinated study on red tide.

3 On stock assessment issues, we have
4 been very busy lately with the GARM -- that's the
5 groundfish assessment review meeting -- which is a
6 benchmark assessment of the 19 groundfish stocks
7 that the New England Council manages, and we have
8 been having a series of meetings that -- for the
9 GARM all this year, and we just completed one on
10 biological reference points in early May and the
11 next one -- the next GARM meeting -- will be in
12 Woods Hole the week of August the 4th through the
13 8th; and that's when all of the benchmark
14 assessments will be reviewed.

15 Of more interest to the -- to this
16 Council, the summer flounder -- everybody's ears
17 perk up -- summer flounder will -- the SARC will
18 occur next week June the 16th through the 20th; and
19 that will be peer reviewed by the Center of
20 Independent Experts of that work, and the work was
21 done by the southern demersal working group.

22 Also we have in early December the next
23 thing -- the next peer review meeting that we have
24 listed is part of the data poor working group and

1 they will be looking at a reevaluation of biological
2 reference points for black sea bass, red crab, scup,
3 skates, wolfish and a little bit of work on
4 weakfish.

5 And then I just wanted to mention
6 that we have three species coming up that are now in
7 the TRAC, that's the Joint Assessment Process with
8 Canada. In late 2008 and through 2009, dogfish,
9 herring and mackerel will all be assessed as part of
10 the TRAC process.

11 And that concludes my report. Thank
12 you.

13 COUNCIL CHAIR PETER JENSEN: Nancy do
14 you have anything to add?

15 NANCY THOMPSON: No, but thank you
16 for asking.

17 COUNCIL CHAIR PETER JENSEN:
18 Questions, comments? Jimmy.

19 JAMES RUHLE: Thank you Mr. Chairman.
20 Jim, I'm curious to know if there has been any
21 further discussions in the Science Center --
22 initially it was determined by the Center that it
23 was going to take a minimum of 1660 paired tows to
24 get a calibration that would meet the requirements

1 of everyone involved, and you suggest now we are at
2 300 so that includes one survey plus some work that
3 they are doing now and the opportunity for one more
4 survey this Fall; so they are having a lot of
5 trouble even believing we could get to half of that.
6 Has there been some discussion as to what the
7 ramifications of only accomplishing that many tows
8 would be on the calibration, Sir.

9 JAMES WEINBERG: I think that
10 your -- that number of 1600 was probably an initial
11 estimate based on the experimental design in -- when
12 you collect these sort of data I think that the
13 sample size that you actually need can be less than
14 or greater than the amount that you target. And
15 it's true that 300 is a lot less than 1600, that
16 could be an issue; but until we really analyze the
17 data we can't say whether 300 is -- 300 is what we
18 have now, we will probably be doubling that or more
19 by the time we are done and then the data will be
20 basically be what they are and they will have a
21 certain amount of variance associated with them for
22 each species. That -- I think it's premature to
23 conclude that there is a severe problem with that
24 low number.

1 JAMES RUHLE: I did not suggest that
2 there was a problem, I asked if there was any
3 discussion in the -- among the Science Center as to
4 the problems that are going to arise from it; but I
5 appreciate your comments. Thank you.

6 NANCY THOMPSON: Yeah, we had a lot
7 of discussion about this as you might imagine
8 because we went out with the Bigelow in the A4 and
9 then the Bigelow broke, that was for the spring
10 survey and the calibration. And at that point we
11 had about 200 paired tows so we sat back and we
12 figured out what we needed for the spring survey to
13 have a complete calibration experiment and that's
14 why we were able to convince them -- the Agency and
15 the NOAA Corp to extend the time period for the
16 spring bottom trawl survey. And so yes we have had
17 a lot of discussion and of course we anticipate that
18 the Bigelow will continue to function and be fully
19 available in the Fall and we anticipate that will be
20 able to do a complete experiment whatever that means
21 in terms of the tows that are required for that
22 experiment. So yes we have had those discussions.

23 COUNCIL CHAIR PETER JENSEN: Nancy an
24 associated question and we talked about this the

1 last time and that is we had a trawl survey
2 committee that I think is something like five years
3 old now and so the question is whether that
4 committee ought to be continued, whether there is a
5 role for them, whether they ought to be
6 repopulated/reformed, do you have some advice for us
7 on that?

8 NANCY THOMPSON: Yeah, I -- and I
9 honestly have been remiss in not providing the terms
10 of reference that I think or the Center thinks that
11 we should have in place for a continuation of the
12 panel. I do believe that there is a role. I think
13 that given what has happened with fuel costs in
14 particular, we need to be doing surveys smarter and
15 better and more efficiently. And clearly we need to
16 get the advice from the industry and other folks as
17 well to move towards I think being smarter about the
18 application of our big boats. They are expensive,
19 they cost a lot. As we have said and I have talked
20 to some people here about some other things, I mean
21 we are not threatened by our livelihoods because of
22 the increasing costs of fuel like so many people are
23 certainly sitting at this table and in the room.
24 But they are affecting us and even before this I

1 felt that there was a role relative to looking at
2 the calibration experiment and the data that we have
3 and helping us interpret that information
4 appropriately.

5 There continue to be questions for
6 example about what we are getting in our surveys
7 relative to what people are seeing when they are
8 doing fishing, whether it be recreational or
9 commercial in their small part of the world. And so
10 I think there still is a very important role for
11 this group to be able to help us interpret the
12 information and explain the information, but again I
13 think now with the threat of continuing increases in
14 fuel cost we all have to function smarter. And that
15 is a discussion I would really like to have with the
16 industry.

17 COUNCIL CHAIR PETER JENSEN: Well
18 what I think I would like to do then is poll the
19 current members of that panel and see if they are
20 willing to continue with a slightly modified purpose
21 and then we will go from there. Jimmy.

22 JAMES RUHLE: Thank you, Mr.
23 Chairman. Let me make something clear about this
24 trawl advisory panel. It was formed to try to

1 utilize -- to create a cooperative effort on the
2 part of the industry and the Science Center to
3 rectify the problems that came out of what is now
4 considered trawlgate.

5 In the first few years of the
6 existence of this panel I have been fortunate enough
7 to be the chairman of it since it's inception. The
8 working relationship was excellent. I really felt
9 like it was going to be the answer to a lot of our
10 questions and concerns that have been in the back of
11 our minds and on the table for years and years and
12 years. And in -- need to say upfront that the
13 success of this panel and it's recommendation
14 resulted in two major improvements in what the
15 survey will look like and that is the gear. Well
16 the reduction in the tow cable that was actually
17 introduced -- well was supposed to be on the boats
18 from -- it was either an inch and a quarter to an
19 inch or inch and an eighth to quarter, but it was
20 very significant.

21 And secondly the design of the net
22 that has demonstrated extreme - extreme consistency.

23 We were just fortunately enough to be using the
24 same net on NEAMAP; and now we got 420 some -- 418

1 tows I think -- the consistency is there, it's
2 incredibly.

3 But the role of the industry here was
4 going in in a cooperative frame of mind and manner
5 to work with hand in hand with the Science Center
6 and I don't think it is any surprise that -- in
7 recent years -- in the last year especially. And in
8 all fairness the Science Center has had a tremendous
9 amount of problems with the delay in getting the new
10 vessel and we certainly understand all that and the
11 problems associated with it's operation.

12 But in the past year, Mr.
13 Chairman, this -- there has been a complete
14 breakdown of communication between the Science
15 Center and the industry every way in the world.
16 It's just -- I mean you're familiar with the time
17 that I spent on the Bigelow and I did blow up in
18 October down in New Bern because I had just came in
19 off of twenty some days of research to find out that
20 adjustments were made to the gear package that I
21 publicly endorsed and my credibility was on the
22 line, and you know that's history and of course I
23 was reprimanded by the Science Center and that's
24 neither here nor there.

1 But I really thought that if anything
2 good came out of it it would be a reconnect of the
3 communication that we wouldn't get in this situation
4 again; and it certainly did for a very short period
5 of time, but since then it's progressively got
6 worse.

7 We met in February and Nancy touched
8 on it, but she also touched on it at the last
9 Council meeting when I asked a specific question; we
10 asked for terms of reference and a mandate for the
11 continuation of the role of this committee. I mean
12 I've been holding the guys together with this thing
13 with my word and they have all abandoned ship here.

14 Nobody -- all of the net vendors that compete on a
15 daily basis that came together to design this gear
16 walked away, four of the industry members put a
17 letter together and sent it to Doctor Lautenbacher -
18 - Admiral Lautenbacher and I didn't approve of that
19 approach but that's what they elected to do -- they
20 walked away.

21 It puts me in a very awkward
22 position. Some people are going to say well he is
23 bitter because he feels like the committee should be
24 abolished because he was the only chairman; but

1 actually the mandate -- the charter of that panel
2 allows me if it was the pleasure of the committee to
3 serve as the chairman without being associated with
4 the Council. That's clear enough, so -- considering
5 that we have heard absolutely nothing - nothing
6 since February, not a word. I'm not talking about a
7 little bit of communication, I'm talking about
8 nothing. I can't keep my people interested in it,
9 they have all -- I'm starting to lose credibility
10 by trying to defend the Science Center to this panel
11 and I am not going to do that Sir. So, I'm not a
12 quitter, I don't quit on anything. I will give
13 everything, every opportunity, every bit of energy
14 that I can when I believe in it; but this panel it
15 does not need to be continued Sir. It really does
16 not.

17 I will leave it up to you. There may
18 be a completely different role for it in the future
19 as Nancy talks about the survey -- we need to fish
20 smarter, and we are going to be involved with the
21 determine of the calculations or calibrations. We
22 are not qualified for that. We are just fisherman,
23 that's all we are. It was a damn good group, and
24 there were some of the best fellows that I know.

1 But they have because of the way that this has been
2 handled completely lost faith in this.

3 And you do need to understand the
4 choice of trawl doors which in fact we -- and again
5 I'll take responsibility, we underestimated the
6 doors but we wanted a bigger net from day one and
7 that was not accepted by the Science Center for this
8 new vessel; so we underestimated the spread and
9 force of the doors and made a couple of
10 recommendations that were wrong. Ultimately we got
11 one that we thought was right. And evidently it was
12 not right in the eyes of the Science Center. They
13 in fact they took the manufacturer of that door on
14 the boat for a week and the next week decided on a
15 door that we have never endorsed or supported in any
16 way shape or form.

17 Which and again -- and in all
18 fairness this may be the perfect door for that boat
19 and that net, but here is where my problem is: not
20 one piece of evidence, not one documentation, not
21 anything to determine what the configuration of that
22 net being used for this 300 tows for the
23 calibrations is. I asked the same question in
24 April. There was some data that was provided for

1 that decision to be made. It has not at all been
2 shared with me or the committee or anyone that I
3 know of.

4 There has been letters of support for
5 this package by three or four different individuals.

6 If in fact they were provided with this
7 documentation, that's fine; but if they were not as
8 I expect is the case that's just a personal opinion
9 and that's all it is. If I knew today that that
10 vessel was pulling that net in the configuration
11 that it is designed to be in and I had had no
12 problem at all maintaining through 418 tows I'll be
13 fine. But Sir that's not being provided and I'm
14 tired of asking.

15 So I am going to leave it up to you
16 Sir. I'm not quitting, but I don't see the future
17 and there is a credibility issue here, this is
18 significantly downhill. I am very very bothered by
19 this and yes I blew up and I probably didn't do it
20 in the right way but I out things on the table in
21 October down there that people should have took a
22 lot more seriously then they did. Just arose from
23 the tow I made next to the Albatross into the
24 observer program which has been investigated, which

1 has now determined that discrepancies that I clearly
2 laid out at that meeting have in fact negatively
3 affected the data base.

4 I know what I am talking about, but I
5 am at my wits end here Mr. Chairman, I'm not
6 quitting the committee but I hope to quit -- the
7 committee quits me. Is about what it is. Thank
8 you.

9 COUNCIL CHAIR PETER JENSEN: Okay,
10 well I don't know how or why it broke down, but I do
11 know that these kind of efforts are important in the
12 future and I don't want to abandon them; and you
13 know are encouraged some good things came out and we
14 won't worry about why it broke down. Let's see if
15 we can't repair it, and so I am not going to disband
16 the committee. If other people want to be on the
17 committee, then we will deal with that; but I think
18 Nancy's invitation is open and honest and we will
19 try to respond to it.

20 JAMES RUHLE: In that case Mr.
21 Chairman, I very reluctantly have to resign my
22 chairmanship of that committee --

23 COUNCIL CHAIR PETER JENSEN: All
24 right.

1 JAMES RUHLE: -- effective
2 immediately.

3 COUNCIL CHAIR PETER JENSEN: Thank
4 you. Laurie.

5 LAURIE NOLAN: I'll pass, thank you.

6 COUNCIL CHAIR PETER JENSEN: Other
7 questions, comments on the Center Report? I think
8 we are ready for the Enforcement Report, who wants
9 to go first?

10 SCOTT DOYLE: Mr. Chairman, I'll go
11 first.

12 COUNCIL CHAIR PETER JENSEN: Excuse
13 me, excuse me, I got ahead of myself. General
14 Counsel is next in line. We don't want to ignore
15 him.

16
17 NOAA OFFICE OF GENERAL COUNSEL REPORT

18 JOEL MACDONALD: Thank you, Mr.
19 Chairman. The plaintiffs have been busy since we
20 last met. Three lawsuits were filed. On May 13th,
21 2008, the Fisheries Survival Fund filed a lawsuit in
22 the District Court in the District of Columbia
23 challenging Amendment 11 to the Fishery Management
24 Plan for the scallop fishery. You may recall that

1 Amendment 11 establishes an ITQ system or IFQ system
2 for the general category. It is kind of an
3 interesting law suit because the plaintiff generally
4 support Amendment 1 but challenge one aspect of it,
5 namely the 10 percent allocation from the total
6 quota to be general category during what is termed
7 the transition period.

8 During the transition period NMFS
9 will determine which of the many current
10 participants in the general category will qualify
11 for an ITQ permit. This determination will be made
12 only after a series of administrative appeals are
13 concluded.

14 There is no definite time period for
15 the transition period in the Amendment even though
16 the New England Council recommended that it not
17 exceed two years. The absence of any time period
18 for the transition period in the final rule for
19 Amendment 11 is now the plaintiffs challenge.

20 According to Amendment 11, after the
21 transition period ends the ITQs are established, the
22 general category is allocated only 5 percent of the
23 overall quota. If the transition period is not
24 implemented by March 1st, 2009, NMFS is proposing to

1 reduce the days-at-sea for the limited access full
2 time category from 42 to 37. The plaintiff claims
3 that the regulations creating the indefinite
4 transition period violate the Magnuson-Stevens Act
5 because it was not recommended by the Council nor
6 was it deemed necessary and appropriate. The
7 plaintiff also alleged that this situation violates
8 the Administrative Procedure Act.

9 On May 15th, 2008 the Friends of
10 Marrymeeting Bay Center for Biological Diversity and
11 Douglas H. Watts filed suit in Federal District
12 Court in Portland Maine against the Secretary of
13 Commerce and the Secretary of the Interior. The law
14 suit alleges that the National Marine Fisheries
15 Service and the Fish and Wildlife Service failed to
16 act on a petition pursuant to the Endangered Species
17 Act to list the Kennebec River population of
18 Atlantic Salmon as either threatened or endangered
19 by the statutory deadline.

20 The plaintiffs submitted their
21 petition to list on May 11th, 2005. Under the
22 Endangered Species Act the Services are required to
23 make a decision to list or not list within 12 months
24 of receiving the petition. The plaintiffs allege

1 that more than three years have passed and the
2 Services have not made the required determination.
3 The plaintiffs have asked the Court to declare the
4 Services have violated the Endangered Species Act
5 and order the Services to make a 12 month
6 determination on the petition.

7 The interesting part of this is that
8 NMFS is currently working on an expansion of the
9 Gulf of Maine distinct populations segment of
10 Atlantic Salmon to expand it. It currently includes
11 I think several -- seven rivers in the State of
12 Maine, and the expansion if it goes forward would
13 include not only the Kennebec River which is the
14 subject of this particular lawsuit but the Penobscot
15 River as well. There is also a parallel action
16 under consideration to designate critical habitat.
17 You may remember several months ago I reported on a
18 law suit that was filed by the Center for Biological
19 Diversity and the Conservation Law Foundation
20 against the Agency claiming that we had failed to
21 meet the statutory requirement to designate critical
22 habitat for Atlantic Salmon which is required to be
23 done when it is listed.

24 The distinct population segment of

1 Atlantic Salmon was listed I believe in November of
2 2000, and the reason for the law suite is that there
3 is a statue of limitation that limits plaintiffs
4 from bringing the action beyond six years from the
5 date of the action they are complaining of or want
6 implemented has taken place. So that's in the
7 works.

8 We actually engineered a settlement
9 agreement which was what the plaintiffs wanted in
10 the CBD versus Gutierrez case, and we are bound to
11 propose designation of critical habitat by August
12 30th of this year, and do a final designation for
13 critical habitat by April 30th of 2009. So both of
14 those actions are sort of in parallel. And you may
15 be hearing more about that in the near future.

16 Now, the last case was filed on May
17 12th, 2008 by 17 scallop fisherman who sued the
18 Secretary of Commerce, NOAA and the Fishery Service
19 in the United States District Court for the District
20 of New Jersey challenging Amendment 11. A lot of
21 what is written here is repetitive in that it
22 establishes a limited access system, an individual
23 fishing quota management program. The plaintiffs
24 who apparently do not qualify to fish for scallops

1 under the new program are suing on the grounds that
2 Amendment 11 is arbitrary and capricious and
3 violates the due process and takings amendments to
4 the US Constitution, and fails to allocate fishing
5 privileges fairly and equitable under the Magnuson-
6 Stevens Act. The plaintiffs asked the Court to
7 declare that Amendment 11 violates federal law,
8 delay the implementation of Amendment 11 and grant
9 just compensation to the plaintiffs.

10 It appears that the attorney who
11 wrote this hasn't really read the Magnuson Act
12 because you can not get injunctive relief -- that is
13 temporary injunctive relief under -- by virtue of
14 Section 305 of the Magnuson Act, and there is a
15 provision in the Magnuson Act which is currently --
16 I think was in Section 304 or 305 probably a
17 revision to the Magnuson Act and now appears in 303A
18 of the LAPP Program that says that revocation or non
19 issuance of a permit for an ITQ or limited access
20 permit is not a takings under the constitution and
21 there shall be no compensation for such revocation.

22 So it is going to be interesting to
23 see how this plays out. This is probably one of the
24 worst complaints that we have ever seen, because it

1 just makes broad statements without really tying it
2 to specific provisions of the Amendment 11. So,
3 it's going to be interesting to see how this plays
4 out.

5 Unfortunately regardless of the
6 quality of the complaint we still have to go through
7 the entire process, file the administrative record,
8 go through all the briefing schedules and await the
9 Court decision. There is no short cut,
10 unfortunately.

11 That's it Mr. Chairman.

12 COUNCIL CHAIR PETER JENSEN: Anything
13 new on the standardized bycatch reporting
14 methodology? I've forgotten what you reported last
15 time.

16 JOEL MACDONALD: Nothing new. I
17 don't believe a briefing schedule has been
18 established that would be I think the next step.

19 COUNCIL CHAIR PETER JENSEN:
20 Questions, comments of General Counsel? Dennis.

21 DENNIS SPITSBERGEN: And I guess this
22 is going to go to George with relation to the first
23 law suit. Framework 19 establishes I think days-at-
24 sea in open areas at 35 and then 42 for 2008 and

1 2009, is that correct?

2 GEORGE DARCY: It did establish those
3 but I don't remember the numbers.

4 DENNIS SPITSBERGEN: And then
5 Amendment 11 of course established the 10 percent
6 until 11 was fully implemented.

7 GEORGE DARCY: Right.

8 DENNIS SPITSBERGEN: And it sounds
9 like someone has made a decision that if it isn't
10 implemented in 2009 then they would reduce the open
11 area days-at-sea, is that what I understand from --

12 JOEL MACDONALD: That was a proposal,
13 it has not been finally acted upon.

14 DENNIS SPITSBERGEN: Okay. Who made
15 that proposal, what is the source of that proposal?

16 JOEL MACDONALD: The Fishery Service.
17 What we are trying to do is to get this in place by
18 March 1st --

19 DENNIS SPITSBERGEN: Right.

20 JOEL MACDONALD: -- of 2009, which is
21 the next fishing year.

22 DENNIS SPITSBERGEN: Right. I
23 understand that.

24 JOEL MACDONALD: You know as George

1 indicated there are 300 applicants for different
2 categories of general categories permits, and you
3 asked how many of those are requests for IFQ
4 permits; and I can't -- I don't know how many, but I
5 assume that the bulk of them are for IFQ permits.

6 The problem is -- you know, if you
7 don't feel that you got the slice of pie that you
8 deserve under Amendment 11, there is no reason for
9 you not to appeal. And we are looking at what might
10 be termed a landslide of appellate actions here,
11 which will take the agency quite some time to
12 dispose of. Actually we are talking with the Alaska
13 Appeals Office to see there is some way to maybe
14 that they can help us out with respect to handling
15 these appeals.

16 DENNIS SPITSBERGEN: I guess what I
17 was curious about was the reduction and I had
18 thought that had all been factored in, apparently
19 not. If it did go into the next year then there
20 would have to be a reduction in the days-at-sea, and
21 I don't think that a lot of people understood that.

22 So I guess that was what I was really curious
23 about.

24 COUNCIL CHAIR PETER JENSEN: Okay.

1 Any further comments?

2 (No response.)

3 COUNCIL CHAIR PETER JENSEN: Okay,
4 now we are ready for the Enforcement Report.

6 NMFS FEDERAL ENFORCEMENT REPORT

7 SCOTT DOYLE: Thank you Mr. Chairman.

8 I'm Scott Doyle. I'm standing in for Andy Cohen.

9 I'll take the first thing for NOAA L.E. This is
10 our report since April 1st, 2008. The Northeast
11 Division investigative efforts resulted in \$138,411
12 involving five catch seizures. Additionally there
13 have been NOVAs assessed at approximately \$102,000.

14 The NOAA Administrator decided in favor of NOAA
15 L.E. and General Counsel on NOAA's appeal of the
16 Louis Mitchell and Gloucester Sea Display Auction
17 decision. The initial decision by the
18 Administrative Law Judge which went in favor of the
19 respondents was overturned and the NOVA assessment
20 to GSA for 120,000 and a NOVA assessed to Louis
21 Mitchell for 22,000 was reinstated. The 90 day
22 permit sanction assessed against GSDA was reinstated
23 as well. The case will now be remanded back to the
24 Administrative Law Judge for further consideration

1 to determine the final penalty.

2 The original case documented GSDA
3 purchased cod overages in 2004 and their employee
4 Louis Mitchell provided false written statements
5 concerning this matter.

6 In the second incident agents from
7 New Bedford with the assistance of US the Coast
8 Guard boarded a New Bedford based scalloping vessel
9 endorsed with a limited access sea scallop permit,
10 after completing their Elephant round trip the
11 vessel catch was seized, approximately 17,550 pounds
12 of scallops with a value of \$126,000. This
13 investigation concerned false declarations and false
14 statements.

15 A Nantucket scrimshaw dealer and an
16 Ukrainian citizen were charged in Federal Court with
17 participating in a scheme to smuggle sperm whale
18 teeth and elephant ivory into the United States in
19 violation of the International Treaty and Federal
20 Law Protection of Endangered Species.

21 Charles E. Manghis aged 53 was
22 arrested at his home in Nantucket by federal agents.

23 He appeared before a U.S. Magistrate in Boston and
24 was charged with multiple counts of smuggling whale

1 teeth, elephant ivory, false statements to federal
2 agents and conspiracy. He was released on 25,000
3 bail.

4 And lastly I'll handle part of this
5 and Mr. Brown I guess will handle the 2nd part of
6 it. But Yvonne Michelle Peabody and her father
7 Frank Peabody were sentenced in U.S. District Court
8 in Norfolk Virginia. Michelle Peabody received 90
9 days in prison and a \$50,000 fine. She will have to
10 serve her prison term of supervised release after
11 this prison term. Frank Peabody received four
12 months of supervised release. The company Peabody
13 Limited paid almost \$7,000 in fines and forfeiture.

14 Michelle Peabody pled guilty to unauthorized access
15 to a government computer and hiring illegal aliens.

16 She also received VMS and overtime confidential
17 information.

18 And that concludes my report.

19 COUNCIL CHAIR PETER JENSEN:

20 Questions, comments?

21 SCOTT DOYLE: I'm sorry, I just said
22 a million, did I say 7,000. It was 7 million, I
23 believe.

24 COUNCIL CHAIR PETER JENSEN:

1 Questions, comments? Dennis.

2 DENNIS SPITSBERGEN: What was that
3 violation of that vessel that was in the Elephant
4 Trunk? What was the initial violation on that one?

5 SCOTT DOYLE: I believe it involves
6 false declarations -- declaring falsely into a
7 different area.

8 DENNIS SPITSBERGEN: Because I was
9 going to say the --

10 SCOTT DOYLE: Declared an open trip -
11 - declared an open trip -- and actually it was a
12 Elephant Trunk trip.

13 DENNIS SPITSBERGEN: Okay, because I
14 was going to say the 17,000 pounds was legal, so I
15 was wondering what the illegal part was.

16 SCOTT DOYLE: Well Mr. Brown actually
17 knows more about that than I do. Apparently it was
18 a broken where he fished part of it inside and part
19 of it outside and you can't do both.

20 COUNCIL CHAIR PETER JENSEN: Further
21 questions, comments? Commander you are up.

22 _____
23 U.S. COAST GUARD REPORT

24 TIM BROWN: Thank you, Mr. Chairman.

1 First I'll speak to the 5th Coast Guard District
2 enforcement report which you should all have in
3 front of you, dated 1 April through 31 May, 2008.

4 On April and May the cutters and
5 stations in District 5 conducted nearly 300
6 fisheries boardings across the range of the mid-
7 atlantic commercial fisheries as reflected in figure
8 1 on the following page. In addition more than 1975
9 cutter hours, 350 small boat station hours, and 80
10 aircraft hours dedicated to fisheries law
11 enforcement patrols.

12 We did have a major cutter or 270
13 foot cutter out of Portsmouth Virginia patrolled off
14 shore with assigned patrol boats and aircraft during
15 this time. We detected five significant violations
16 during this time.

17 Boarding statistics and boardings by
18 fishery for the period in fiscal year are broken
19 down on the next several pages, and also by gear
20 type.

21 Page three outlines the details of
22 the five significant cases from this period. We had
23 four cases on scallop vessels, all undersized
24 twinetop and one case -- at Station Chincoteague

1 with illegal possession of one sand tiger shark. We
2 worked with VMRC on that case -- the Virginia Marine
3 Resources Commission -- to seize the shark for DNA
4 verification.

5 Other enforcement activities related
6 to commercial fishing vessels and Marine Protected
7 Species Efforts are clear on page four.

8 I wanted to highlight 30 commercial
9 fishing vessels participated in the voluntary
10 dockside examination program during this period and
11 received decals in the last two months. They are
12 listed on pages four and five.

13 No deaths during this period on
14 commercial fishing vessels is reflected on table two
15 on page five. And then the final few pages are
16 outreach information. I want to highlight a few
17 things there. Recently, and also during the same
18 time period last year we received reports of
19 recreational fishing vessels tying off of commercial
20 gear offshore. I'd note that A this is possibly
21 damaging to other's gear -- that commercial gear,
22 and B it's illegal. So would ask and encourage you
23 to speak to folks that you know who fish offshore on
24 wreck vessels and remind them about those

1 requirements. We don't want NOAA enforcement to get
2 on that.

3 Let's see, going onto the final page,
4 I'd like to add some information that we discussed
5 yesterday. The folks in the Law Enforcement
6 Committee listened to me struggle through talking
7 about TWIK, and I just wanted to provide a few
8 answers I think from the questions yesterday and
9 awareness for the Council.

10 TWIK, Transient Worker Identification
11 Cards, it's required according to the Maritime
12 Transportation Security Act of 2002. They are
13 required for anyone with unescorted access to secure
14 areas of vessels or facilities and all mariners
15 holding Coast Guard issued credentials or
16 certification documents. So, anyone with a mariners
17 license from the Coast Guard has to have a TWIK
18 card, that's the first thing I wanted to highlight.

19 The second, highlight the compliance
20 date for TWIK access or TEWIK cards has been moved
21 forward to April 15th, 2009; that was due to delays
22 in setting up the TWIK program.

23 There was a question yesterday during
24 the LEC about the fee for TWIK cards and how that

1 related to folks with commercial mariners licenses.

2 The fee for TWIK cards is \$132.50. TWIK cards are
3 valid for five years. Workers with current
4 comparable background checks can pay a reduced fee
5 of \$105.25 versus \$130. So they are not going to do
6 a second background check if there is already one
7 that had been done. There are some caveats with
8 that and I would encourage anyone who is interested
9 or needs information about this program to check
10 TSA's website because -- and I'm sorry I don't have
11 it in front of me -- but if you goggle TWIK and TSA
12 you will get the same web site that I did. They
13 have a lot of good frequently asked questions and
14 user guides.

15 And then finally, well I think that's
16 all I would say about TWIK. I think I answered most
17 of the questions that came from yesterday's LEC, and
18 I'll be glad to answer any questions after this or
19 offline.

20 COUNCIL CHAIR PETER JENSEN:

21 Questions, comments? Erling.

22 ERLING BERG: Commander Tim, I
23 noticed in the scallop fishery there quite a few
24 violations in the twin tops; and having had some

1 personal experience with these I know they -- what
2 they do over time, they absorb sand and the rope
3 will get wider or shorter; and I think that's what
4 the problem is. They seem to be shrinking and I was
5 just wondering if there was any tolerance in -- you
6 know, from the boarding officers?

7 TIM BROWN: There is certainly some
8 difference in how we enforce that regulation and the
9 penalties which we work with NOAA Enforcement and
10 NOAA General Counsel on for the difference between
11 the regulation which is 10 inch and what we find
12 when we get onboard. So we enforce the standard of
13 10 inch but we have different enforcement mechanisms
14 to deal with different ranges underneath that 10
15 inch requirements.

16 SCOTT DOYLE: Yeah, these aren't
17 hairline cases. You know, we discuss it back and
18 forth and obviously if we see -- this continues -- I
19 know up in New England there is a lot of discussion
20 about this and I am not sure where it wound up; but
21 I know there of this on shrinkage, on the nets. And
22 I'm not sure if at some point a tolerance seems to
23 be built in -- you know, into the biological end.

24 ERLING BERG: Thank you. I know of a

1 time -- the longer you use these twine tops the more
2 they swell up and the twine just keeps getting
3 thicker and thicker and it takes from the length.
4 So I was just curious what was allowed or not
5 allowed. Thank you.

6 COUNCIL CHAIR PETER JENSEN: Further
7 questions, comments? I have a general question for
8 you. Now, everybody is being effected by fuel
9 costs, are you noticing any reduction in marine
10 traffic out there, fishing vessels?

11 TIM BROWN: None has been reported to
12 me yet.

13 COUNCIL CHAIR PETER JENSEN: You had
14 an additional comment?

15 TIM BROWN: Yes, I'm sorry. I led
16 you astray, I have two more notes from this report.
17 Something I noted in the commercial fisheries news,
18 I want to draw everyone's attention to. As of
19 February 1st, 2009 Coast Guard and other search and
20 rescue personnel will only monitor mayday calls that
21 are broadcast using digital 406 megahertz EPIRB
22 beacons. So older 1215 EPIRB distress signals will
23 no longer be detected and responded to. So I wanted
24 to bring that to the Council's attention.

1 Then finally in addition to what
2 Special Agent Doyle mentioned about the Peabody
3 case, on June 2nd BM1 Wade Hughes who formally
4 worked in the District Five Law Enforcement Office
5 was sentenced to nine months in prison for passing
6 confidential information to Miss Michelle Peabody of
7 the Peabody Corporation, a Newport News based
8 fishing company. In addition to nine months in
9 prison Petty Officer Hughes received a \$2,000 fine
10 and 150 days of home confinement after completion of
11 his prison term. There is also a pending Coast
12 Guard administrative separation board in process and
13 that hasn't been decided at this time. Thank you.

14 COUNCIL CHAIR PETER JENSEN: Further
15 questions, comments? Thank you. Vince.

16
17 ASMFC REPORT

18 VINCE O'SHEA: Thanks Mr. Chairman.
19 The Commission met in Alexandria on May 5th through
20 8th, and the summary of that meeting report is
21 contained in your briefing book behind tab seven. I
22 want to thank Dan Furlong for as always his kindness
23 of putting that in there for me. I had a couple of
24 points during that meeting that may be of interest

1 to the Council.

2 The Striped Bass Management Board I
3 had reported to you earlier, this year had received
4 the benchmark stock assessment and one of the
5 outcomes of that assessment is that the technical is
6 looking at -- continues to look at the reference
7 points; and as a result of that -- the results of
8 the benchmark stock assessment there may be a need
9 to address those reference points. The Board was
10 briefed on that and with the conclusion that the
11 technical committee is going to continue to work on
12 that. But that's sort of a heads up that that is
13 going to be an issue that we may have to deal with
14 later on in the year.

15 The Coastal Shark and Spiney Dogfish
16 Management Board took a couple of actions that are
17 of interest. They voted to initiate two addenda in
18 spiney dogfish. The first is to remove the seasonal
19 component of the current allocation of the fishery.

20 This is to respond to perceptions that the original
21 regional split has not worked out as envisioned at
22 least for some of the States and that the southern
23 States in particular feel that they are being put at
24 a disadvantage. So there are going to -- we are

1 initiating that addenda, and then the second is
2 initiating addenda to go to State by State quotes in
3 spiny dogfish. And North Carolina is in the
4 process among others of putting forth proposals for
5 that.

6 The Board also had gone out with a
7 public information document on our coastal shark
8 plan. The Board received a summary of the public
9 comments to that and based on the comments and their
10 deliberations they selected the elements that are
11 going to go into the Commission's Coastal Shark
12 Fishery Management Plan, and they will formally
13 approve that in the August meeting.

14 At the Bluefish Board for a number of
15 years Mr. Chairman, Florida has had what some might
16 call excess commercial bluefish quota, primarily as
17 a result of the gill net ban that they imposed. And
18 as a result they have been helping some of the
19 northern states over the years that have run over on
20 bluefish by doing transfer of quota that is allowed
21 under the plan.

22 However at the Bluefish Board meeting
23 we -- the Board discussed a letter they received
24 from Mark Robson, the Director of Marine Fisheries

1 in Florida, expressing concern about the continued
2 transfer of quota and concerns within Florida that
3 perhaps not all states are chipping in on the
4 conservation burden to rebuild the stock. So the
5 Board heard a presentation on sort of a response to
6 that and I just sort of highlight that as a
7 potential issue as the Floridians keep watching
8 their commercial quota going north.

9 The last thing that the Commission
10 did, we had a workshop -- a second workshop on our
11 strategic plan. We selected the elements to go into
12 the draft. There was a press release soliciting
13 public comments, the plan was posted up on the
14 website, and in addition I sent out I believe 20 to
15 30 letters to known interest groups and participants
16 in the Commission process inviting them to comment
17 on our strategic plan. And the goal there is to
18 discuss those public comments at the August meeting,
19 make decisions on them for final approval of our
20 five year -- next five year strategic plan at the
21 annual meeting.

22 Our next meeting Mr. Chairman is in
23 Alexandria the week of 18 August, and as always our
24 meeting are open to the public. Thank you again for

1 your hospitality being here, and I'm glad I can be
2 with you this week. Thank you.

3 COUNCIL CHAIR PETER JENSEN:

4 Questions, comments? Vince, do you anticipate that
5 the commission is going to -- has any interest or
6 will be making comments on the proposed National
7 Standard 1 ACL/AM? I know there is a lot of
8 interest in ACL/AMs and the impact on the States, so
9 do you anticipate any comments coming from the
10 Commission?

11 VINCE O'SHEA: We had a discussion in
12 -- when we were looking at our strategic plan we
13 were -- we had a brief discussion about the
14 operating climate or environment for the next five
15 years for the Commission of having to deal with that
16 issue, and I would say -- I guess to be polite I
17 have to say there was mixed, mixed comments around
18 the table about a willingness to engage on that. I
19 personally think that it's because folks have not --
20 you know, fully thought through what the
21 implications are going to be; and I think it would
22 be good if we did comment, but right now I would say
23 we are still studying it. Thank you.

24 COUNCIL CHAIR PETER JENSEN: Well, my

1 reason for asking is I intend to ask the Council how
2 we want to go about reviewing and commenting or
3 whether we want to use an existing committee,
4 whether we want to form a special group or we want
5 staff to do it; and so to the extent that we might
6 form a group to comment keep in mind whether you may
7 or may not want a commission member on that group.

8 VINCE O'SHEA: Well the way I would
9 answer that question right now is say they haven't
10 given me a signal that they are willing to do that,
11 but I think the wise thing to do would put in place
12 a placeholder to leave a seat on that board with our
13 name on it and then if we come around a little bit
14 then we will be all -- then you will be ready to go.

15 I'd like to see it, I personally would like to see
16 us in that process.

17 COUNCIL CHAIR PETER JENSEN: So
18 sometime during this meeting we will make that
19 determination after we get a little more opportunity
20 to discuss it. Okay. That finishes the
21 organizational reports, we will move now to the
22 Council Liaison Reports. Captain Ruhle.

23 _____
24 NEW ENGLAND COUNCIL LIAISON REPORT

1 JAMES RUHLE: Thank you, Mr.
2 Chairman. I have two New England Committee meetings
3 -- Council meetings that took place that I want to
4 report on; and I'd ask Frank and actually George to
5 chime in here; because don't need to go into a lot
6 of depth on the first one because what happened at
7 the second one basically undid the first one.

8 The first one was April 15th though
9 the 17th in Providence, Rhode Island. The major
10 issue with that was the sectors that had been talked
11 about in the groundfish fishery for a year or two
12 were eliminated from Amendment 16. It was evident
13 that there was not time to complete them,
14 unfortunately it was not acknowledged sooner by all
15 parties and it created a lot of work on the part of
16 actually the Service; because they had set deadlines
17 for vessels to enroll in what they had anticipated
18 being the sectors and unfortunately that was a --
19 that was an allocation issue is what it amounted to
20 and it was done completely wrong. So, well I am
21 glad that as a matter of fact the sectors are out of
22 it and it's -- that was done to keep Amendment 16 on
23 the time line which was established by a Court
24 mandated action and as I'll report on the next

1 meeting last week that now is in serious jeopardy.

2
3 Herring, they dealt with Amendment 4,
4 which we had a public scope -- I mean a scooping
5 meeting last night -- a public hearing that was for
6 the scooping meeting for Amendment 4 to Herring.
7 There is a list of issues, of course the ACLs/AMs
8 are in that. The LAPP discussions are in that. The
9 major issue that was -- actually created this action
10 -- the ink's not dry on Amendment 1 but they had to
11 respond to 8 or 9,000 emails from other than fishing
12 entities to implement this action is the level of
13 observer coverage in the herring fishery. So a lot
14 of it is in response to that but their argument is
15 the -- there is a major concern of the predator/prey
16 relationship with herring and other fisheries. And
17 I think it was introduced by some of us at the
18 meeting that we have a very sincere interest in
19 determining just the opposite. What is the effect
20 on the ecosystem with an abundance of herring, they
21 got to eat something, and they would be eating the
22 same things that mackerel and other species do so
23 now the predator/prey thing may turn into something
24 a lot bigger than that; but quantifying any of it is

1 going to be a big deal.

2 And then there is of course ASMFC's
3 concern about the river herring issue, so that
4 actually -- that may be a driving force in this and
5 it probably needs to be addressed at some level.
6 There was another one that has been implemented
7 again, they had a public hearing last night.

8 Skates, Amendment 3 was recommended -
9 - the catch limits the SSC recommended were approved
10 for review by the PDT that's dealing with skates.
11 This skate thing is a -- this is that 800 pound
12 gorilla people talk about. This is going to be a
13 big problem, because you got four out of the seven -
14 - seven species complex, four out of them -- two of
15 them are overfished, two of them are approaching
16 overfishing; and it's really going to be a big
17 problem. There is definitely some ramifications
18 from that and the industry that is involved with it
19 -- this is one of those species where you really
20 have to question -- I wouldn't call it the science
21 but you got to question the data collection because
22 any of the flats seem to be the ones that there is a
23 tremendous amount of inconsistency in as far as what
24 the survey is seeing and what the industry is

1 seeing; but that is neither here or there, best
2 available data. So that's going forward and that
3 was actually dealt with here.

4 Monkfish, they dealt with. Framework
5 6 was approved and of course we did the same thing
6 the week before which is back asswards to the way
7 it's supposed to be done; but that's done. The
8 backstop has been removed, unfortunately there is no
9 consideration of revisiting because of the timelines
10 of the Council and the priorities. The fact that
11 they are now listed as no longer overfished and
12 overfishing is not occurring in either the north or
13 the south but there is no consideration increasing
14 the TAC in either area.

15 Sea scallops, the advisory panel met,
16 that's a new panel similar -- well it's a new panel,
17 leave it at that. That's -- I'm sure there was a
18 few other things at that meeting, but I don't think
19 anything really pertains to us.

20 But the nitty gritty is last week's
21 meeting and I don't think I've ever experienced
22 anything quite like it. It was quite an eye opener
23 to say the least, and my personal confidence in the
24 science that we have been making all these

1 management decisions was shattered to say the least.

2 Doctor Paul Rego made a presentation
3 on the results of the GARM, and I'm going to
4 actually -- I don't want to misquote anybody or say
5 anything wrong. This is a summary of what was
6 presented, and by the way I've got the utmost
7 admiration and respect for Doctor Rego. I think
8 without a doubt he is one of the finest people in
9 the Science Center. He is just a good man all the
10 way around. It's unfortunate for him to be put in
11 the -- as the messenger for this but --

12 Let me just read if you don't mind
13 Mr. Chairman this is a big deal, a real big deal.
14 And haven't been there, am sure you got to
15 appreciate it if any of this is misinterpreted.
16 This is basically just a summary from these or the
17 effects of it.

18 Paul Rego, the Northeast Fisheries
19 Science Center reported preliminary estimates of new
20 biomass and maximum fishing mortality targets.
21 These were developed at the Groundfish Assessment
22 Review Meeting last month. Almost all targets
23 changed, in general many biomass targets decreased,
24 most MSY values decreased and the maximum fishing

1 mortality targets changed in both directions. Some
2 of the changes suggest that the resources are less
3 productive than thought. How these changes might
4 impact rebuilding programs is not yet clear. The
5 actual numbers are in a memo from the Northeast
6 Science Center and the groundfish meetings on a
7 website.

8 Paul also presented preliminary
9 estimates of stock size and fishing mortality in
10 2006. Based on this information the Northeast
11 Fishery Science Center expressed concern that the
12 draft effort control measures in 16 did not appear
13 to be headed in the right direction. And that is
14 they did not appear to be targeting the correct
15 stocks.

16 Well, so anyway the ultimate result
17 of this was very clear that the -- well I do need to
18 note this Doctor Rego was very clear of crediting
19 Doctor Doug Butterworth as an industry paid member
20 of the GARM and his contribution to the process.
21 And he was very clear to make that. It was
22 evidently -- I don't know that it pertained to all
23 species, but it certainly pertained to others. I am
24 not even sure -- it was too high tech when they got

1 into the discussion of what that participation
2 amounted to but I know it changed some of the way
3 they viewed some of the models and it certainly
4 changed the outcome. But it was clear that the
5 ecosystem in that general area, Gulf of Maine,
6 Georges Bank, is becoming less productive,
7 significantly less productive.

8 Some of the biological trends
9 indicates that out of the -- 14 out of the 20 stocks
10 total length, two are increasing and 12 are
11 decreasing, six no trends. Trends in maturation, 11
12 increasing, two decreasing, seven no change. And
13 there was some other notes. What it boils down to
14 is -- and I asked Doctor Rego this question, was
15 that if in his opinion it appeared to be that we
16 maxed out here, that we can't ask the ocean to do
17 any more then it's doing, and that it's failing --
18 at the levels that are there and considering that we
19 are not in fact anywhere near the biomass targets
20 we will never get there. Just to indicate how
21 significant some of these changes were white hake
22 was one that was driving the bus here, that was the
23 one that was going to take a 70 percent reduction.
24 Prior to this notification last week everybody was

1 getting geared up to suspect or expect a up to 70
2 percent reduction in days-at-sea.

3 Some guys got 24 days some guys got
4 48, some have leased days and got into 50 or 60; but
5 it would have turned out to about a 70 percent
6 reduction across the board. And white hake was one
7 of the main ones. The biomass -- the BMSY in metric
8 tons for white hake currently was 14,700 tons, the
9 revised is 56,500 tons. Issues like that -- some of
10 them didn't have a whole lot of difference but that
11 one was one that was very very much in everybody's
12 mind as a problematic fish. Gulf of Maine cod and
13 Georges Bank cod actually switched. One was
14 supposed to be strong, one was supposed to be a
15 little weak, they flip-flopped. And all of the
16 flats are in more trouble then everybody thought
17 they were, Georges Bank winter flounder 9,400 ton
18 was the current - revised is 15,500. Some of them
19 didn't have very significant differences, but the
20 one that jumps out at you, certainly jumped out at
21 me, Atlantic Halibut the current BMSY was 5400 the
22 revised is 70,000. So.

23 It certainly -- I'm not saying this
24 in a joking manner, this was not presented prior to

1 the meeting at my understanding to the agency. You
2 could see the color coming out of Georges face as
3 this presentation was made. The man just turned
4 whiter then you usually are -- you know. And it was
5 a definite surprise, and in the end the Agency
6 supported not going further -- going on with any
7 further action other then some issues that don't
8 relate to the specifics of this report -- in other
9 words some of the issues related to the sector work
10 that was set aside could be further developed and
11 some other things. And I guess in my estimation my
12 summary is that it will be the August meeting or
13 September. The August meeting of the GARM, and the
14 September meeting where there will be more
15 information -- and this is all preliminary, every
16 damn bit of this is preliminary; but so is the 70
17 percent reduction that everybody thought that they
18 were going to have to take.

19 I mean it was -- I disagreed with the
20 approach, they were trying to maintain the time line
21 and I disagreed with it a long time back but what
22 the hell am I. They were basically going to try to
23 maintain this -- the integrity of the time line and
24 not plug the numbers in. So it was like saying to

1 the industry there's an electric chair go sit in it
2 and we'll -- strap yourself in it and then we will
3 turn it on when we get damn good and ready and we'll
4 adjust the voltage to whatever we like. And it was
5 going out for public review with no information in
6 it. And it was just troublesome for me from day
7 one. I may in fact be quoting this wrong -- stating
8 this wrong but that was my interpretation of it.

9 But basically right now everything is
10 on hold and the potential -- they are shooting and
11 this is further stated in Tom Niece's note to the
12 committee and the council members that the time line
13 is in jeopardy even for implementation in early
14 2009; but there is the potential that it will not be
15 implemented -- no, the document will be submitted in
16 2009. So the implementation in May the 1st is still
17 very much a question whether it can happen or not.
18 Is that correct? The opening -- the time line.

19 GEORGE DARCY: The likelihood of it
20 being able to be implemented in May 1st, 2009 is
21 very very small. Their revised schedule is looking
22 at implementation more like September, October of
23 2009.

24 JAMES RUHLE: That's what I meant to

1 say, May is almost out of the question completely
2 and it would be December. November or December of
3 2009, but in this summary from Tom Niece there's the
4 potential for it being significantly later than that
5 exists. But there is a lot -- a lot of unanswered
6 questions but it -- there's something I've never
7 seen anything like it so -- it was -- it put
8 everybody on their butt there for a little while.

9 Skates was one of the next issues
10 dealt with and there were some recommendations from
11 the skate committee to have possession limits and
12 potential gear restricted areas to reduce bycatch
13 and possession limits would apply to not necessarily
14 one or the other but both the directed fishery for
15 bait skates and also the wing fishery for skates as
16 quite a different set of complexes associated with
17 that; but there is a -- because of the best
18 available data it certainly indicates that some of
19 these skates are in significant trouble.

20 Habitat, that's one that is going to
21 be of interest I think to the committee. There was
22 a motion made to remove -- actually I'll let Dennis
23 handle that. He is our representative on the
24 Habitat Committee and Dennis and I talked about

1 this. We did have the support of the environmental
2 community in redesigning the measure that was
3 designed to protect deep sea corals -- cold water
4 corals whatever the hell you want to call them.
5 This is the action that took place -- I'm going to
6 let Dennis take that one Mr. Chairman, he is much
7 more familiar with it and then we will get back and
8 finish --

9 COUNCIL CHAIR PETER JENSEN: One
10 question for you. When you referenced stocks
11 increasing or decreasing, is that since the last
12 GARM or is that some other period of time?

13 JAMES RUHLE: As far as I am
14 concerned it was for the week before. I mean -- you
15 know, you would have to ask someone more involved
16 with it then I am.

17 COUNCIL CHAIR PETER JENSEN: Jim, do
18 you know the answer to that -- was a judgement
19 reference changes between GARMS or some other longer
20 period of time?

21 JAMES WEINBERG: Well, first of all
22 as Jimmy made clear all the results on biomass and
23 fishing mortality rate are not peer reviewed and
24 they are preliminary. And the purpose of the

1 meeting was on to peer new methods for biological
2 reference points; and as a kind of along the way
3 they got some provisional estimates of biomass and
4 F. So they were able to make a preliminary estimate
5 of where the stocks were relative to the new
6 reference points. And in as Jimmy correctly
7 indicated the news was bad for most of the species.

8 So I'm not exactly sure whether it means they were
9 up or down from the previously GARM but the real
10 important message is that the news was not good.

11 COUNCIL CHAIR PETER JENSEN: Dennis.

12 DENNIS SPITSBERGEN: Okay, with
13 regard to some habitat issues, I attended a -- I
14 attended a couple of habitat meetings this year.
15 One back late winter and one in -- what's the date
16 on it here -- the 16th of May; and as you all recall
17 from presentation we have had from the New England
18 Council that they are working on an omnibus habitat
19 amendment to update their essential fish habitat and
20 to look at HAPCs. In phase one they established all
21 their essential fish habitat and they also set up a
22 fairly large group of HAPCs.

23 Many of these were based on input,
24 they asked for proposals from the public and got

1 several proposals and coalesced those pretty well
2 into a group. Those proposals included all of the
3 canyons becoming HAPCs, I think there are 13 of
4 them, several of them which are down into the mid-
5 atlantic.

6 The bottom line was the real intent
7 of these HAPCs was to protect deep water coral,
8 however you got to have essential fish habitat
9 before you can declare an HAPC. So what the New
10 England Council was doing was using witch flounder,
11 I think whiting, some I would say maybe less
12 important species essential fish habitat to be able
13 to allow setting up of HAPCs. And again the intent
14 was to protect coral, although at the earlier
15 meeting there was a motion to remove those HAPCs
16 from the omnibus amendment which wasn't approved at
17 this recent meeting. A lot of comments from the
18 public and comments from the committee including me.

19 I said we are going to end up with HAPCs for
20 several different species, probably none of them are
21 going to match up. If we are going to deal with
22 coral, let's deal with coral, let's quit being
23 dishonest about this.

24 So after a lot of discussion on it,

1 the conclusion out of the committee was that yeah
2 probably this is correct that we have been
3 misleading the public and saying -- you know, this
4 is HAPCs based on essential fish habitat for this
5 species when our real intent is to protect deep
6 water corals.

7 So after considerable discussion, a
8 motion was made at the committee, it was close to
9 unanimous they approved. That motion was that the
10 committee recommended the Council initiate joint
11 management action with the Mid-Atlantic Fisheries
12 Management Council to protect deep sea coral. As
13 part of that action the council would consider
14 revising or removing the current proposed HAPC
15 designations in the canyon areas and the sea mounts,
16 which I haven't mentioned, in the omnibus habitat
17 amendment.

18 And I supported that motion and spoke
19 very much in favor of it, I think that's a better
20 way to go. If we are going to do deep sea corals in
21 the canyons, let's both of the Councils get together
22 and do it as deep sea corals.

23 Unfortunately, or I'm not totally
24 pleased I noticed that when the New England Council

1 passed it they removed the part of removing the --
2 considering removing or revising the HAPC
3 designations for the canyons. They removed that
4 part from it, but they are still including working
5 with the Mid-Atlantic Council and dealing with deep
6 sea corals. This was just approved last week so I
7 am sure there hasn't been any overtures to where the
8 Mid-Atlantic Council yet as to how we might do this.

9 I sat down and read the section in the Magnuson-
10 Stevenson Act, section 408; and I'm not really sure
11 whether the authority to do this under individual
12 plan of deep sea corals or just how it could be
13 done. But anyhow that's the direction the New
14 England Council is going and what they would be
15 doing if this Council approves working with this
16 Council and dealing with it as a deep sea coral
17 issue rather than dealing with it piecemeal
18 essential fish habitat HAPCs for numerous different
19 species which is going to be a real confusing mess.

20 So, anyhow that's where it stands on
21 dealing with the deep sea corals and dealing with
22 the HAPCs.

23 COUNCIL CHAIR PETER JENSEN: Has
24 there been any discussion in the habitat committee

1 as to how these areas might fit into the National
2 Registry for Marine Protected Areas.

3 DENNIS SPITSBERGEN: None that I
4 recall.

5 COUNCIL CHAIR PETER JENSEN:
6 Certainly I would hope that if someone wants to
7 nominate any of these areas, this Council would be
8 consulted before that happens.

9 DENNIS SPITSBERGEN: Well, I'm hoping
10 that the motion that was passed by the New England
11 Council will have the two Councils consulting on any
12 approach that's taken on this.

13 COUNCIL CHAIR PETER JENSEN: Frank,
14 do you want to add anything to the New England
15 Report?

16 FRANCIS BLOUNT: Yes, thank you Mr.
17 Chairman. As far as the habitat goes I am sure the
18 Executive Committee will be looking at that the next
19 time we meet and then we will probably have
20 correspondence with this Council here and move
21 forward from that; probably want to move forward.
22 The way Jim summed it up under groundfish it looks -
23 - it is very serious, we are hoping -- that there
24 are five options in the document for Amendment 16

1 now, we are hoping we can move forward with the same
2 five options and just plug in the appropriate
3 measures when needed. As Jimmy would say
4 adjustable, I guess.

5 It's not pretty. As Jim said we
6 needed approximately 70 to 75 percent I think it was
7 for white hake. It's looking now like it could be
8 as much as 70 percent for some of the flounders. So
9 with the measures, I think some of them are -- one
10 of the options is to cut days-at-sea by 70 percent -
11 - give or take 70 percent; where one with area
12 management where we have -- you know, two for one
13 counting of days and different closed areas, so what
14 it is going to take is probably just readjusting
15 those closed areas or readjusting those days-at-sea
16 where it may be appropriate. That's something this
17 Council is going to keep an idea on, because it's --
18 mid-atlantic winter flounder is one of those species
19 as long -- with mid-atlantic yellowtail.

20 Now the herring, Jimmy mentioned.
21 The last scoping hearing was last night. The
22 committee will be meeting probably mid July,
23 actually the end of July to start working on the
24 scoping comments and forward it to the council

1 later. And that's all I have for now.

2 COUNCIL CHAIR PETER JENSEN: Jimmy or
3 Frank, did I understand you to say that sectors are
4 not in the proposed measures now, or did I not --

5 JAMES RUHLE: They are in but they
6 are not going to be implemented in 2009 -- for May
7 of 2009. They can be further developed if the
8 committee decides to go down that road for 2009.

9 The other action that was -- was
10 actually an attempt and the motion failed -- because
11 it made sense that's why it failed. In lieu of the
12 fact that if this plan doesn't go in effect May 1,
13 2009, there is a potential for the fall back
14 position or the default measures to be kicked in.
15 That was another concern that was raised or the -- I
16 guess the driving issue here is the requirement that
17 -- the concern that the Secretary may in fact
18 implement something in the interim -- was that the
19 discussion?

20 GEORGE DARCY: Yeah, there are two
21 issues really. Amendment 13 put in place default
22 adjustment in days-at-sea. That is still in there
23 and that will happen May 1st, 2009, unless something
24 else takes it's place. And the second concern was

1 if that is not sufficient to meet the mortality
2 objectives that come out of the GARM then who does
3 what. And I think that is what you are talking
4 about.

5 JAMES RUHLE: Exactly, and the motion
6 that failed was actually -- and it was a close vote;
7 and it was six - seven - one. And that was to
8 reauthorize some of the allowances that are in place
9 now. They reduced the minimum size on haddock from
10 19 inches to 18 inches just in the past year - year
11 and a half, and that would go away. They removed
12 the days-at-sea transfer - issues like that, that
13 would have made a difference in this world - that
14 was the vote six - seven - one. Expand the closed
15 area for the haddock SAP, so there was some actions
16 that were taken.

17 The deal with the haddock is just
18 like I said, they are not growing. You know, there
19 is plenty of them out there, but they stop growing.
20 They are the same age they are supposed to be -
21 they are two inches short. The amount of fish that
22 has been killed and wasted because of not adjusting
23 that fish size in a timely manner is immeasurable.
24 It's just immeasurable. To get the mesh size that

1 they are using is supposed to allow the escapement
2 of 19 inch fish, and there was no adjustment of
3 that; but anybody that's got any knowledge of that
4 fishery, it's a bad situation. And there is a
5 tremendous amount -- well three percent was the last
6 number that was available what was taken of the
7 haddock. TAC that leaves 87,000
8 metric tons out there, so that's not going to be --
9 that the industry can't access, and of course that
10 in fact is associated with the eliminator trawl
11 which I do give credit of the proposed rule being
12 out now; but proposed still -- no, it's going --
13 you're drafting final -- you spoke about it.

14 GEORGE DARCY: Right.

15 JAMES RUHLE: And speaking of that,
16 the way that actually got pushed up just a little
17 bit was the conversations that this Council had back
18 in January I think. I think it was January we
19 actually got talking a little bit about the bycatch
20 committee -- taking about how the industry has the
21 innovativeness to come up with something like that.

22 So I was able to use the discussion
23 that we had at the New England Council to kind of
24 light a fire under their ass, and it worked. So

1 that's going to be put in place.

2 And lastly, there was a presentation
3 that I think took a lot of people back -- of course
4 we had a presentation on National Standard 1, and
5 there was another presentation on NEPA, wasn't it?
6 NEPA -- we make it to NEPA when National Standard 1,
7 well, you'll get the information on that soon
8 enough.

9 But something that took everybody by
10 surprise up there was a presentation on Stellwagen
11 Bank Marine Sanctuary. This was created -- oh, 20
12 years ago -- 18 - 20 years ago something like that,
13 as a sanctuary off shore; and it was designed at
14 that time with a lot of support -- well, a
15 tremendous amount of support by the fishing industry
16 to protect it from sand and gravel mining and I
17 believe there was another drilling or something --
18 oil drilling, right. And that's exactly what it
19 was.

20 And it's clear now that -- and it was
21 stated clearly that there would be no restrictions
22 to any kind of a fishing -- commercial, recreational
23 or whatever in that area; but it was made clear the
24 other day that there is an effort now to -- in fact

1 change that status and potentially make it more of a
2 marine protected area -- with not a lot of clear
3 guidance as to what may or may not be excluded from
4 fishing gears there, so it took the industry by
5 surprise and unfortunately I don't have the
6 paperwork in from of me - I gave it to one of the
7 clambers there yesterday.

8 Just so you all know, there is a
9 Presidential action - a potential Presidential
10 action in the works that's called Islands In The
11 Stream. It's where the current administration may
12 or may not through the Antiquity Act establish
13 monuments; and these monuments are -- the one that
14 was done in the Hawaiian Islands is going to be
15 minuscule compared to the potential. Island In The
16 Stream refers to the west side of Florida all the
17 way up to North Carolina that may or may not be
18 involved in this.

19 They use the authority of the 1906
20 Antiquity Act to do it in -- it circumvents the
21 process and it also circumvents the APA requirements
22 because in the determination of the courts or
23 whoever visited this, the President is not
24 considered and agency therefore this doesn't fall

1 under the same requirements as APA - so, whatever
2 that means.

3 So, anyway that should be on the
4 record. I will try to make sure that we put that on
5 the record because of the Stellwagen Bank issue,
6 there was some confusion between a monument and a
7 sanctuary; and the was talked about through clams.

8 I think that completes the New
9 England Report, Mr. Chairman. I'll be glad to
10 answer any questions.

11 COUNCIL CHAIR PETER JENSEN: Okay. I
12 got -- I think it's significant that this proposal
13 for Island In The Stream refers to submerged Islands
14 not Islands as we usually think about them.
15 Questions, comments? Phil.

16 PHILIP RUHLE: Thank you, Mr.
17 Chairman, I just want to comment on the groundfish
18 situation in New England. It's as you heard it's
19 dire, it's a little past dire. And I mean, it's
20 pretty important to mention where one -- I'm not
21 sure many of the Council has seen it, but I don't
22 know if I'd ask it to be forwarded or not. This
23 paper here, not very many people around here get it,
24 but that's the New York Times to the fishing

1 industry around the world. This is basically the
2 paper we live by, I mean every -- if you're in the
3 industry it's one of the best papers you get. And
4 what you can see -- the headline is 87,000 ton of
5 total was lost in the U.S. just on haddock last
6 year, in the Northeast.

7 A good portion of that was the delay
8 in this eliminator. I just need to highlight the
9 final report after things went in under this project
10 was issued in October -- went to the Service in
11 October of 2006 and then -- I think George says you
12 got a Final Rule now. It's now 2008 -- you know.
13 All of last year this net could have been used up
14 there working on this ton that's gone.

15 The other thing I'd say is under
16 groundfish, and I said this at New England and I'm
17 saying it here now it is -- this fishery has been
18 managed for over 25 years. We are now down to
19 looking at a 70 percent cut of what we have --
20 that's a days-at-sea cut from where we are. It's a
21 95 percent cut from where we started in '94, that's
22 just on the days-at-sea alone, not counting all the
23 other restrictions that were put on the fishery --
24 mesh sizes, closed areas, trip limits, all of these

1 other barrels of stuff that got thrown on this; and
2 we are looking at actually -- they are actually
3 considering telling the guys to go fishing for 10 to
4 12 days a year. That's what you are going to do --
5 you know, 40 boats -- most of the boats have 40 some
6 odd days and this cut is going to take between 10
7 and 15 days a year.

8 And it's like -- there are actually
9 saying they -- that's what you are going to get to
10 fish for the year -- that's it. Industry will still
11 be together in one portion or another at the end of
12 that; and that's just obscene. You know, what
13 business can you run on two physical weeks for a
14 year? That's what -- that's what they are actually
15 proposing -- that's how ridiculous this system is
16 becoming in my mind.

17 I actually proposed to the Council
18 they just shut it down. We got 5 more years of
19 rebuilding left, there is no possible way we will
20 ever make it. I don't care how many deck chairs you
21 throw off the Titanic she is still going down. You
22 know, that's where we are with this fishery and this
23 management structure. Now it's just to let the Mid
24 know, that's the dire straits that this place is in.

1 Now, if we take a 70 or a 90 or a 50
2 percent reduction in the groundfish industry, what
3 do you think them boats are going to do, because way
4 better than half of them have a good percentage of
5 Mid-Atlantic permits. My boat, all the boats in the
6 point, all carry squid, mackerel -- all squid,
7 mackerel, butterfish, scup, black -- we all got the
8 Mid-Atlantic permits -- you know? And every day
9 they take away from us there affects this Council.
10 Thank you.

11 COUNCIL CHAIR PETER JENSEN: Thanks,
12 Phil. Any further comment? Question?

13 DANIEL FURLONG: This relates to the
14 deep sea coral and I asked Joel, I recall having
15 read it -- you know, as a discretionary item and he
16 pointed it out for me. But then it refers to
17 Section 408 of the Act which talks about the
18 Secretary being in consultation with the Councils
19 required to identify these things and then report
20 out on them, and I'm wondering if the New England
21 Council is working on some information that the
22 Secretary has provided, or where are they coming up
23 with this?

24 DENNIS SPITSBERGEN: When I read 408,

1 because they were talking about 408 and I hadn't
2 read it recently, so when they were talking about it
3 I just assumed that there was authority in there to
4 address corals, either through a plan or through
5 some kind of action. And when I read 408, I kind of
6 wondered -- I said I don't see one thing in here,
7 unless there's something I'm missing, that provides
8 any kind of authority to take any action, other than
9 reporting and investigating and what have you. But
10 as far as protecting, I don't read anything in 408
11 that provides that. So, I'm not sure whether they
12 have something that we don't know about or just
13 what, Dan.

14 DANIEL FURLONG: And just a follow-up
15 then. The last thing, it says -- in 408 is that one
16 year after enactment, the Secretary in consultation
17 with the Council shall submit reports identifying
18 these areas. And I know we haven't been consulted
19 in the context of identifying deep sea corals.

20 So, George or Jim, if -- do you know
21 anything about the agency doing anything on this at
22 this point?

23 GEORGE DARCY: I know there's a deep
24 sea coral team in headquarters, but specifically

1 what they've done relative to that section I don't
2 know. One of the discussions -- most of the
3 discussion actually at last week's Council meeting
4 was what does this new authority mean? And there is
5 no guidance, no national guidance anyway, that we
6 can find that says exactly how you can apply it,
7 what it applies to. And Gene Martin, our attorney
8 for the New England Council, is talking to the
9 attorneys in headquarters to try to figure out how
10 to use this tool.

11 So, a lot of what the Council is
12 dealing with was looking at this tool then and
13 seeing how or whether they want to apply it through
14 the omnibus amendment instead of the HAPC route.

15 COUNCIL CHAIR PETER JENSEN: Jimmy.

16 JAMES RUHLE: Thank you, Mr.
17 Chairman. I think it's a little more than that. I
18 think there's an understanding between the industry
19 and the environmentalists that if the goal is to
20 protect coral, state it clearly that that's what it
21 is, and there are areas we could designate today.
22 If it's specific to those areas.

23 And I think the numbers that I come
24 up with, sitting there with two or three of the high

1 ranking groups -- environmental groups that
2 participate in the process, we come up with 125
3 fathoms and deeper on the walls of all the canyons.

4 So, in other words from the outside edge of a
5 canyon to the head of the canyon, you'd prohibit
6 mobile gear from deeper than 125 fathom.

7 What this was was an attempt on --
8 cooperative attempt on people's parts to protect
9 what we believe to be there. We don't know for sure
10 that it's there, but the concern was just like when
11 we were dealing with the tilefish, that was Tilefish
12 EFH. If that was Tilefish EFH, that's one thing.
13 But if in fact it was trying -- it was a backdoor
14 way to protect coral, then it was wrong. And the
15 fact is if it's there and it takes a hundred years
16 to grow and it's there today, the fact is we
17 couldn't get there to screw it up. Simple as that.

18 So, prohibit us from going there, but don't take
19 away very productive areas up and down the coast.

20 And half of these canyons are in the
21 Mid-Atlantic. So, we were hoping -- and it was
22 ironic that there's the environmental community
23 coming up to the industry at the table and saying
24 where's the problem, why are they talking about this

1 at this realm? All you've got to do is do it.

2 So, I can't answer what portion of
3 where the responsibility is, but this is one of the
4 examples where everybody's on the same page and it
5 would be great if we can get it through, because
6 there doesn't appear any -- I think the concern was
7 -- coming back to it, is that it would delay the
8 omnibus amendment. And that's why it was voted --
9 as Dennis referred to. But anyway, there's a lot of
10 cooperation on this one.

11 COUNCIL CHAIR PETER JENSEN: Okay.
12 We do need to move on. Reds, you want to give South
13 Atlantic?

14
15 SOUTH ATLANTIC COUNCIL LIAISON REPORT

16 RED MUNDEN: Thank you, Mr. Chairman.
17 The South Atlantic Council is meeting in Orlando,
18 Florida this week, so I do not have a report on that
19 meeting, but I would like to take the opportunity to
20 update the Council on a South Atlantic Council
21 public hearing and scoping meeting that I attended
22 on May 15th in New Bern, North Carolina.

23 I found that the new process that the
24 South Atlantic has implemented for public hearings

1 and scoping meetings is quite interesting in that at
2 the meeting in New Bern they invited the public to
3 come in from 3:00 p.m. to 7:00 p.m., they had one
4 room set aside where the public could come in and
5 listen to presentations from the staff members on
6 the addenda -- amendments that were being
7 considered, and then after the public had heard
8 those presentations and asked questions of the
9 staff, they went into a separate room and made
10 comments for the record to a staff person. And in
11 the case of the meeting in New Bern, the Chairman of
12 the snapper/grouper committee fielded the questions
13 and took the comments from the public. Those
14 comments were recorded and they'll be made available
15 to the Council members this week.

16 And they've been using this process
17 for several months, and it appeared to me initially
18 it would be quite a drain on the staff, but they
19 felt like that this provided a greater opportunity
20 for the public to come in over a three or four hour
21 period and share their thoughts with the Council
22 staff.

23 The public hearings that were held up
24 and down the coast, and North Carolina was the last

1 of the meetings, addressed -- and by the way, this
2 information is behind Tab 8. It's the last couple
3 of pages at the end of Tab 8.

4 But the public hearings were to
5 receive comments on Snapper/Grouper Amendment 16 and
6 this amendment will implement measures to end
7 overfishing in the gag grouper and vermilion snapper
8 fisheries. Those species were declared overfished
9 in June 2007, so the Council had to respond to that
10 and began development of Amendment 16.

11 If you look at the information behind
12 Tab 8, the page that has the heading Public Hearing
13 Issues 3, there are actually three public hearing
14 issues, and then following that is the scoping item.

15 But on the first page the highlights
16 of Amendment 16 will be an interim allocation for
17 gag, and all of the measures on that page pertain to
18 gag, by the way. And they will establish interim
19 allocations for gag. The commercial industry will
20 get 51 percent of the quota, and the recreational
21 industry will get 49 percent.

22 Amendment 16 will establish a gag
23 spawning season closure from January through April
24 that applies to both the commercial and the

1 recreational fisheries. The impact on the
2 commercial fishery will be a 20 percent reduction,
3 and the impact on the recreational fishery will be a
4 31 percent reduction.

5 During this time, there'll be no
6 fishing for and/or possession of the not only gag,
7 but the following species that are found in the same
8 area often times as you find gag. So, this will
9 apply not only to gag, but also apply to black
10 grouper, red grouper, scamp, red hind, rock hind,
11 yellowmouth grouper, tiger grouper, yellowfin
12 grouper, graysby and coney.

13 There will be a directed commercial
14 quota for gag, and that quota -- and this is for the
15 whole South Atlantic, 352,940 pounds, beginning in
16 2009. And once that quota has been harvested by the
17 commercial industry, the purchase and sale of not
18 only gag but all these species will be prohibited
19 and the harvest or possession limit will be limited
20 to the bag limit.

21 Another proposal will divide the
22 directed commercial quota into two regions. North
23 Carolina/South Carolina will receive 63 percent and
24 Georgia and Florida will receive 37 percent of the

1 gag quota.

2 The last item on that page pertains
3 to the recreational fishery, and this amendment will
4 reduce the five grouper aggregate recreational bag
5 limit down to a three grouper aggregate bag limit.
6 And the existing bag limit for gag or black grouper
7 will be reduced from two gag to one.

8 And at the top of the following page,
9 the last provision that applies to gag would
10 prohibit the captain and the crew members on for-
11 hire vessels from possessing a bag limit for
12 groupers. And this action plus the January through
13 April spawning closure would result in a 30 percent
14 reduction in the harvest of gag.

15 Moving into vermilion, this is the
16 second item on the second page of the public hearing
17 item. The amendment would define interim
18 allocations for vermilion snapper and the allocation
19 would provide 68 percent of the quota to the
20 commercial fishery and 32 percent for the
21 recreational fishery. It would establish a directed
22 quota of 328,002 pounds of vermilion snapper. And
23 again, after this quota is harvested, there'll be no
24 purchase, sale or possession of gag and it will be

1 limited to the possession limit of the bag limit.

2 They're also looking at dividing the
3 vermilion snapper commercial quota into various
4 seasons, and adjust the recreational bag limit and
5 establish a recreational closed season for gag, and
6 they had some options listed there.

7 One of the things that I mentioned
8 the last time I gave an update on the South Atlantic
9 is the South Atlantic has followed the Gulf Council
10 and they are requiring -- in this amendment they
11 will require both recreational and commercial
12 bycatch mortality reduction measures in the
13 snapper/grouper fishery by requiring a person on
14 board fishing for snapper/grouper in the South
15 Atlantic to use a venting and a dehooking tool, and
16 also to use non-offset, non-stainless steel circle
17 hooks when using natural bait fishing for
18 snapper/grouper.

19 The approach that the Gulf Council
20 took and the South Atlantic has followed suit is to
21 not get into the specifics of the circle hooks
22 relative to the gap and the diameter of the wire.
23 They feel like it's more of an educational issue,
24 and rather than trying to define every circle hook

1 that may be used, or establish parameters for the
2 circle hooks, which would be they felt an
3 enforcement nightmare, they said we're going to
4 require circle hooks, they're going to have to be
5 non-stainless steel, they won't last forever, and
6 then we will implement a PR program to try to inform
7 the public of the advantages and the requires for
8 using circle hooks.

9 Mr. Chairman, before I move into the
10 next item, I'd be glad to address any questions that
11 Council members may have.

12 COUNCIL CHAIR PETER JENSEN:

13 Questions, comments? Jeff.

14 JEFFERY DEEM: Yeah, I had one.

15 We're looking at different things for deepwater
16 species on our Bycatch Committee. Did they consider
17 any devices for returning the fish to depth after --
18 the ones that they're not going to keep, such as the
19 Sheldon fish dehooker that we've brought up?
20 Anybody consider anything other than venting?

21 RED MUNDEN: It has not been
22 discussed while I've been at the meetings, but I
23 think it would be worthwhile if we shared the
24 information with the South Atlantic Council relative

1 to the deepwater release techniques that you
2 referred to.

3 COUNCIL CHAIR PETER JENSEN: Further
4 questions, comments? Go ahead, Red.

5 RED MUNDEN: The other two items that
6 were discussed under the public hearing process were
7 actually a staff member was in a separate room, so
8 we had three rooms set up for -- two for comments
9 and one for recording the comment, was a public
10 hearing on the development of a fisheries ecosystem
11 plan. And the Council is in the process of
12 implementing a fisheries ecosystem plan, and this
13 plan will act as a source document for later
14 implementation of subsequent comprehensive ecosystem
15 amendments.

16 So, at the same time, they accepted
17 comments from the public on the ecosystem plan and
18 they also accepted comments on the first
19 comprehensive ecosystem amendment. And if you look
20 at the two bullets under that, the second one is to
21 designate new deepwater coral HAPC, Habitat Area of
22 Particular Concern, to protect deepwater coral
23 communities. So, the South Atlantic Council is
24 going to -- they are accepting comments on this, or

1 did accept comments, and they intend to amend this
2 fishery ecosystem plan at the same time that the
3 plan is being developed to protect deepwater coral.

4 Any questions on that, Mr. Chairman?

5 COUNCIL CHAIR PETER JENSEN:

6 Questions, comments?

7 (No response audible.)

8 COUNCIL CHAIR PETER JENSEN: Mr.

9 Executive Director, you're up.

10 RED MUNDEN: And Mr. Spitsbergen has
11 a comment, because he worked with the South Atlantic
12 on the coral plan. So, Dennis, enlighten us as you
13 would, please.

14 DENNIS SPITSBERGEN: The difference
15 between them and us is they have a coral plan,
16 because there is a fishery for live rock coral, what
17 have you. So, they can deal with it through their
18 plan, and that's the difference between us and them.

19 DANIEL FURLONG: Okay. Well, the
20 first thing I have is hot off the press, I'm going
21 to start passing something up. Red's back up.

22 RED MUNDEN: Mr. Furlong, you cut me
23 off there. I have one more item, Mr. Chairman.
24 Very briefly.

1 The public scoping issue was for
2 Snapper/Grouper Amendment 18, and this amendment
3 will contain measures to end overfishing and
4 implement a rebuilding program for red snapper.
5 This is based on a recent stock assessment which
6 indicated that red snapper are currently
7 experiencing overfishing and are overfished.

8 So, between Amendment 16 and
9 Amendment 18, you may recall that at one of my
10 previous presentations I said they were also working
11 on Amendment 17, and that is the amendment that
12 among other things would extend a northern boundary
13 of the management area from the North
14 Carolina/Virginia border further up to some point in
15 the Mid-Atlantic area jurisdiction. And the public
16 hearings on that will be held during the fall. I
17 think they scheduled those or will schedule those
18 for October. And I asked that they hold a number of
19 public hearings in the Mid-Atlantic area, so they'll
20 coordinate with the Council on that.

21 That's all I have, Mr. Chairman.

22 COUNCIL CHAIR PETER JENSEN: Okay.

23 Thank you.

24

1 to Framework 6, which is the elimination of the
backstop provision.

If you notice, that was communicated
on the 14th to a letter -- in a letter to Paul
Howard, and on the 17th you get notice back from the
New England Council that indeed they agreed with
what our Council had taken in the way of an action
to eliminate the backstop.

And so as Jimmy said when he was
making his report, that's a little bit backwards,
but nonetheless, the same outcome -- desirable
outcome was arrived at.

The next e-mail relates to the motion
related to the Ad Hoc SSC Working Group's charge to
consider things during the development of the role
and responsibility of our SSC. I'm sure Gene will
cover that when he makes his report tomorrow, and
most of you were probably here this morning when
they were going through the SSC to address not only
priority setting for purposes of a five-year plan,
but also to address the role of the SSC and how it's
going to interact with not only the Council, but
with the agency.

One after that relates to the

1 Amendment 15, related to Summer Flounder, Scup and
2 Black Sea Bass. Again, I won't steal the thunder of
3 Mr. Travelstead, who convened a meeting with the
4 Demersal Committee yesterday, and he'll be reporting
5 out on that tomorrow.

6 Then the motion that relates to in
7 the future that the 2009 thereafter the August
8 Council meeting be held prior to August the 10th.
9 I'm going to talk about that for a minute. You know
10 that the year -- this year, 2008, the Council was
11 scheduled to meet August the 10th through the 12th
12 -- excuse me, the 12th through the 14th, and it was
13 decided that we were going to move that meeting up a
14 week. It's created a lot of angst within the
15 Science Center and with the Regional Office, but I
16 believe that -- you know, we have come up with a
17 schedule and a means by which we can meet our
18 responsibility to have the SSC provide us fishing
19 level recommendations, to have the monitoring
20 committee review those recommendations for purposes
21 of developing recommendations related to annual
22 catch limits and whatever accountability measures
23 might be appropriate.

24 So, our meeting, as you've seen

1 through e-mail exchanges, has been advanced one week
2 and we will be convening in Philadelphia August the
3 5th through the 7th. We may even have, depending on
4 the agenda, to meet on the 4th. But right now,
5 we've just moved it up a week. We'll be meeting in
6 Philadelphia August 5 through 7. I just want to
7 clarify that.

8 And in the future, I hope that
9 tomorrow during the Executive Committee we go back
10 to this motion that was passed at our last Council
11 meeting and take a look at whether or not that was
12 the right direction to go, or whether we should move
13 it back to allow for more time for our SSC to engage
14 in this important responsibility of setting fishing
15 level recommendations. Because at this point in
16 time, one of the things that the current chair feels
17 is important is that they have about a 15 working
18 day lead time to review staff recommendations. And
19 because of the calendar, moving it forward in August
20 really collapses the time available for their
21 review. So, it's something I hope we can pick up
22 tomorrow.

23 The very small printed e-mail is the
24 summary of all the actions that were taken related

1 to tilefish. I report that that package is to the
2 point where it's going to be submitted the end of
3 this week, and if not this week, certainly next
4 week.

5 Then the press release kind of
6 reviews what went on at the meeting.

7 Then behind the blue tab divider
8 there's an exchange related to our Ad Hoc SSC
9 Working Group, and again I think that this is just
10 highlighting some of the things that the SSC Working
11 Group had to deal with, and talks to Pat's concern
12 about what we were doing regarding the letter that
13 follows.

14 And her letter says that hey, you
15 guys have to use the SSC. And in my e-mail exchange
16 with Pat, I just said hey, we're doing the best we
17 can, and it's a conscious decision to work through
18 our workgroup, our special SSC workgroup, as well as
19 our SSC, given this Council's history and culture,
20 if you will, of non-involvement with the SSC.

21 So, this is something really new to
22 us, especially in a context of the reauthorized
23 Magnuson Act responsibilities that have been placed
24 on the SSC.

1 So, it's just one of those things
2 we're just going to have to muddle through as best
3 we can, and we're trying to do our best with this.

4 The next e-mail relates to the status
5 of stocks determination report that the agency is
6 required to provide to Congress. Oh, excuse me,
7 wrong one. This e-mail relates to the fishing
8 report to Congress related to capacity, and the
9 excess capacity. And I just quickly went through
10 that and I think I sent this out to you.

11 If you take a look at the Table 4,
12 which follows the e-mail, it shows the 20 U.S.
13 fisheries with the most severe examples of excess
14 harvesting capacity. And in our case, every one of
15 our plans but for dogfish have excess capacity.
16 Just on the face of it, I don't understand this, but
17 I didn't get into the whole report. But just be
18 aware that every plan that we manage has excess
19 capacity in it according to this report based on
20 2004 data.

21 The one after that is the one I
22 started to refer to, and that relates to the
23 Congressional report to Congress related to this
24 fishery status of stock index. And I provided this

1 information and just a little bit of arithmetic,
2 statistics, to spin it, that turns out that we're
3 the fourth or -- not the fourth, but the second best
4 Council in terms of our stocks not being overfished,
5 and likewise the second best in terms of our stocks
6 not being overfished. And it's just information
7 again that is out there and it's in a report.

8 I think Vince touched on this, the
9 next e-mail, about the Commission initiating two
10 addenda to their Dogfish Plan. We'll have to track
11 that and make sure that our plan and their plan
12 again compliment each other.

13 Next one, there was a brief exchange
14 with the staff. Captain Ruhle called me sometime in
15 early May and said that his survey team for that
16 NEAMAP initiative was going to be in Cape May, and
17 the he was inviting all of our staff who are
18 interested to go participate. And Rich and I took
19 him up on that. It was an ugly raining day driving
20 over, I mean really poured. But when we got near
21 Cape May, it was like -- you know, if the weatherman
22 decided he wanted to live down there and -- it
23 wasn't completely clear, but I mean the rain abated
24 and -- you know, went away. And then when we got to

1 the dock it was a little bit overcast, and we had a
2 good time out there.

3 Very, very effective group on the
4 stern of the boat. You know, when that cod-end
5 comes over and they start dumping it out. What I
6 saw mostly was horseshoe crabs and skates. It
7 wasn't much in the way of high-valued fish.

8 They did have a big sturgeon come
9 over, though. I was surprised. Probably five foot,
10 maybe five and a half feet, and they didn't waste
11 any time getting that back in the water. But good
12 experience and if it happens again this fall, I'm
13 sure Jimmy will invite anyone who's in that local
14 area to go out, because he's trying to help the
15 NEAMAP program extend its outreach to the media, to
16 the recreational and the commercial sectors in terms
17 of what they're doing to collect data.

18 Next one is an issue related to gifts
19 and the idea of Councils -- Council members speaking
20 at different groups. I know I get asked
21 occasionally and I'm sure you will, and the
22 triggering on this was an e-mail from Jeff Deem to
23 me saying hey, I went to a meeting and I got this
24 gift and I don't know if I should accept it or not.

1 And I said well -- you know, if it's
2 de minimis, and I said 50 bucks thinking I must be a
3 high roller, 50 bucks seemed reasonable to me; but
4 then I said by the way, I'll copy Joel on this and
5 see what they say. And there's an e-mail back to
6 Joel communicated me from David Maggi who is I guess
7 the ethics attorney with DOC, and actually the de
8 minimis level is 20 dollars. So, if you get a gift
9 that probably has an excess value of 20 bucks, don't
10 keep it. Give it back.

11 The only other thing I would say is
12 that when you are making comments, make sure you
13 differentiate personal opinion from Council position
14 or Council policy. That would be the only other
15 guidance I'd give you.

16 The next e-mail exchange is just kind
17 of an indicator of be careful what you say at a
18 Council meeting, because I think what triggered Mr.
19 Richardson's comments was the fact that I had
20 indicated that a couple of people in the audience
21 would provide information about ownership, and this
22 related to again our last Council meeting. It was
23 said on the floor, it's a matter of the minutes.
24 And when other people heard this, they were very

1 upset about it. So, I had this e-mail exchange with
2 George Richardson very concerned about what the
3 Council is doing related to excessive shares. It's
4 a very sensitive issue and just wanted you to be
5 aware of that.

6 And let's see. The next e-mail
7 relates to -- oh, again inviting the SSC to our
8 Squid, Mackerel, Butterfish Monitoring Committee.
9 Unfortunately again, because of our culture of not a
10 lot of involvement with the SSC, we didn't get a lot
11 of participation at that meeting that was convened
12 back on May 21, I think it was, when they had the
13 monitoring committee. There's only one member of
14 the SSC able to make it. But in any case, we are
15 moving to do better, and I'm sure we will do better
16 as time goes on.

17 Next e-mail we had a request from the
18 New England Council to provide comments about a Cape
19 Wind Energy Project. I talked to Pete on the phone
20 and said hey, we've done this before, we'll just
21 brush up our older memo related to Cape Wind Energy
22 Project and resubmit it. And that's what this is.
23 I think the original one was submitted back in '04.

24 Let's see. Next one -- oh, there's

1 an exchange about the NEPA proposed rule, and at
2 that point in time -- this was back in April, we
3 were still smarting from the way the Councils were
4 treated in terms of their involvement in developing
5 the NEPA integration into the Magnuson Act process
6 because we felt the consultation aspect of it just
7 didn't occur the way it should have.

8 So, I supported Chris Oliver, who was
9 the chair of our subgroup's comments to OMB about
10 the proposed rule. And you can tell the kind of
11 effect we have, because tomorrow Steve Leathery from
12 the agency will be here to highlight the points of
13 the proposed rule that are relevant to the agency's
14 future practice, if you will, in terms of developing
15 environmental statements in support of management
16 actions. So, you'll get that tomorrow.

17 Let's see. This was just to let you
18 know that we were engaged with the U.S./Canada
19 meeting up in Boston this past April. And then
20 finally, here's a list of the results of the RSA
21 process for the 2008 cycle.

22 So, that concludes my comments. One
23 more thing to say. You approved the minutes earlier
24 in this afternoon's session, and Paul has called me

1 and the problem we're having is that if you're not
2 talking into the mike, he's not picking up
3 everything you're saying. So, I said that this
4 morning at the SSC meeting, that -- you know, really
5 use the mike. I know the tendency is when you talk
6 to somebody to turn your head and then you're no
7 longer talking in the mike. And what happens is
8 when you get those minutes, he does the best he can
9 to get a verbatim transcript of what you said, but
10 he's not going to make stuff up. So there'll be
11 blanks, there'll be gaps. And so that's your job
12 when you read the minutes to see if he captured
13 everything. But it would make his job easy and
14 Jan's job easy if you speak into the mikes, because
15 we're really missing comments by virtue of head
16 turns. Okay.

17 COUNCIL CHAIR PETER JENSEN:

18 Questions? Comments?

19 (No response audible.)

20 COUNCIL CHAIR PETER JENSEN: Okay.

21 Is Rich here?

22 COUNCIL VICE CHAIR EUGENE KRAY: Dan,
23 in your memo, the Attorney David --

24 DANIEL FURLONG: Read Rule 1.

1 COUNCIL CHAIR PETER JENSEN: Turn the
2 mike on.

3 COUNCIL VICE CHAIR EUGENE KRAY: I
4 thought I had it on. Okay. It turned itself off.
5 You're saying -- it says here that the de minimis
6 value for gifts that the executive branch employees
7 are to accept is \$20 or less. I didn't know we were
8 executive branch employees. We're independent
9 contractors.

10 DANIEL FURLONG: Well, I'm going to
11 dodge that bullet and throw it over to Joel
12 MacDonald, but I think the appointment process, I
13 think you're kind of covered by that.

14 JOEL MACDONALD: Right, you're
15 special government employees and fall under the
16 executive branch. The Council is an instrumentality
17 of the Department of Commerce, and there's old
18 history with respect to whether the Council staff
19 and its members are federal employees for certain
20 purposes. For some, like the Federal Torts Claims
21 Act, they are; but for others, they're not. It's a
22 real patchwork quilt. But in terms of the ethics
23 rules pertaining to gifts, that's where you fall.

24 COUNCIL VICE CHAIR EUGENE KRAY: But

1 how does an employee differ from an independent
2 contractor?

3 JOEL MACDONALD: Well, I mean an
4 independent contractor is one who operates on their
5 own, independent of the control of the person for
6 whom they work. And here there's a measure of
7 control. Council members have never been considered
8 independent contractors, ever.

9 COUNCIL VICE CHAIR EUGENE KRAY: I
10 read that somewhere that we -- Council members are
11 considered independent contractors. It was in the
12 early days of my getting appointed.

13 JOEL MACDONALD: Gene, Dan just
14 reminded me that under Social Security they're paid
15 as contractors, but getting back to my point about
16 the patchwork quilt of decisions regarding the
17 status of the Council, its members and its staff.
18 For purposes of the ethics rule -- they have to
19 break it out by subject matter to determine what
20 status Council members and staff -- you know, enjoy.

21 And for purposes of the ethics rule you are -- you
22 know, special government employees or federal
23 employees for purposes of gifts, et cetera. You're
24 also federal employees, as I mentioned, for the

1 Federal Torts Claims Act, because that's for your
2 protection.

3 COUNCIL VICE CHAIR EUGENE KRAY: In
4 other words, they're using selective logic in terms
5 of when we are and when we aren't and what we are?

6 JOEL MACDONALD: It's not selective
7 logic. All the statutes that they deal with have
8 different provisions and talk about different status
9 for those that are covered, and that's the analysis.

10 The analysis takes off from what the statute
11 provides, and they're all different. That's why the
12 decisions have been different.

13 COUNCIL CHAIR PETER JENSEN: Okay.
14 Next item on the agenda was Status of Plans. Is
15 Rich here? Okay.

16
17 STATUS OF PLANS

18 RICHARD SEAGRAVES: Thank you, Mr.
19 Chairman. The information in my report is behind
20 Tab 10, and the first item is the matrix status of
21 the council specifications process, where those
22 specs are.

23 The next item is the status of FMPs,
24 amendments and frameworks.

1 And then that's followed by the
2 Annual Work Plan scheduled activities.

3 The next item is a Federal Register
4 Notice notifying that the -- as of April 25th, 2008,
5 the tilefish part-time permit category was closed.
6 And a temporary rule action on the full-time tier 2
7 permit category closure follows that for tilefish.

8 Following that is a Small Entity
9 Compliance Guide which lists the 2008 Atlantic
10 Mackerel, Squid and Butterfish specifications, all
11 the various specifications that was effective or --
12 that is April 21st, 2008.

13 Behind that is a Small Entity
14 Compliance Guide outlining the recreational measures
15 for summer flounder, scup and black sea bass, which
16 again lists the measures for summer flounder, scup,
17 black sea bass by state for fishing year 2008. And
18 that concludes my report.

19 COUNCIL CHAIR PETER JENSEN:

20 Questions? Comments?

21 (No response audible.)

22 COUNCIL CHAIR PETER JENSEN: We're
23 running a little bit behind schedule. Is there a
24 desire to take a break before we do specification

1 setting or do you want to go on? We have an affair
2 at 6:00 tonight. Is it 6:30? Okay. We're
3 scheduled to break at 5:30, so -- okay, I don't see
4 anyone wanting a break, so the next item on the
5 agenda is the Squid, Mackerel, Butterfish
6 specifications, and we're going to get committee
7 recommendations to start us off.

8
9 SQUID, MACKEREL, BUTTERFISH SPECIFICATIONS

10 JAMES RUHLE: Thank you, Mr.
11 Chairman. Squid, Mackerel, Butterfish Committee met
12 yesterday and we realized not as consistent with
13 other years, we've got the four species, we're going
14 to offer four motions. They'll each one have
15 separate parts, but we're going to combine them into
16 one management action. They will in fact take a
17 Council action. So, it really makes no difference
18 how we deal with them. We'll just put them out
19 there and go with them.

20 So, on behalf of the committee --
21 we're going to do Atlantic mackerel first. On
22 behalf of the committee, move that the ABC for the
23 2009 fishing year, ABC be established at 156,000
24 metric tons. IOY, DAH equals 115,000 metric tons.

1 DAP is 100,000 metric tons. JVP and TALFF equal
2 zero. Directed mackerel fishery will be closed at
3 90 percent of OY. If 90 percent of OY is reached
4 prior to June 1st, a 20,000 pound trip limit
5 results. If 90 percent of OY is reached after June
6 the 1st, a 50,000 pound trip limit results. OY may
7 be increased during the year through an in-season
8 adjustment, but not to exceed ABC. Up to three
9 percent of the OY, DAH for Atlantic mackerel may be
10 set aside for scientific research.

11 That is a committee motion, does not
12 need a second, Mr. Chairman.

13 COUNCIL CHAIR PETER JENSEN: Okay.
14 No second required. Discussion on the motion? I
15 think it's on the board, but it's also behind Tab 3
16 for background information. Discussion on the
17 motion on mackerel?

18 (No response audible.)

19 COUNCIL CHAIR PETER JENSEN: I see no
20 discussion, so I assume we're ready to vote.

21 JAMES RUHLE: Point of clarification.
22 There is a minor change in what's behind Tab 3, so
23 make sure you're looking at the motion on the board.
24 There is a little change there.

1 (Motion as voted.)

2 {I move that the following be specified for the
3 2009 Atlantic Mackerel fishery:

4 1. ABC = 156,000 mt; IOY, DAH = 115,000 mt; DAP =
5 100,000; JVP and TALFF = 0.

6 2. Directed mackerel fishery will be closed at 90%
7 of OY. If 90% of OY is reached prior to June 1 a
8 20,000 pound trip limit results. If 90% of OY is
9 reached o or after June the 1 a 50,000 pound trip
10 limit results.

11 3. OY may be increased during the year through an
12 in-season adjustment but not to exceed ABC.

13 4. Up to 3% of the IOY and DAH for Atlantic
14 mackerel may be set aside for scientific research.}

15 COUNCIL CHAIR PETER JENSEN: Ready to
16 vote? All those in favor, raise your hand.

17 (Response.)

18 COUNCIL CHAIR PETER JENSEN: Fifteen
19 in favor. Those opposed, same sign?

20 (No response.)

21 COUNCIL CHAIR PETER JENSEN:
22 Abstentions?

23 (Response.)

24 COUNCIL CHAIR PETER JENSEN: One

1 abstention. The motion carries. Jeff.

2 JEFF KAELIN: Thank you, Mr.
3 Chairman. I'll try to make this brief. I just
4 wanted to point out that the second portion of this
5 motion that was just approved is the result of some
6 extended conversation we had yesterday. The purpose
7 for the new trip limit is to try to allow herring
8 vessels operating in the Gulf of Maine to possess
9 more than 20,000 pounds of mackerel once the fishery
10 would close.

11 This motion doesn't quite get to
12 where we think we need to be, and we're trying to
13 conform the two plans. The Mid-Atlantic mackerel
14 fleet has asked the New England Council to increase
15 the trip limit -- the bycatch allowance of Atlantic
16 herring that directed mackerel vessels could have
17 that do not have limited access permits and the so-
18 called open access category to 25 tons from three
19 tons. That's 55,000 pounds.

20 In the interest of accommodating
21 those vessels in the Herring Plan, we're attempting
22 to try to increase the amount that the herring
23 vessels in the Gulf of Maine might possess after the
24 fishery closes. Those are herring vessels that will

1 not have a directed mackerel limited access permit.

2 The need is to have the 50,000 pounds
3 after June 1, because that's the summer bycatch of
4 herring that would occur. This doesn't quite get us
5 there, and we're thinking -- our thinking is Mr.
6 Reichle and I have talked about this, and we've
7 talked with Jason about it, that in the herring --
8 excuse me, in the mackerel limited access Amendment
9 11, which will be discussed tomorrow, we may want to
10 consider changing the fishing date to June 1 to a
11 May 31st date or something, to try to better
12 accommodate the need for that 50,000 pound limit
13 being increased in the herring fishery in the Gulf
14 of Maine.

15 So, I just wanted to point out we're
16 not quite there yet, but we're moving in the right
17 direction. And the Council will learn more about
18 this I think tomorrow when we talk about the limited
19 access amendment. Thank you.

20 COUNCIL CHAIR PETER JENSEN: So,
21 you're not suggesting that we amend this motion?

22 JEFF KAELIN: No, I'm not, Mr.
23 Chairman. Not at this time. Just to point out --
24 this is sort of an exercise -- obviously we haven't

1 reached OY yet in the mackerel fishery anyway, but
2 down the road, if it gets cranked down to the levels
3 that it may after our U.S./Canada discussions -- it
4 could happen.

5 So, we're just trying to conform the
6 two plans now. This will work fine for this year,
7 I'm sure, and we can make changes as we continue
8 this process.

9 COUNCIL CHAIR PETER JENSEN:

10 Understand. Thanks.

11 JEFF KAELIN: Thank you.

12 COUNCIL CHAIR PETER JENSEN: Mr.

13 Chairman, the next motion.

14 JAMES RUHLE: On behalf of the
15 committee, I move that for the 2009 fishing year the
16 butterfish specifications be specified at max OY is
17 12,175 metric ton. ABC is 1500 metric ton. IOY,
18 DAH, DAP is 500 ton.

19 If mackerel TALFF is not specified,
20 then bycatch TALFF equals zero. Otherwise, a
21 bycatch TALFF of equal to .08 percent of the
22 mackerel TALFF will be specified based on the
23 current FMP. Maintain a trip limit of 5,000 pounds
24 for moratorium butterfish permits, maintain a

1 threshold of a butterfish minimum mesh of three
2 inches inside mesh at a thousand pounds. Maintain a
3 threshold level for directed butterfish fishery
4 closed at 80 percent of DAH. If 80 percent of DAH
5 is reached prior to October 1st, the 250 pound trip
6 limit results. If 80 percent DAH is reached after -
7 - on or after October 1st, the 600-pound trip limit
8 results.

9 Incidental trip limits are 600
10 pounds, reduced to 250 pounds if directed fishery
11 closes before October 1st. And up to three percent
12 of ABC, IOY, DAH and DAP for butterfish may be set
13 aside for scientific research.

14 Made on behalf of the committee.

15 COUNCIL CHAIR PETER JENSEN: Okay.

16 No second required. Discussion on the motion?
17 Jeff.

18 JEFFERY DEEM: I need a little
19 clarification on Number 4. And I caught it on the
20 previous one. Just tell me if I'm thinking right
21 about this. If it closes in this case before
22 October 1st, it's only a 250 pound trip limit
23 because -- since we closed at 80 percent, 250 will
24 keep us from going over the limit by the end of the

1 year. But if it closes later, after October 1st,
2 then we can go 600 and still not risk excessively
3 exceeding the limit. Is that the way this is
4 supposed to work?

5 JAMES RUHLE: Exactly. Yes, sir.

6 JEFFERY DEEM: Sorry. Thank you.

7 COUNCIL CHAIR PETER JENSEN: Further
8 discussion on the motion?

9 (No response audible.)

10 COUNCIL CHAIR PETER JENSEN: Ready to
11 vote?

12 (Motion as voted.)

13 {I move that the following be specified for the
14 2009 Butterfish specifications:

15 1. Max OY = 12,175 mt; ABC = 1,500 mt; IOY, DAH,
16 DAP = 500 mt.

17 2. If mackerel TALFF is not specified, then bycatch
18 TALFF equals zero, otherwise, a bycatch TALFF of
19 equal to 0.08% of the mackerel TALFF is to be
20 specified based on the current FMP.

21 3. Maintain the trip limit of 5,000 pounds for
22 moratorium butterfish permits. Maintain the
23 threshold for butterfish mesh requirement (3.0
24 inches) at 1,000 pounds.

1 4. Maintain the threshold level for directed
2 butterfish fishery closed at 80% of DAH. If 80% of
3 DAH is reached prior to October 1, a 250 pound trip
4 limit results. If 80% of DAH is reached on/after
5 October 1, a 600 pound daily trip limit results.

6 5. Incidental limits: 600 pounds, reduced to 250
7 pounds if directed fishery closes before October 1.

8 6. Up to 3% of the ABC, IOY, DAH and DAP for
9 butterfish may be set aside for scientific
10 research.}

11 COUNCIL CHAIR PETER JENSEN: All
12 those in favor, raise your hand.

13 (Response.)

14 COUNCIL CHAIR PETER JENSEN: Fifteen
15 in favor. Opposed, the same sign.

16 (No response.)

17 COUNCIL CHAIR PETER JENSEN: None.
18 Abstentions?

19 (Response.)

20 COUNCIL CHAIR PETER JENSEN: One.
21 The motion passes.

22 JAMES RUHLE: Okay. We'll move to
23 illex squid, specifications for 2009 fishing year.
24 Max OY equals ABC equals IOY equals DAH equals DAP

1 is 24,000 metric tons. Directed illex closes at 95
2 percent of ABC -- when ABC is -- 95 percent of ABC
3 is taken, and a 10,000 pound trip limit implemented
4 for the remainder of the fishing year. Vessels
5 which possess illex incidental catch permits may
6 land up to 10,000 pounds at all times. And up to
7 three percent of the ABC, IOY, DAH, DAP for illex
8 may be set aside for scientific research. Made on
9 behalf of the committee.

10 COUNCIL CHAIR PETER JENSEN: No
11 second required. Discussion on the motion?

12 (No response audible.)

13 COUNCIL CHAIR PETER JENSEN: Ready to
14 vote?

15 (Motion as voted.)

16 {I move that the following be specified for the
17 2009 Illex specifications:

- 18 1. Max OY = ABC = IOY = DAH = DAP = 24,000 mt.
- 19 2. The directed fishery for Illex closes when 95%
20 of ABC is taken (22,800 mt), and a 10,000 pound
21 trip limit implemented for the remainder of the
22 fishing year. Vessels which possess Illex
23 incidental catch permits may land up to 10,000
24 pounds per trip at all times.

1 3. Up to 3% of the ABC, IOY, DAH and DAP for Illex
2 may be set aside for scientific research.}

3 COUNCIL CHAIR PETER JENSEN: All
4 those in favor, raise your hand.

5 (Response.)

6 COUNCIL CHAIR PETER JENSEN:
7 Seventeen in favor. Those opposed, the same sign?

8 (No response.)

9 COUNCIL CHAIR PETER JENSEN: Zero.
10 Abstentions?

11 (Response.)

12 COUNCIL CHAIR PETER JENSEN: One
13 abstention. The motion carries. Next.

14 JAMES RUHLE: Lastly, Mr. Chairman, I
15 move on behalf of the committee the 2009 loligo
16 specifications. Max OY equals 32,000 metric ton.
17 ABC equals IOY equals DAH -- DAP is 19,000 metric
18 tons. Little caveat. If Amendment 9 does not go
19 final, retain status quo, which is equal to max OY
20 at 26,000 metric ton, ABC equals IOY equals DAH
21 equals DAP of 17,000 metric ton.

22 The annual quota -- the 19,000 is
23 what we're referring to here -- allocated into
24 trimesters as follows: Trimester 1, 43 percent.

1 Trimester 2, 17 percent. Trimester 3, 40 percent.

2 For trimesters 1 and 2, the directed
3 fishery will close at 90 percent of each trimester
4 allocation -- when 90 percent of each trimester
5 allocation is taken. Vessels will be restricted to
6 a 2500 pound trip limit for the remainder of the
7 period. Vessels which possess loligo incidental
8 catch permits may land up to 2500 pounds at all of
9 these times.

10 Overages and underages from the first
11 two trimesters will be added or deducted from Period
12 3, and 95 percent of the annual quota -- when 95
13 percent of the annual quota is taken, a 2500 pound
14 trip limit would be implemented for the rest of the
15 fishing year. Vessels which possess loligo
16 incidental catch permits may land up to 2500 pounds
17 at all times.

18 Up to three percent of the ABC, IOY,
19 DAH, DAP for loligo may be set aside for scientific
20 research. Made on behalf of the committee.

21 COUNCIL CHAIR PETER JENSEN: No
22 second required. Discussion on the motion? Laurie.

23 LAURIE NOLAN: Thank you, Pete. In
24 case people are getting confused, the 17,000 metric

1 ton would basically be status quo. But based on the
2 SAW 34 and the revised fishing target, there would
3 be -- and it's okay to increase the quota at that
4 point, which is why you see the two different
5 numbers on the page. Just for clarification.

6 COUNCIL CHAIR PETER JENSEN: George.

7 GEORGE DARCY: It's my understanding
8 that you do not have an SSC recommendation for these
9 specifications. Is that --

10 COUNCIL CHAIR PETER JENSEN: That's
11 right. I was notified by the Chairman that they
12 will not have a recommendation due to the inability
13 to get the SSC together to have adequate time to
14 consider all the information.

15 GEORGE DARCY: Okay. I just need to
16 refer you back then to Pat's May 19th letter that
17 Dan just showed you, and the statement says if the
18 Council does not use its SSC in the manner required
19 by the Magnuson-Stevens Act, the Council risks
20 rejection of its 2009 specification submissions by
21 NOAA's National Marine Fisheries Service on
22 procedural grounds.

23 In this fishery, I think what that
24 probably would mean is we would go to a rollover,

1 but it could impact this provision. I'm just making
2 you -- reminding you of that in case that's the way
3 the agency decides to go.

4 COUNCIL CHAIR PETER JENSEN: I think
5 we did understand that -- I think we did understand
6 that as a possibility. I would certainly hope that
7 the Regional Administrator would find a way to go
8 with the Council recommendations. Lee.

9 LEE ANDERSON: George, would you care
10 to go out on a limb and say what is the probability
11 that that will occur?

12 GEORGE DARCY: No, I wouldn't. This
13 is new ground for us, too, so I just need to make
14 you aware of the possibility so you don't get -- you
15 know, surprised if something -- if the outcome is
16 different than you might expect.

17 LEE ANDERSON: For the record, I
18 would hope that as we start rolling this SSC thing
19 into a smooth functioning machine we cut each other
20 slack on both sides so we can move ahead with our
21 business.

22 COUNCIL CHAIR PETER JENSEN: I think
23 it is clear, for the record, that it's not because
24 we're refusing to give a recommendation. There has

1 been a sincere effort on the part of the ad hoc
2 committee and the SSC to try to get this moving here
3 so that they can get involved. And as has been
4 pointed out many times, with our record of never
5 convening our SSC, we just haven't been able to
6 override people's prior commitments in order to get
7 them together. And so it's not because we didn't
8 try.

9 Let's see. Where are we? I think
10 we're finished. Aren't we?

11 (Brief discussion, off the record.)

12 COUNCIL CHAIR PETER JENSEN: Okay.
13 Fair enough. Further discussion on this motion?

14 (No response audible.)

15 COUNCIL CHAIR PETER JENSEN: Ready to
16 vote?

17 (Motion as voted.)

18 {I move that the following be specified for the
19 2009 Loligo specifications:

20 1. Max OY = 32,000 mt; ABC = IOY = DAH = DAP =
21 19,000 mt.

22 If Amendment 9 does not go final, retain status
23 quo: Max OY = 26,000 mt; ABC = IOY = DAH = DAP =
24 17,000 mt.

1 2. The annual quota (19,000 mt) allocated as
2 follows: Trimester 1 - 43% (8,170mt) Trimester 2 -
3 17% (3,230 mt), and Trimester 3 - 40% (7,600mt).

4 3. For Trimesters 1 and 2, the directed fishery
5 will be closed when 90% of each Trimester
6 allocation is taken; vessels will be restricted to
7 a 2,500 pound trip limit for the remainder of the
8 period. Vessels which possess Loligo incidental
9 catch permits may land up to 2,500 pounds per trip
10 at all times.

11 4. Overages and underages from the first two
12 trimesters will be added or deducted from period 3.

13 AND

14 5. When 95% of the total annual quota has been
15 taken (i.e. 18,050 mt), a 2,500 pound trip limit
16 will be implemented for the rest of the fishing
17 year. Vessels which possess Loligo incidental
18 catch permits may land up to 2,500 pounds per trip
19 at all times. AND

20 6. Up to 3% of the ABC, IOY, DAH and DAP for Loligo
21 may be set aside for scientific research.}

22 COUNCIL CHAIR PETER JENSEN: All in
23 favor, raise your hand.

24 (Response.)

1 COUNCIL CHAIR PETER JENSEN:

2 Seventeen in favor. Those opposed, the same sign.

3 (No response.)

4 COUNCIL CHAIR PETER JENSEN: Zero.

5 Abstentions?

6 (Response.)

7 COUNCIL CHAIR PETER JENSEN: One

8 abstention. Gee, George, I thought you were going
9 to go with us this time. The motion carries.

10 That's the end of our agenda for
11 today, unless you want to spend a little time trying
12 to catch up with committee reports. And I don't
13 know whether any of the committee chairmen are ready
14 to give their reports, but if they are, then we can
15 make up a little time for tomorrow.

16 So, Mr. Goldman indicates that he's
17 prepared to give the Law Enforcement Committee. So,
18 without objection, we will go ahead and do some
19 committee reports.

20 _____
21 LAW ENFORCEMENT COMMITTEE REPORT

22 EDWARD GOLDMAN: Thank you, Mr.

23 Chairman. The Law Enforcement Committee met on

24 Tuesday, June 10th, 2008. Items on the agenda that

1 were discussed included review of the United States
2 Coast Guard proposed rule on commercial fishing
3 vessel safety, discussion of the enforceability of
4 slot limits in the recreational sector, discussion
5 of the enforceability of recreational possession
6 limits regarding multiple day trips. Also not on
7 the agenda, there was a short discussion concerning
8 the new TWIK requirements for licensed mariners.

9 Lieutenant Commander Brown gave an
10 overview of the U.S. Coast Guard's Advanced Notice
11 of Proposed Rulemaking of March 31st, 2008. As
12 stated in the summary, the Coast Guard is developing
13 a set of proposed amendments to its commercial
14 fishing industry vessel regulations. The proposed
15 changes would enhance maritime safety by adding new
16 requirements for vessel stability and watertight
17 integrity, stability training and assessments,
18 vessel maintenance and self-examinations, immersion
19 suits, crew preparedness, safety training, emergency
20 preparation, safety and training personnel, safety
21 equipment and documentation, miscellaneous
22 conforming, clarifying and other administrative
23 changes are also contemplated.

24 Key to this process is public input,

1 and all members of the committee and the Council are
2 encouraged to submit comments to the Advanced Notice
3 Rulemaking.

4 Committee members and the public
5 discussed some of the proposed changes. It was then
6 decided to make a motion to have the Council put out
7 a press release to let the industry know that the
8 Advanced Notice of Proposed Rulemaking. I will be
9 presented a motion on that on behalf of the
10 committee.

11 The committee then discussed the
12 enforceability of slot limits in the recreational
13 fishing -- in the recreational sector. The
14 guidelines for resource managers and enforceability
15 of fishery management measures developed by the
16 ASMFC's Law Enforcement Committee, which is behind
17 Tab 4, was referenced. It was agreed that
18 enforceability of slot limits was possible.
19 Consistency across geographic limits and time is a
20 major factor in the success of enforcing slot
21 limits. It was also agreed that the regulations are
22 -- if the regulations are well-written, there should
23 be no problem. There are ASMFC fishery management
24 plans that presently have slot limits. North

1 Carolina has several plans with slot limits whose
2 success was attributed to user-friendly rules.

3 Last item on the agenda to be
4 discussed was the enforceability of recreational
5 possession limits for multiple-day trips. Logbook
6 entries, customer receipts and payments can be used
7 to document multiple day trips. The rules should be
8 written so law enforcement will be able to enforce
9 them. George Darcy stated that if we did use
10 possession limits for multiple day trips, the
11 Regional Administrator would look at it very
12 carefully to ensure management and enforcement
13 concerns are addressed.

14 Jose Montanez reminded the committee
15 that the Council will soon be accepting nominations
16 for this year Fishery Achievement Award.

17 COUNCIL CHAIR PETER JENSEN: I'm
18 sorry. You had a motion?

19 EDWARD GOLDMAN: Yes. Questions on
20 the report first?

21 COUNCIL CHAIR PETER JENSEN: All
22 right. Questions? Frank.

23 FRANCIS BLOUNT: Yes, thank you.
24 Were you aware that New England currently uses

1 multi-day in the recreational for the groundfish?

2 EDWARD GOLDMAN: Excuse me. No, I
3 wasn't, but that's good to hear.

4 FRANCIS BLOUNT: And it was approved
5 by the Regional Office.

6 EDWARD GOLDMAN: Thank you.

7 COUNCIL CHAIR PETER JENSEN: Further
8 comments? Questions?

9 (No response audible.)

10 COUNCIL CHAIR PETER JENSEN: Okay.
11 You have a motion on behalf of the committee?

12 EDWARD GOLDMAN: Yes, I do. On
13 behalf of the Law Enforcement Committee, I move that
14 Council staff produce a press release announcing the
15 March 31st, 2008 U.S. Coast Guard's Advanced Notice
16 of Proposed Rulemaking regarding the development of
17 maritime safety proposals impacting the commercial
18 fishing industry. This is to include the 30
19 questions in the proposal and also provide the
20 deadline and process by which public comments can be
21 communicated to the U.S. Coast Guard.

22 COUNCIL CHAIR PETER JENSEN: Okay.
23 We'll get that up on the board, but any questions on
24 the motion?

1 (No response audible.)

2 COUNCIL CHAIR PETER JENSEN: Now the
3 public comment period is open until when on the
4 proposed rule?

5 LCDR TIM BROWN: July 29th, Mr.
6 Chairman.

7 COUNCIL CHAIR PETER JENSEN: July
8 29th, okay. And that would be part of the press
9 release? Okay.

10 EDWARD GOLDMAN: While it's getting
11 up on the board, the committee felt that while
12 everything was important that we probably didn't
13 have the expertise to speak as a committee, but the
14 most important fact was to get it out to the public
15 so the public could comment and other Council
16 members, and our Executive Director suggested this
17 method to put it out as a press release.

18 The Commander initially asked if we
19 could put it in the Council report that goes out,
20 and Director Dan suggested we give it its own press
21 release, so that way it will not only go out to the
22 Council and our members, but also go out to the
23 general public that gets our information. Hopefully
24 we'll all be alerted about it and nobody will be

1 taken by surprise. That was our reasoning behind
2 the motion.

3 DANIEL FURLONG: To Ed's point, if
4 you take a look behind Tab 4, you'll see at the end
5 of this Federal Register Notice the Coast Guard has
6 like 30 tickle questions, and it would be very
7 difficult I think to try to -- as a committee deal
8 with the questions such that you get different input
9 and then you kind of coalesce it down to one
10 response, because you're really missing the public's
11 input. So, that's why this motion came to be is
12 let's just get it out to the public and let the
13 public comment directly. And we're going to try to
14 help in that regard.

15 COUNCIL CHAIR PETER JENSEN: The
16 motion is on the board. Harley.

17 HARLEY SPEIR (No microphone): Is
18 this applicable (inaudible).

19 COUNCIL CHAIR PETER JENSEN:
20 Microphone.

21 HARLEY SPEIR: Are these applicable
22 to all tidal waters, state waters included?

23 COUNCIL CHAIR PETER JENSEN:
24 Commander.

1 LCDR TIM BROWN: I think you have to
2 look inside the individual requirements to see where
3 they do apply. And these are proposed rules, so
4 some of them are not fully fleshed out. Most of
5 them are dependent on vessel size and that's in that
6 Table 4. But some of them, such as immersion suits,
7 are going to apply based on location as well as
8 vessel length.

9 COUNCIL CHAIR PETER JENSEN: I guess,
10 Harley, you're raising a point or asking a question
11 as to whether some state representatives ought to be
12 alerting their fishermen of the applicability of
13 these rules.

14 HARLEY SPEIR: Absolutely.
15 Chesapeake Bay, Delaware Bay, Albemarle, Sound those
16 areas.

17 COUNCIL CHAIR PETER JENSEN: I guess
18 those of you from the states should take a close
19 look at it and make that determination, so --
20 further discussion, questions on the motion?

21 (No response audible.)

22 COUNCIL CHAIR PETER JENSEN: Ready to
23 vote?

24 (Motion as voted.)

1 {Move on behalf of the Law Enforcement Committee,
2 that Council staff produce a press release
3 announcing the March 31, 2008 USCG's Advanced
4 Notice of Proposed Rulemaking regarding the
5 development of maritime safety proposals impacting
6 the commercial fishing industry. This is to
7 include the 30 questions in the proposal and also
8 provide the deadline and process by which public
9 comments can be communicated to thee USCG.}

10 COUNCIL CHAIR PETER JENSEN: All
11 those in favor, raise your hand.

12 (Response.)

13 COUNCIL CHAIR PETER JENSEN:
14 Seventeen in favor. Opposed, the same sign.

15 (No response.)

16 COUNCIL CHAIR PETER JENSEN: Zero.
17 Abstentions?

18 (No response.)

19 COUNCIL CHAIR PETER JENSEN: Zero.
20 The motion carries.

21 Jack, are you ready to do the
22 Demersal Report?

23 JACK TRAVELSTEAD: Yes, sir.
24

1 done separately species by species. But regardless
2 of what decision is made there, there's still I
3 think an equal amount of work that will have to be
4 one for each species. You're just packaging it a
5 little bit differently.

6 After that, we spent a little bit of
7 time going through some of the provisions of
8 Amendment 15 and in the end, after considerable
9 discussion, I think the committee quickly became
10 concerned about the need to immediately address the
11 ACL issue and make sure that that is properly dealt
12 with before we proceed with getting further along
13 with Amendment 15.

14 And ultimately there was a motion
15 made, which I'll present to you. It passed the
16 committee unanimously. That motion was -- and I'll
17 make it on behalf of the Demersal Committee, to
18 postpone work on Amendment 15 until actions relating
19 to the ACL/AMS for summer flounder, scup and black
20 sea bass are submitted for Secretarial approval.

21 I think the general feeling of the
22 committee was that we've simply been overtaken by
23 events and this is the way our Executive Director
24 described it, and I think everyone was in agreement.

1 We've sort of been overtaken by events that are
2 beyond the Council's control, and feel like we
3 should focus our efforts in ensuring that the ACL
4 issue is dealt with properly before proceeding with
5 Amendment 15.

6 COUNCIL CHAIR PETER JENSEN: Okay.
7 That's a motion on behalf of the committee?

8 JACK TRAVELSTEAD: Yes, sir.

9 COUNCIL CHAIR PETER JENSEN: I guess
10 the time line if this is not deferred was what,
11 2012, I think, right?

12 JACK TRAVELSTEAD: Right.

13 COUNCIL CHAIR PETER JENSEN: And so
14 now we're talking -- if this motion passes to defer
15 -- to postpone it, then we're probably talking about
16 another couple of years before Amendment 15 would be
17 completed, assuming we pick it up again in about two
18 years.

19 JACK TRAVELSTEAD: Let me add one
20 other point that I forgot. There was one issue that
21 the committee expressed an interest in in pursuing,
22 or seeing that it's pursued, and that was the
23 ability to use slot limits in the management of the
24 flounder fishery. And it was noted that ASMFC is

1 already proceeding down the road to allow for the
2 use of slot limits.

3 It's undergoing some type of
4 technical review right now to make sure it's
5 applicable to the management of that species. But
6 ultimately, we anticipate and we hope that it will
7 be approved technically and that ASMFC will proceed
8 with an addendum to allow the use of slot limits.
9 So, it's nothing that the Council needs to do at
10 this point. It looks like it's going to be taken
11 care of by ASMFC. And so that issue will go
12 forward, even though we're asking that you postpone
13 work on Amendment 15.

14 COUNCIL CHAIR PETER JENSEN:

15 Questions, comments on the motion? Pat.

16 PAT AUGUSTINE: Well, in addition.
17 Jack did an excellent job, Mr. Chairman, of
18 describing where we were and where we went to, but
19 in looking at the remaining elements that were in
20 Amendment 15, other things have changed. And
21 committee members have changed. And so the emphasis
22 -- once we got away from Option 1, which was the
23 allocation issue, then that came off the list, there
24 was really not much need to proceed with the other

1 activities that were on there. And to reiterate
2 what Jack said, I think the major concern was that
3 under conservation equivalency as it was described
4 to us, you can't -- you could use slot size and it
5 would be another method of conservation equivalency.

6 And I think our concern was we just
7 wanted to make sure that was absolutely clear that
8 in the event the Commission approved slot limits
9 that it will indeed be acceptable by the Council.
10 And my understanding is it will, and we're happy
11 with that. Thank you.

12 COUNCIL CHAIR PETER JENSEN: Further
13 comments? Questions?

14 (No response audible.)

15 COUNCIL CHAIR PETER JENSEN: I have
16 not read thoroughly the new proposed rule, National
17 Standard rules, but there is some language in there
18 dealing with jointly managed stocks and takes inside
19 and outside of three miles. And so George, it
20 occurs to me that that probably is going to require
21 a little more attention to how the catch occurs both
22 inside and outside of three miles. And so could you
23 comment on that?

24 GEORGE DARCY: Yeah, that's right,

1 and that's an issue for a lot of the regions. In
2 fact, it's a huge issue for places like the
3 Caribbean and the Western Pacific where they have so
4 little shelf area.

5 Last week, the New England Council
6 adopted a policy as to how to deal with that for
7 their FMPs, and essentially they're going to take
8 that mortality that occurs in state waters off the
9 top. You have to -- somehow in your development of
10 your ACLs you have to account for total mortality on
11 the stock, but you could either establish a separate
12 sector, not sector in terms of groundfish sectors,
13 but a subcomponent, in state waters and one in
14 federal waters, allocate essentially ACL for each
15 one and have accountability measures for each one.
16 That's one way you could do it.

17 But the other way to do it, and
18 that's the way New England intends to do it, is to
19 essentially figure out what you expect your
20 mortality to be in state waters by state -- state
21 permitted vessels in state waters, take that off the
22 top and then have -- set your ACL for your federal
23 waters and have the accountability measures in
24 federal waters.

1 There may be other ways to do it,
2 too, but those are the two obvious models that
3 you'll probably want to think about.

4 COUNCIL CHAIR PETER JENSEN: Okay.
5 Further discussion on the motion?

6 (No response audible.)

7 COUNCIL CHAIR PETER JENSEN: Ready to
8 vote?

9 (Motion as voted.)

10 {Move to postpone work on Amendment 15 until
11 actions relating to the ACL/AMs for Summer
12 Flounder, Scup, and Black Sea Bass are submitted
13 for Secretarial approval.}

14 COUNCIL CHAIR PETER JENSEN: All
15 those in favor of the motion, raise your hand.

16 (Response.)

17 COUNCIL CHAIR PETER JENSEN:
18 Eighteen. Wow, we're growing in number. Eighteen
19 in favor. Those opposed? I don't think there's
20 anybody left to oppose, is there?

21 (No response.)

22 COUNCIL CHAIR PETER JENSEN: None in
23 opposition. No abstentions?

24 (No response.)

1 COUNCIL CHAIR PETER JENSEN: The
2 motion carries.

3 COUNCIL CHAIR PETER JENSEN: It has
4 been suggested that we do the surfclam
5 specifications today because it's status quo. Now,
6 the problem with that, of course, is that we
7 advertised in the agenda that we were going to do it
8 tomorrow. If we are able to do it today and the
9 surfclam folks don't have to come back tomorrow, of
10 course that would be a benefit to them.

11 So, there's a couple of ways we can
12 do this. We can either do the specs today or we can
13 simply take the comments from the clam industry
14 today for reference tomorrow when we do it as
15 advertised in our agenda. Are there clam
16 representatives in the audience that would like to
17 speak to how we handle this, either today or
18 tomorrow? Is it your intention to come back
19 tomorrow for the spec setting?

20 DAVID WALLACE (No microphone): If we
21 do it today (inaudible).

22 COUNCIL CHAIR PETER JENSEN: Come up
23 and use the mike.

24 DAVID WALLACE: The industry met most

1 of the morning on a whole series of issues, mostly
2 the survey which starts in a few days, the NMFS
3 survey, and then the industry-funded portion is at
4 the end of this month. Tom and I were nominated and
5 elected to stay until tomorrow afternoon to be the
6 two token representatives for the rest of the
7 industry, and all the rest of the industry went home
8 because we had a consensus on what to do.

9 If you could do it today, then Tom
10 and I are here and then we could leave early
11 tomorrow morning. Thank you.

12 COUNCIL CHAIR PETER JENSEN: Let's do
13 it this way then. We will consider specs today and
14 you guys can comment on it. And then if someone
15 shows up tomorrow, then -- you know, I'll be open to
16 reopening the record to hear their comments and
17 possible reconsideration. But we'll take the action
18 today and just leave it open for tomorrow if someone
19 wants to comment on it.

20 DAVID WALLACE: Fine with me.

21 COUNCIL CHAIR PETER JENSEN: Does
22 that sound acceptable, Joel, from your point of
23 view?

24 JOEL MACDONALD: Yes.

1 COUNCIL CHAIR PETER JENSEN: All
2 right. Then --

3 DAVID WALLACE: Thank you.

4 COUNCIL CHAIR PETER JENSEN: Is the
5 committee ready to report and make a motion?

6
7 SURFCLAM AND OCEAN QUAHOG SPECIFICATIONS

8 LAURIE NOLAN: Thank you, Pete.

9 Well, we met yesterday -- the committee met
10 yesterday to review staff recommendations for the
11 2009 quota specifications, and after presentations
12 from Tom and Clay and some discussion from the
13 committee, there was a unanimous agreement to move
14 the staff recommendations forward for 2009.

15 So, the motion that the committee is
16 moving forward is to move that the Council -- no,
17 move that the committee recommends to the Council
18 that the three quotas, surfclams, ocean quahogs and
19 Maine ocean quahogs that were set last year for 2009
20 be maintained and that the surfclam minimum size
21 limit also be suspended as it has been every year
22 since 1990, which again is simply status quo.

23 COUNCIL CHAIR PETER JENSEN: Motion
24 for the committee, no second required. Recall that

1 this is the second year of a three-year spec
2 setting, and so simply confirming that what was set
3 in a prior year for 2009 will be adopted.

4 Discussion on the motion?

5 (No response audible.)

6 COUNCIL CHAIR PETER JENSEN: Ready to
7 vote?

8 (Motion as voted.)

9 {Move that the 3 quotas (surfclams, ocean quahogs
10 and Maine ocean quahogs) that were set last year
11 for 2009 be maintained and that the surfclam
12 minimum size limit also be suspended as it has been
13 every year since 1990.}

14 COUNCIL CHAIR PETER JENSEN: All
15 those in favor, raise your hand.

16 (Response.)

17 COUNCIL CHAIR PETER JENSEN: Fifteen
18 in favor. The same sign for opposition?

19 (No response.)

20 COUNCIL CHAIR PETER JENSEN: None.
21 Abstentions?

22 (Response.)

23 COUNCIL CHAIR PETER JENSEN: One
24 abstention. The motion carries.

1 Lee, one part of the committee
2 meeting was your ad hoc committee report on
3 excessive shares. And so I think it would be
4 worthwhile to use a little bit of this time to talk
5 about excessive shares and what you have
6 recommended, not that there's going to be any action
7 at this meeting, but just to keep the members up-to-
8 date on excessive share discussion.

9
10 AD HOC EXCESSIVE SHARE COMMITTEE REPORT

11 LEE ANDERSON: Okay. Thank you, Mr.
12 Chairman. Well, the bottom line is the Excessive
13 Share Ad Hoc Committee, which is Rick and Erling and
14 myself, met. We came up with some recommendations
15 that we suggested that the committee put to the FMAT
16 to do some work on to come back and reconsider. And
17 basically it had to do with some economic research
18 on the market power problem, a possibility of
19 looking at a quota -- sorry, status quo plus
20 criteria; and the committee agreed to set that up to
21 the FMAT, and that's a very short way to report it,
22 but I think that there's nothing more to report on
23 until we get some information back from the FMAT.
24 Although I'm happy to go into more detail for

1 anybody that would like it.

2 COUNCIL CHAIR PETER JENSEN: Any
3 questions for Lee and the committee on excessive
4 shares?

5 (No response audible.)

6 LEE ANDERSON: The one other thing is
7 that you and I, Pete, ought to get together ad
8 decide whether we want to have this committee stay
9 together to look at a more general policy. And we
10 can do that later.

11 COUNCIL CHAIR PETER JENSEN: Yeah,
12 well, I've been thinking about that, because it
13 actually occurred backwards of the way I intended
14 it. I thought we would talk about some general
15 principles and a policy and then apply that to
16 surfclams. As it turns out, surfclam took priority
17 and now we're left with whether we want to develop a
18 policy.

19 So, I think in terms of the
20 committee, if you could simply address that
21 question, do we need or do we want an overall policy
22 for excessive shares, then yes, the committee should
23 continue.

24 (Pause.)

1 COUNCIL CHAIR PETER JENSEN: Gene is
2 going to give us a report on the Ad Hoc SSC.
3 There's been a lot going on and I think it's
4 worthwhile to try to bring everybody up to speed on
5 it.

6
7 AD HOC SSC WORKING GROUP

8 EUGENE KRAY: Thank you, Mr.
9 Chairman. Those of you who were here this morning
10 heard this presentation. It basically will be the
11 same presentation, outlining the seven tasks that we
12 were to address, and the working group, which I'll
13 refresh your memory, was composed of three Council
14 members, three members of the SSC and three members
15 of the Northeast Fisheries Science Center.

16 Rich, do you want to do these, or do
17 you want me to do it?

18 RICHARD SEAGRAVES: Pardon?

19 EUGENE KRAY: Do you want to do it?
20 You put it together. It's your notes. Why don't
21 you do it.

22 RICHARD SEAGRAVES: Okay. We're
23 strictly talking about the ad hoc committee meeting
24 in Philly on this one; right?

1 EUGENE KRAY: That's correct. Yes.

2 RICHARD SEAGRAVES: Which I talked
3 about earlier today. Next slide. Next slide. Keep
4 going. We're not in the right place. Hold on.

5 (Pause.)

6 RICHARD SEAGRAVES: Sorry about that,
7 Mr. Chairman. So, the ad hoc working group
8 consisting of nine members met May 29th in
9 Philadelphia. The three members of the Council were
10 Pete Jensen, Gene Kray and Pat Augustine. We had
11 three SSC members, Brian Rothschild, SSC Chair; Ed
12 Houde attended; Jim Kirkley was on the committee but
13 had some family health issues, couldn't make it.
14 And then we had three members from the Northeast
15 Fisheries Science Center, of which two attended was
16 Nancy Thompson and Jim Weinberg.

17 Next slide. As a result of the
18 motion that the Council passed, we developed these
19 terms of reference. One was to review how much
20 information could be provided to the SSC as early as
21 possible in the process of their work. The term
22 front-end loading was used to describe the process.

23 So, there was discussion on this and some of the
24 folks who were here probably heard this already, so

1 I'll go to the consensus. Next slide, please.

2 The SAW/SARC documentation needs to
3 be at a level such that the SSC has a clear
4 understanding of the data quality, rationale for and
5 consequences of decisions made during the
6 assessment, development, and conclusions drawn about
7 the stock status. So, the level of documentation
8 needs to be there. And the concern was that through
9 the many years that assessments are developed,
10 there's some memory loss and documentation loss in
11 the assessments, so that someone coming in for the
12 first time reviewing an assessment may not have a
13 lot of the stuff that's been lost through the years
14 describing some of the basics. And also clear
15 documentation of obviously what was new in an
16 assessment or what was current in an assessment.

17 The fishing level recommendation and
18 ACL development process should strive to strike a
19 balance between avoiding competing assessments being
20 done by the SAW/SARC process and the SSC review and
21 maintaining independent -- that should read --
22 maintaining an independent SSC review.

23 Then we have some language in the
24 SOPPS that reinforce that, but -- so we're torn

1 between trying to give an independent review and not
2 redoing an assessment.

3 And also in terms of information
4 flow, to get the information to the SSC in time so
5 that they can make informed evaluations and reviews
6 that the staff will act as a conduit to the SSC
7 through the Chair of the SSC as an assessment is
8 being developed. And confidentiality needs to be
9 maintained, because the information is not public.

10 So, these issues of consensus were
11 agreed to that kind of speak to the issue of getting
12 the information as quickly as possible to the SSC.

13 Next slide. The next term of
14 reference that the Council asked for was to consider
15 development of a time table for each species and the
16 flow of information between and among the SSC, the
17 Science Center and the Council.

18 Next slide. Really we didn't -- this
19 is a work in progress. The consensus was to have
20 staff develop a time table of the flow of
21 information and meeting schedules. We've already
22 discussed how it will happen through the staff. The
23 request is that the SSC be provided with the staff
24 recommendations a minimum of 15 working days in

1 advance of the SSC review meeting, which is
2 significant, because that's three full weeks. And
3 staff has been tasked to develop a work plan for
4 2009 in consultation with the SSC chair, who is
5 Brian Rothschild, sitting over there on the other
6 side of the room.

7 Next slide. Next term of reference
8 was to review the role of the monitoring committee
9 in our quota setting process and try to determine if
10 its historical role could perhaps be supplanted by
11 just simply inserting the SSC in their place and
12 elimination of the monitoring committees. And the
13 question arises there, if that were to happen,
14 species that are jointly managed with ASMFC, i.e.
15 the summer flounder, scup, black sea bass and
16 bluefish, we'd have some problems with that, and the
17 process would need -- that would have to be
18 addressed, if that were to happen. And in fact this
19 was reinforced by letter from Vince O'Shea to Pete
20 Jensen and was brought to the attention in the
21 committee. And the issue is the loss of state input
22 and state biological expertise and fisheries
23 expertise at the monitoring committee level. So,
24 it's a major concern. Also, the fact that ASMFC

1 Commissioners were concerned that they'd kind of be
2 -- basically be left out of the loop.

3 Next slide. The consensus was -- and
4 the agreement was that we don't want to be hasty
5 here and eliminate the monitoring committees. So,
6 what the group decided was that we modify the
7 current procedure by inserting SSC review of the
8 staff recommendations prior to the monitoring
9 committee meeting. And the National Standard 1
10 proposed rule -- changes to the proposed rule or
11 changes to the Standard 1 guidelines that are a
12 proposed rule basically have some -- quite a few
13 things in there that are open to interpretation.

14 But what's clear, I think, is that
15 what Congress intended and what NMFS has interpreted
16 is that the SSC will be establishing an ABC level,
17 and that ABC level will set the upper bound for any
18 other specifications, the annual catch limit, annual
19 catch targets, whatever they may be called or how
20 they shake out of the proposed rule. The ABC sets
21 the upper bound. That's to be set by the SSC.

22 So, the logic is that the SSC will
23 first set the upper bound with the ABC and then that
24 will be the kind of operating number that everybody

1 else will have to come under.

2 The SSC, again I've already touched
3 on, will be provided with the information in terms
4 of specific recommendations by staff 15 working days
5 in advance of their meeting.

6 The fishing level recommendation
7 established by the SSC -- and again, this would be
8 the ABC, we wrote this up actually -- we had the
9 meeting and in the interim we had the proposed rule
10 on ACLs/AMS was published, so I can say now I think
11 with confidence that that will be the ABC. That's
12 the fishing level recommendation -- will set the
13 upper bound for the ACL.

14 The monitoring committee will then
15 develop ACLs and AMS respecting that ABC. Their
16 recommendations for ACLs and AMS will subsequently
17 be provided to the appropriate species committee for
18 their action, and then the recommendations would go
19 on to the Council.

20 So, the short of it here is that the
21 monitoring committees would be maintained, the SSC
22 review would be inserted. Prior to them meeting,
23 they'll be given the recommendation of the ABC and
24 then that will set the process in motion.

1 Next slide. Terms of reference 4, 5
2 and 6 have to do with research stuff. Four was
3 consider the concept of SSC peer review of the
4 research set-aside projects in order for them to be
5 of use to the Council. Five, consider setting the
6 stage for discussions on long-range science plans.
7 And 6, discuss the idea of developing a Mid-Atlantic
8 research consortium.

9 Next slide. The consensus on the 4,
10 5 and 6 was that the group endorsed the concept of
11 the SSC reviewing research set-aside projects,
12 subject to resource availability, both prior to
13 funding and after the research reports are
14 submitted.

15 Now, this was discussed at our
16 meeting this morning, another meeting since then,
17 which we met jointly with both the RSA Committee and
18 the SSC, and this topic was discussed, and the high
19 point of it was that there were some questions about
20 what the group meant by -- there was a concern that
21 the SSC review was going to be solely the review
22 that would be provided. All the burden would go to
23 the SSC of reviewing all the RSA projects. And I
24 don't think that was the intention. The intention

1 was to broaden the pool of reviewers. And if there
2 were technical issues that were compromising or
3 compromising the utility of the research under RSA,
4 that could be strengthened by a strengthened
5 technical review prior to funding. And I think
6 everybody's still agreed that that would probably be
7 a good idea, again subject -- we've given the SSC A
8 lot of new things to do, and many of them are highly
9 critical to our Council function.

10 This one would be good to have but
11 subject to their availability. The scientific
12 journal peer model recently utilized for butterflyfish,
13 some butterflyfish issues that we utilize was
14 considered a desirable approach, and in that
15 approach we use the kind of peer review method where
16 you circulate the paper through correspondence and
17 then get individual reviews and then come to a
18 consensus like a journal article would be reviewed.

19 That would facilitate the review process and cut
20 down on people's time going to meetings.

21 Council staff was to develop a
22 research priority list for presentation to the SSC
23 at their June meeting, and that happened. We did
24 that this morning. But no action was contemplated

1 for the Mid-Atlantic research consortium, because it
2 was noted that without a line item for funding for
3 that -- that proposal, that it was really a non-
4 starter, and that I think everybody agreed that it
5 was a good idea, but without funding was probably
6 not going anywhere.

7 Next slide. The last term of
8 reference was to consider strategies to incorporate
9 social and economic impact analyses in the process.

10 And this gets at the idea that the Council has been
11 asking for -- in their decision-making process some
12 evaluation of the social and economic impacts of the
13 various alternatives prior to decision-making rather
14 than given just the biology and the biological
15 parameters about their decisions. You know, we
16 usually give you a couple, two, three different
17 range of quotas. Sometimes it's one, but sometimes
18 it could be several. But you're rarely given -- if
19 ever given what are the socioeconomic impacts of
20 those alternatives. So, the idea is to have that
21 done up front.

22 Next slide. And so the consensus was
23 that this would be desirable and should be
24 incorporated into the staff specification

1 recommendations so that it was available for SSC
2 review and then go on through to the Council. We
3 did have one SSC member -- and then it says where
4 possible.

5 We had one SSC member who took
6 exception to the where possible part and said we're
7 not -- this isn't something that's a secondary
8 concern. It should be a primary concern. And I
9 agree, and I think everybody agrees. It's just
10 reality is that we're kind of stretched to the
11 limit. But the short of it is we need to find a way
12 to make this happen so that we can -- and what we
13 need is probably more support from the Science
14 Center, other folks, could perhaps even go outside
15 and try to get some outside help in terms of a
16 contract or something like that to help us with
17 this.

18 But it usually boils down to we just
19 have barely enough time to put together the quota
20 paper, which just evaluates biological components of
21 the decision, and we don't really ever get to the
22 social and economic stuff till after the fact. So,
23 we need more time and money. And that would
24 conclude what the ad hoc group did.

1 EUGENE KRAY: Thanks, Rich.

2 Comments? Questions?

3 (No response audible.)

4 EUGENE KRAY: The Science and
5 Statistical Committee -- I'm sorry. Jim.

6 JAMES WEINBERG: Thank you. Just one
7 clarification. I think Rich's presentation outlined
8 in general what the consensus was from our meeting,
9 and this morning I pointed out that for summer
10 flounder this is a special case that we're all
11 trying to deal with, and that some of the times that
12 were mentioned in the general presentation won't
13 apply to summer flounder this summer.

14 EUGENE KRAY: Yeah, thanks, Jim. And
15 the SSC met this afternoon in another room, and Rich
16 and I were with them, and we did address that very
17 issue in terms of the timing and how we're going to
18 go about it. So, Rich will be reporting on that
19 tomorrow. Right, Rich?

20 RICHARD SEAGRAVES: If you say so.

21 EUGENE KRAY: Rich kept the notes,
22 but it was a very productive meeting. And also
23 tomorrow I'll be making a motion for some additional
24 work for the working group, so -- but I'll hold

1 until tomorrow for that.

2 COUNCIL CHAIR PETER JENSEN: I think
3 it was noteworthy that we had eight members of the
4 SSC present. So, we're making progress and getting
5 people to schedule so they can be available. And
6 they're very willing as long as their schedules
7 permit. Nobody's having any reluctance about
8 participating. They just want the time to do it.

9 Brian, is there anything you want to
10 add from the Chairman's point of view at this point?

11 BRIAN ROTHSCHILD (No microphone):
12 (Inaudible.)

13 COUNCIL CHAIR PETER JENSEN: Okay.
14 We were going to see if we couldn't reschedule the
15 1:30 presentation, but we can't do it. And so I
16 think we'll adjourn for the day and finish up our
17 business tomorrow after the committee meetings and
18 then hear the presentation, and that will be the end
19 of our day. Laurie.

20 LAURIE NOLAN: Do you want to do the
21 Surfclam/Ocean Quahog Committee report or --

22 COUNCIL CHAIR PETER JENSEN:
23 Tomorrow.

24 LAURIE NOLAN: Tomorrow?

1 COUNCIL CHAIR PETER JENSEN: Yes.

2 LAURIE NOLAN: Okay.

3 COUNCIL CHAIR PETER JENSEN: So,
4 unless there's any objection, we will recess for the
5 day and reconvene tomorrow at 1 o'clock.

6
7 WHEREUPON:

8
9 THE MEETING WAS SUSPENDED AT 4:15 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 17th, day of July, 2008.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 3, 2008

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Pages: 1-56

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

COUNCIL MEETING

11-12 JUNE 2008

at

Sheraton Convention Center Hotel
Two Miss America Way
Atlantic City, New Jersey 08401

THURSDAY, JUNE 12, 2008

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS	
PETER JENSEN	3
Motion - Letter	
Eugene Kray	5
Vote - (passed)	8
PRESENTATION BY NMFS	
STEVE LEATHERY	9
HIGHLY MIGRATORY SPECIES COMMITTEE REPORT	
PAT AUGUSTINE	29
EXECUTIVE COMMITTEE REPORT	
PETER JENSEN	35
Motion - Draft Regulations	
Peter Jensen	36
Vote - (passed)	36
Motion - Working Group	
Peter Jensen	38
Vote - (passed)	39
BYCATCH/LAPP COMMITTEE REPORT	
JEFFERY DEEM	40
SURFCLAM/OCEAN QUAHOG AND TILEFISH COMMITTEE REPORT	
LAURIE NOLAN	44
AD HOC SCIENTIFIC AND STATISTICAL COMMITTEE REPORT	
EUGENE KRAY	45
SQUID, MACKEREL, BUTTERFISH COMMITTEE REPORT	
JAMES RUHLE	51
JOINT SPINY DOGFISH COMMITTEE REPORT	
RED MUNDEN	53
Motion - Spiney Dogfish FMP	
Red Munden	54
Vote - (passed)	54

1 [10:42 a.m.]

2 _____
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIR PETER JENSEN: Let's
5 see if we can get started. Would everyone please
6 take their seats. We have an unscheduled item that
7 we've got to take some action on. Over the past
8 couple of days there have been discussions with the
9 Center and the clam industry on the upcoming
10 surfclam survey that is due to be conducted this
11 year. In fact, the Delaware has been fueling up to
12 go.

13 I've just been notified that the
14 survey has been scrubbed because additional money
15 that was requested by the Service has been denied.
16 So, we need to send a letter to the Admiral about
17 how important this is.

18 So, I don't know if Tom -- where's
19 Tom? You want to fill in a little bit here?

20 THOMAS HOFF: Thank you, Mr.
21 Chairman. Next week I'll have started -- I'll be
22 starting my 27th year on the Council staff, and I
23 think this is probably -- in the 27 years, the most
24 important survey that has occurred.

1 I've worked on every one of our FMPs,
2 I'm familiar with the limitations of the survey
3 datas and the -- you know, the trawl survey, the
4 scallop survey. This year -- this survey on the
5 Delaware II is probably the most important one in my
6 27 years around.

7 It's the last year of the DE II.
8 It's the last year that we're going to have this
9 survey. And it's absolutely critical that we do
10 this survey and the associated work that's being
11 done through industry in order to move to 2011, that
12 survey, on an industry platform.

13 We haven't effectively sampled
14 Georges Bank for the last three surveys. That was
15 one of the absolute most important things that the
16 Invertebrate Subcommittee identified to get out
17 there on Georges Bank, get that well sampled. Forty
18 percent of our -- of both surfclams and ocean
19 quahogs we're estimating are out on Georges Bank.
20 We need to make sure of that. We need to do the
21 size selectivity on the Delaware II in order to back
22 calculate the surveys that have been done and move
23 to age-structured survey methods.

24 There's all kinds of science that we

1 have very clearly identified that's important in
2 this survey and the associated industry surveys that
3 will go along with it.

4 I can't emphasize enough. This is --
5 you know, surfclams and ocean quahogs are the most
6 important commercial fisheries we have that we
7 manage. It's our poster child for successful
8 management. It's -- you know, it's very, very
9 important, and that's all I can say. And I strongly
10 hope that we can at least write a letter, if not do
11 more. Thank you.

12 COUNCIL CHAIR PETER JENSEN: Thanks.

13 And you know the urgency to it is the Delaware II
14 was fueling up to go, and so now at this point the
15 trip has been aborted. And so I'd like a motion or
16 -- Gene.

17 COUNCIL VICE CHAIR EUGENE KRAY: I'd
18 like to make a motion that we send a letter to the
19 Admiral expressing the urgency of the situation and
20 the critical need to have this data for the future
21 development and continued development of the
22 surfclam industry.

23 COUNCIL CHAIR PETER JENSEN: Second
24 to the motion? Second. Discussion? Jimmy.

1 JAMES RUHLE: It may not be exactly
2 appropriate in there, but there's an awful lot of
3 money that's been shifted to the Bigelow for this
4 calibration issue, time-wise because of the delay
5 that's took place.

6 It's apparent however many comparison
7 tow -- calibration tows are made, that's what the
8 calibration analysis is going to be done from. So,
9 if in fact you reduce that by a hundred tows, the
10 Science Center is going to do the analysis whether
11 it be 300 tows or 3,000 tows. So, maybe you could
12 shift some of the money, because this is actually
13 more important.

14 COUNCIL CHAIR PETER JENSEN: Well,
15 I'll have to assume that since the Center requested
16 more money they didn't have any available. Nancy,
17 you want to respond?

18 NANCY THOMPSON: Yeah. This has been
19 an ongoing problem this year obviously, and has
20 really accelerated over the last few months.
21 Everybody's experiencing it. I just got the call
22 today telling me that the agency, meaning NOAA, was
23 pulling the plug on the clam survey and it is all
24 about the fuel costs. And of course we've offered

1 suggestions, including moving time from the Bigelow,
2 which is more expensive to run than the Delaware, to
3 the Delaware in order to save the clam survey.

4 Nobody needs to convince me how
5 important the clam survey is. And nobody needs to
6 convince the fisheries folks, my bosses, Steve
7 Murawski, John Oliver and Jim Balsiger, how
8 important it is, as well.

9 So, as I told the clam folks
10 yesterday, the industry folks, I've been doing
11 everything I can to save this survey, and so at this
12 point all I can tell you is that that's where we
13 are. We are -- it's not the only cruise or survey
14 that's being canceled, but certainly in our view
15 it's the most important survey that is being
16 canceled at this point. We have offered solutions
17 up the line, and they just haven't gotten anywhere.

18 So, that's where we are.

19 Now, we are planning -- we were
20 planning to fuel the DII on Monday, and I just got
21 off the phone with my folks in Woods Hole and
22 obviously even with a few days delay, we can still
23 do the survey. So, in my view -- you know, there's
24 still opportunity to do the survey and certainly we

1 want to do the survey. So, you know, all I can say
2 is help.

3 COUNCIL CHAIR PETER JENSEN: And the
4 other point, of course, is as Tom mentioned, the
5 industry has committed \$250,000 to do calibration --
6 you know, at their cost, along with the scientific
7 crew to record the information. Any other
8 discussion on the motion?

9 (No response audible.)

10 COUNCIL CHAIR PETER JENSEN: All
11 those in favor, say aye.

12 (Response.)

13 COUNCIL CHAIR PETER JENSEN: Opposed?

14 (No response.)

15 COUNCIL CHAIR PETER JENSEN: Dan and
16 I will get up a letter.

17 DANIEL FURLONG (No microphone):

18 (Inaudible.)

19 COUNCIL CHAIR PETER JENSEN: The
20 motion passes. But Dan, we'll get up a letter, but
21 I think we also ought to get an immediate notice to
22 the Admiral's office that something is coming of
23 some urgency.

24 Okay. I think we'll move on now to

1 the presentation by Steve Leathery on the new NEPA
2 process, which is a proposed rule that's out for
3 public comment now. Okay.

4
5 PRESENTATION BY NMFS

6 STEVE LEATHERY: Thank you, Mr.
7 Chairman, and thank you, members of the Council for
8 having me here today. My name is Steve Leathery. I
9 am the NMFS National NEPA Coordinator. So, I'm
10 trying to coordinate National Environmental Policy
11 actions across the agency, and again I work for the
12 National Marine Fisheries Service. Sam Rauch is my
13 boss. And on my intro slide, my partner is Marian
14 MacPherson. She works under Alan Risenhoover for
15 the Office of Sustainable Fisheries.

16 Next slide, please. The goals are to
17 comply with NEPA and Magnuson, adhere to the
18 principles of public involvement and agency
19 accountability in the existing CEQ, Council on
20 Environmental Quality, basically the White House
21 environmental compliance arm. Integrate NEPA into
22 the Magnuson public processes. Build on
23 recommendations in the CCC strawman document that
24 came out a little over a year ago. The proposed

1 rule -- again we have a proposed rule with a comment
2 period ending in mid-August and it clarifies the
3 responsibilities of the councils and NMFS and aligns
4 public participation appropriately within the
5 Magnuson process. It allows rapid response while
6 providing meaningful public input in the policy
7 decisions.

8 Next slide, please. We started with
9 the CEQ regulations. These are 25, 30-year old
10 regulations. They've been litigated extensively
11 across all the natural resources management agencies
12 over the years. And we started with those and then
13 proposed changes to address problems and reorganize
14 for clarity. Work within the parameters of the CEQ
15 regs, align flexibility, and establishing limits on
16 flexibility. And the need for additional internal
17 guidance will be addressed after the final rule
18 comes out, if and when the final rule comes out.
19 And that last bullet really refers to our internal
20 NOAA administrative order on NEPA.

21 Next slide, please. Retain the basic
22 content requirements for analyses with modifications
23 to address fisheries issues. The modifications are
24 -- we'll have them in the slides. Primarily some

1 changes in the timing and where the public input is.

2 We retained the Environmental Assessment and FONSI,
3 Finding of No Significant Impact, and also
4 categorical exclusions.

5 We have some new forms of
6 documentation that are to help maximize flexibility,
7 encourage tiering, frameworking and integration of
8 analyses.

9 And we adapt the comment and response
10 requirements to align with council and NMFS policy
11 development process. And again, allowing
12 modification of time lines to fit the Magnuson
13 process.

14 Next slide, please. Content
15 requirements for EISs are set forth the existing
16 regs with some clarification. Clarification
17 regarding alternatives, how to deal with incomplete
18 and unavailable information, and cumulative impact
19 analysis. Next slide, please.

20 The alternatives are retain -- it
21 retains the requirement to consider all reasonable
22 alternatives. It defines reasonable as derived from
23 statement of purpose and need. And it clarifies
24 that it's not reasonable if it's inconsistent with

1 Magnuson or any of the National Standards, if the
2 alternative is impractical or ineffective, or if it
3 fails to achieve the stated goals.

4 Next slide, please. This has been an
5 issue in different levels around the country at
6 different councils, but the rule clarifies that the
7 no action alternative is the fishery's status quo.
8 It's not a presumption of sunseting or wide open
9 access. So, for a baseline analysis it's starting
10 with how the fishery's operated at the time of the
11 analysis. It means the continued management of the
12 fishery as it is being managed with reasonable
13 assumptions, and it's to provide a baseline.

14 Next slide, please. Incomplete and
15 unavailable information -- you know, the existing
16 standards are best available and it retains the
17 requirement to identify incomplete and unavailable
18 information and obtain it if it's not exorbitant.
19 And it clarifies National Standard 2 in
20 relationships to that section of Magnuson. And the
21 preamble sets forth the factors to consider in
22 determining whether something's exorbitant. So,
23 availability of appropriated funds, research
24 priorities, the SSCs and the agency, the cost of

1 delay because delaying could have environmental and
2 social and economic costs, and the inherent
3 uncertainties in fisheries management. There's
4 obviously a continual stream of information feeding
5 into fisheries management and we need to keep
6 management issues moving forward and deal with that
7 information as it becomes available. We can't --
8 don't have the luxury of waiting to take action. We
9 have to keep things moving.

10 And also a key point is trying to use
11 existing analyses and citing future analyses back to
12 the existing, trying to reduce the volume and
13 complexity of some of these, especially EIS-level
14 documents.

15 Next slide, please. Under the
16 proposal, the EISS would be termed integrated
17 fisheries environmental management statements and a
18 very equivalent kind of document, but with some of
19 the changes in process and others that the rule has
20 -- proposed rename. And a requirement to include
21 cumulative impacts analysis, which is not explicitly
22 set forth in CEQ regs but is acknowledged by case
23 law for EISS.

24 Next slide, please. Forms

1 documentation. Again, the EIS level documents, the
2 existing EA FONSI, memorandum of framework
3 compliance and a documentation of categorical
4 exclusion. The proposed rule strongly encourages
5 the use of frameworking. You had some discussion
6 here on frameworking within an FMP context for
7 earlier this morning. The idea is to try and
8 develop overarching blanket environmental analyses
9 that could be used for subsequent actions with very
10 little additional work or documentation.

11 And for example, if the fishery -- if
12 it was appropriate, you might be able to analyze a
13 range of potential levels for annual catch -- you
14 know, quotas coming up or annual catch specs,
15 whatever, annual specifications. And as long as you
16 were within that range and you had done an analysis
17 to show that overfishing would not occur or stocks
18 would repeat -- continue to be rebuilt, then in
19 future subsequent years, for a number of years, say
20 up to five years, you could implement those annual
21 catches, the specs, without doing a lot of
22 additional environmental analysis.

23 In some cases, councils are doing
24 annual EIS level documents with the annual specs,

1 and depending on the nature of the fishery, we're
2 encouraging -- you know, a broader use of kind of an
3 umbrella document so that you won't have to do those
4 EIS level documents each year.

5 Next slide, please. Again, framework
6 implementation procedures. When we say NMFS or FMCs
7 in this situation, or NMFS, we're primarily talking
8 about the Secretarial plan, Highly Migratory Species
9 on the Atlantic side. And the procedure would be a
10 formal mechanism again to allow actions to be
11 undertaken under a previously planned and
12 constructed management regime where you had a good
13 environmental analysis of it, without requiring
14 additional analysis. And it's very consistent with
15 existing NEPA law. And again trying to reduce the
16 workload and the time and energy that councils are
17 putting into the EIS documents when there may be --
18 you know, a better approach with -- you know, less
19 work and less time involved.

20 Next slide, please. Again, based on
21 early broad-based analysis, that kind of umbrella
22 analysis, that would provide a foundation for
23 subsequent actions, or categories of actions, and if
24 those actions and their effects fall through the

1 scope of prior analysis, no additional action
2 specific analysis would be needed. And the
3 individual FMP would specify what criteria would
4 require supplementation, and how the fishery would
5 be managed during the supplementation process.
6 Depending on the level of additional information,
7 it's possible that could be done under Environmental
8 Assessment or it may require a full Environmental
9 Impact Statement level analysis.

10 Next slide, please. This is a key
11 point. There are two opportunities for public
12 comment would be in general the council would take
13 the role of developing the draft IFEMs, the draft
14 EIS level document, and the council would -- the
15 public would be directed to comment on the range of
16 alternatives and the scope and that sort of thing at
17 the FMC, in the council process.

18 Then the council would submit the
19 Magnuson action. Let's just say it's an FMP or an
20 FMP amendment. And then they would submit that to
21 the agency with the draft and then the Fisheries
22 Service would take comments on the final. But the
23 public is directed to raise comments on scope and
24 the alternatives at the FMC -- during the FMC

1 process and the public policy process that the
2 council has.

3 Next slide, please. Time lines, the
4 default or the existing ones under current regs, but
5 there's an allowance for reduced time for public --
6 advanced notice to the public if any individual of
7 these criteria -- I'm not going to go through them
8 -- are met. And again, trying to allow actions to
9 move faster within -- a key point -- two council
10 meeting cycle, if there is a need to move forward,
11 and you know, we can meet any of those criteria that
12 -- in order to shorten that time line. So, by
13 shortening the time line, you're giving the public
14 less time to analyze and develop comments on the
15 action. So, we would hope that in general the
16 default would be the 45 days, but it could be
17 reduced to as low as 14 days if these criteria or
18 any of these criteria are met.

19 And again, the two council meeting
20 cycle, the CCC straw man suggested an approach that
21 had a three council meeting cycle. The councils
22 could still take additional meetings if the councils
23 chose to, but if there was a desire to move
24 relatively quickly, then it could be -- an action

1 could be completed within a two council meeting
2 cycle. The first council meeting would be scoping,
3 the second council meeting would be considering a
4 Draft EIS level document, and this is mostly talking
5 about EIS level documents.

6 Next slide, please. These are kind
7 of busy slides, the next several slides. I have
8 them in here as examples and kind of as background
9 information. It talks about our proposed time lines
10 and the process and I've left this PowerPoint with
11 the Council staff and we plan to post it on our
12 website so you can use it as reference or for
13 further discussion.

14 Next slide, please. Again, the FMP
15 track on the screen left and the regulatory track on
16 the screen right. These time lines are dictated by
17 Magnuson and we're trying to get away from a
18 situation where the Magnuson clock is running out
19 and the NEPA clock is still running, which might be
20 cause for an action to be not approved, simply
21 because we didn't have adequate time to get the NEPA
22 through. This is trying to get these things
23 aligned.

24 We also are proposing to start for an

1 EIS level document -- start the NEPA and the
2 Magnuson clock day zero at the same day. Right now
3 we have to submit those EIS documents to the
4 Environmental Protection Agency, they publish them
5 the Friday of the week following receipt. So,
6 there's a lag on those and we're trying to modify
7 the process to get those to start at the same time.

8 Really aligning public policy process under NEPA
9 and Magnuson.

10 Next slide, please. Supplementation.

11 If the council was looking at an EIS level document
12 and they chose one of the alternatives in the
13 document or a hybrid within that range, there would
14 be no requirement for additional analysis. If,
15 however, an FMC voted to -- for an alternative -- a
16 preferred alternative outside the range analyzed, it
17 would require a supplemental analysis. And the FMC
18 could choose to retain that process and have another
19 council meeting and continue, or, if there was a
20 need to move quickly, the council would have the
21 discretion of having the agency put out a revised
22 draft document and taking additional public comment
23 while it's under Secretarial review.

24 So, in the first case there would be

1 an additional council vote at that subsequent
2 meeting. In the second case, there would not be a
3 vote. Again, this is council's determination. It's
4 trying to provide added flexibility in the timing
5 and in the process.

6 Next slide, please. Again, we say on
7 the clock, so once it's submitted, then this is kind
8 of the way the timing would fit under an FMP
9 amendment.

10 Next slide, please. Reg amendments
11 would -- or you know regulatory -- something you
12 just submitted to the agency for regs has again some
13 timing challenges, but there might need to be
14 shortened comments in order to fit the clock.

15 Next slide, please. Next steps. Oh,
16 I meant to bring these dates with me. I don't have
17 them in front of me, but we put out a Federal
18 Register Notice. The comment period closes on the
19 12th. We're trying to get out to all the councils
20 if possible. I just returned from Kodiak, Alaska
21 and San Francisco. I addressed the North Pacific
22 about a week ago and the Pacific Council two or
23 three days ago. It's all blending together. And
24 then we're going to hold public meetings in D.C.

1 later this month and in St. Pete in the -- I think
2 second or third week of July, and then Seattle the
3 third or fourth week of July.

4 And next slide, please. I've covered
5 this relatively quickly. The reg is a long -- a
6 long document. It was over 100 pages double-spaced
7 in Word before it went into the Federal Register
8 format. This is kind of a reference to the sections
9 in the regulatory text for some of the issues I've
10 talked about.

11 The preamble -- the first half of the
12 document is very readable, has a lot of information
13 about council process and roles and responsibilities
14 of fisheries and the councils. I urge you to look
15 through the document, especially that first half,
16 it's very readable, and we welcome comments and
17 dialogue from the Council.

18 Next slide. This is the take-home
19 message to leave this proposal. Provides new tools
20 for streamlining. It allows the process to move
21 forward from the Council to the Fisheries Service
22 for final decision. It directs the public
23 participation of the appropriate points in the
24 process, and it utilizes flexibility while defining

1 minimum procedural parameters and retaining the core
2 requirements of the National Environmental Policy
3 Act. And there's a link to where it is on our
4 website.

5 So, I think just a couple other
6 things in closing. If there were any existing
7 procedures moving forward under the pre-existing
8 regs, those could continue even when this is
9 finalized so you wouldn't have to start those over.

10 You don't have to revisit any documents that are
11 already in place. They can stay as is. And this
12 will only apply to Magnuson actions taken by the
13 Councils and by the Secretary under Endangered
14 Species or Marine Mammal Protection Act actions.
15 Those would occur under the preexisting CEQ regs.

16 And again I'll be glad to take
17 comments or questions and there is a -- you know, a
18 working group of the CCC that includes Dan Furlong,
19 Chris Oliver from the North Pacific and Bob Mahood
20 from the South Atlantic Councils. I know they plan
21 to submit some comments and we'll work with the
22 other councils.

23 Pacific Council has a NEPA specialist
24 on staff, Kit Dahl, and they produced a ten-page

1 questionnaire that I responded to at their Council
2 meeting a few days ago. They may -- some of the
3 things I think we resolved and took off -- took away
4 concerns. I'm hoping that they might inform the
5 other councils about some of the remaining issues
6 and help you consider what comments you may choose
7 to make.

8 So, that's the end of my
9 presentation. I'll be glad to take questions.

10 COUNCIL CHAIR PETER JENSEN: Thanks,
11 Steve. In terms of when this might be effective, if
12 this rule is adopted, then NOAA has to change some
13 other regulations, don't they, before it becomes
14 fully effective?

15 STEVE LEATHERY: That's our
16 administrative procedures, which generally the
17 courts would view a reg as taking precedence over
18 those procedures, but we plan to immediately follow
19 up as soon as the reg is finalized with revising
20 those procedures.

21 There's a number of issues in our
22 administrative order that we want to address,
23 including some issues relative to protected
24 resources.

1 COUNCIL CHAIR PETER JENSEN: Okay.
2 Questions? Comments? Dan, you've been very much
3 involved in this. Any comment? I think I would
4 propose that in terms of comments from the Council
5 that Dan along with the other two members of the
6 workgroup, since they've been immersed in this for
7 well over a year, that they would -- we would
8 authorize Dan to cooperate with those other two and
9 submit unified comments from all three Councils.

10 DANIEL FURLONG: And that small
11 workgroup has put out an e-mail requesting that all
12 eight councils provide their input to Chris Oliver,
13 who's my counterpart in the North Pacific. And the
14 intent is that we would have the option, all eight,
15 where we have a buy-in in terms of our response to
16 this proposed rule, would have one overarching
17 response going into the agency for all eight
18 councils, and then each of the eight councils could
19 individually comment -- you know, on this proposed
20 rule.

21 So, I've asked Jim Armstrong, who's
22 our, quote, NEPA guy, to work on the rule. I've
23 provided him my review of it and comments for
24 purposes of our national, if you will, eight council

1 input by July, mid-July, and from the Council's
2 perspective -- you know, I think we can do the same
3 thing that we were saying earlier, the idea that
4 give everybody a copy of this proposal and again
5 people have comments -- you know, get them into the
6 office and we'll put those together much like we
7 would be doing -- we don't need a workgroup like we
8 do for National Standard 1.

9 But again, if anybody reads this
10 thing -- you know, and they've got concerns about
11 it, again it's more an internal staff impact. You
12 know, the staff members really are the ones that
13 have the best handle on dealing with this and have
14 the best insights about how this rule is going to
15 affect their workload.

16 COUNCIL CHAIR PETER JENSEN: I don't
17 know if you handed this out to everyone, whether you
18 just gave this to me, but this is what it looks
19 like.

20 DANIEL FURLONG: And as Steve said,
21 it is up on the website and they can click on that
22 link and get it. And I'll run off hard copies and
23 send them out with the National Standard 1 proposed
24 rule, as well.

1 COUNCIL CHAIR PETER JENSEN: And I
2 guess it's fair to say that this proposal probably
3 does not go as far as the group of three wanted, but
4 it is progress and does provide some streamlining
5 and eliminates some of the uncertainty. But I think
6 it's fair to say that the group of three was looking
7 for more than they got.

8 DANIEL FURLONG: Yeah. Well, I think
9 the biggest issue was that it was always done kind
10 of behind closed doors and the consultation process
11 wasn't as clear as we would like to have been. But
12 now we have that opportunity, and I think Steve and
13 the agency, Marian, are making this -- you know,
14 grand tour of all the councils and giving people the
15 opportunity to hear from them what the changes are
16 to implement this consolidation, if you will, the
17 sole environmental document -- you know, to
18 accompany management actions.

19 COUNCIL CHAIR PETER JENSEN: Okay.
20 Further comments? Questions?

21 (No response audible.)

22 COUNCIL CHAIR PETER JENSEN: Thanks,
23 Steve. I'm sorry. Jim.

24 JAMES ARMSTRONG: One thing I noticed

1 in the first part of the -- Jim Armstrong, Mid-
2 Atlantic Council staff. One of the things I noticed
3 was that -- you know, it was stated that the Service
4 in development of the proposed rule worked in
5 consultation with the councils and -- you know,
6 represented by the CCC, group of three, whatever you
7 call them, and with the CEQ. And there was
8 extensive coverage of the councils' comments on the
9 proposed rule, but I didn't really see anything from
10 what the CEQ thought about the proposed rule. Any
11 comment on that?

12 STEVE LEATHERY: Yes. Thank you for
13 the question. Good question. The CEQ was
14 intimately involved with development of the proposed
15 rule, and they have strongly endorsed it. But I
16 would also say that a person from CEQ recently
17 retired and that person is now employed by Q, and
18 that person is coming out and saying that it is
19 inconsistent with the CEQ regs. And in the spirit
20 of full disclosure, the environmental -- some of the
21 environmental NGO community is somewhat up in arms
22 about this and says it's rolling back the provisions
23 and I can't speak to -- I'm not ready to speak to
24 that specifically, but there's still -- there's no

1 change in the legal standards that a court would
2 look at to say whether or not it was an adequate
3 review and whether it was done at the proper level,
4 either a categorical exclusion, which is very
5 limited review, an environmental assessment, which
6 is a larger review, or the full-blown EIS level
7 document.

8 So, we still have to meet those legal
9 standards. There's still third-party litigation
10 potential. So, any actions -- you know, councils
11 and the agency take are still subject to litigation
12 under the existing legal standards for NEPA.

13 So, again CEQ -- Ted Boling, the
14 general counsel for CEQ, has been closely involved.

15 We're holding the first public meeting at the
16 Council on Environmental Quality's building in DC in
17 June, and they've strongly endorsed it, but the
18 environmental -- some in the environmental NGO
19 community are characterizing this as a real change
20 and a reduction in environmental protection. So, it
21 is getting very controversial with the environmental
22 NGO community at this point.

23 Generally, the response from the
24 councils in the past week that we've been out on the

1 road show has been very positive overall, with some
2 concerns, but -- you know, I think generally it's
3 being overall well-received.

4 COUNCIL CHAIR PETER JENSEN: Thanks,
5 Steve. Any further questions of Steve?

6 (No response audible.)

7 COUNCIL CHAIR PETER JENSEN: Thank
8 you. Very concise presentation and I look forward
9 to continuing to work with you.

10 STEVE LEATHERY: Thank you.

11 COUNCIL CHAIR PETER JENSEN: I think
12 what we'll try to do now is move on and finish up
13 our business and get on the road. So, that is
14 mostly committee reports. So let's start with
15 Highly Migratory. Pat, do you have anything?

16
17 HIGHLY MIGRATORY SPECIES COMMITTEE REPORT

18 PAT AUGUSTINE: Thank you, Mr.
19 Chairman. Behind Tab 15 you'll note that I've had
20 staff put in the latest releases from the highly
21 migratory species group so you could see basically
22 what the advisory panel has been working on.

23 HMS Advisory Panel met the last time
24 April 15th through the 17th, and the items that are

1 listed in the first document, down about midway
2 through the first paragraph, address the concerns of
3 blacknose sharks and the other sharks in particular,
4 addressing quota levels, regional seasonal quotas,
5 trip limits, minimize sizes, quota monitoring,
6 authorized gear, permit structure and prohibited
7 species.

8 And went on further to describe how
9 we were going to try to reduce fishing mortality on
10 blacknose sharks in the shrimp trawl fishery
11 specifically because of the high proportion of
12 fishing mortality occurring in those fisheries.

13 The next page, Atlantic shark
14 commercial fishery update. I asked to have that put
15 in there so you'll get an idea as to where the
16 greatest effect has been, and the greatest overage
17 has been. And typically the Gulf of Mexico has been
18 catching and killing more than their fair share.
19 And as a result of it, Gulf of Mexico and South
20 Atlantic have had longer closures than the North
21 Atlantic. And you have a chance to read that when
22 you can.

23 And then on the back side of that it
24 breaks into comparison between first trimester

1 season of 2008 and then it breaks out what happened
2 in 2007. So, that's for your own reading.

3 If you want further information, you
4 should sign up for the Atlantic HMS news, and that's
5 on the half page, it gives you the website.

6 If you'll go forward to the next
7 page, the Atlantic swordfish landings update,
8 commercial and recreational fishing. You have the
9 first report, which was February 29th. Very little
10 catch going on, but it does give you an idea that
11 the fishery is starting to come alive a little bit
12 because the swordfish fishery is built to about a
13 99.9 percent level. Very fast rebuild schedule.

14 The following page gives you an idea
15 as to what's happening in the
16 commercial/recreational sector for swordfish in
17 2008. And if you'll notice the second paragraph,
18 per the request of the Highly Migratory Species
19 Advisory Panel members, NMFS is now incorporating
20 recreational swordfish landings into these updates,
21 which they have never done in the past.

22 Recreational landings estimates are
23 reported by anglers, tournaments, et cetera. And
24 the reported lengths are converted to pounds,

1 dressed weight, using standard international
2 commission of -- ICCAT formulas.

3 Interestingly enough, there are still
4 reports from fishermen within the body, within the
5 advisory panel, that said they still know fishermen
6 who are not reporting their recreational catches for
7 swordfish primarily because of the difficulty in
8 getting to the reporting system.

9 And the folks at NMFS said they've
10 just -- they finally corrected that reporting
11 protocol so it's much more simple. So, hopefully
12 we'll see a lot more reporting of recreational
13 landings occurring.

14 The next page announces a proposed
15 rule to authorize greenstick and harpoon gear,
16 Atlantic tuna fisheries, and to require a sea turtle
17 control device in pelagic and bottom longline
18 fisheries.

19 There was a lot of debate about what
20 we're going to do with this, but we all in the
21 advisory panel came to consensus. And if you read
22 down into that first sentence there is discussion
23 concerning whether or not charter boat/headboat
24 folks should be allowed to have harpoon gear on

1 their vessels.

2 There was a description about what a
3 greenstick was, and most people don't know what it
4 is. So, the HMS staff came forward with the actual
5 proposal as to what it would be, how it would work
6 and so on. And it's called a greenstick only
7 because it was green. It was a device that gathers
8 the lines together in the back of the transom and
9 then the group of these lines would go off the back
10 of the vessel.

11 But that now has clearly been
12 identified as an approved device. If we want to
13 comment on any of this, we have until June 16th.
14 The Highly Migratory Species Advisory Panel offered
15 up their opinions as to what should be approved and
16 not approved, and if you'd like to get that, I could
17 make access for you to have access to that.

18 And then at the end of all that, we
19 all stood up and clapped and cheered because HMS
20 Committee, finally, after years and years of
21 appearing to be not paying attention to what the
22 Advisory Panel was saying, have come full circle and
23 have supported and supplied background information
24 we've requested and basically have captured all of

1 the recommendations that the advisory panel has
2 made.

3 I recall making the first report
4 about three of the Highly Migratory Species meetings
5 ago and felt as though I was there just spending
6 time, and realized after it was all over that the
7 group was really paying attention. And when I
8 brought back my first report I saw some snickers and
9 some -- yeah, well, around the table. And now we
10 see the proof of the pudding of having been an
11 active member in this.

12 So, I would hope that this committee
13 allows -- or the Council allows a member to continue
14 to represent us at the HMS meeting. And that's the
15 end of my report.

16 COUNCIL CHAIR PETER JENSEN: Thank
17 you, Pat. I know modesty prevents you from saying
18 that this is the first time you've been on the
19 committee, and that's why they finally agreed to the
20 advisory committee report, right?

21 PAT AUGUSTINE: No, I wouldn't go
22 that far, but thank you.

23 COUNCIL CHAIR PETER JENSEN:
24 Questions, comments on the report? Tim.

1 LCDR TIM BROWN: Thank you, Mr.
2 Chairman. Pat, I just wondered on your advisory
3 panel had any enforcement concerns that they
4 mentioned to you during the meeting?

5 PAT AUGUSTINE: They did, but they
6 were addressed. There was nothing that -- the
7 enforcement people participated in it, but there
8 were not any items that they didn't agree to, to
9 make some recommendations, or nothing out of the
10 ordinary, nothing that was listed in here about what
11 they said.

12 COUNCIL CHAIR PETER JENSEN: Okay.
13 We'll do Executive Committee next because there are
14 two motions that need to come forward.

15
16 EXECUTIVE COMMITTEE REPORT

17 COUNCIL CHAIR PETER JENSEN: Behind
18 Tab 12, you will find the language for a motion that
19 was made regarding deeming, in other words, a
20 process that will result in amending our SOPPs to
21 provide for a statement from the Council that
22 regulations proposed are necessary and appropriate
23 from the Council's point of view.

24 UNIDENTIFIED: That's Tab 11.

1 COUNCIL CHAIR PETER JENSEN: Tab 11?

2 UNIDENTIFIED: The last page on Tab
3 11.

4 COUNCIL CHAIR PETER JENSEN: Last
5 one. So, this is modeled after a New England
6 motion, which is the page behind Tab 11, and the
7 motion that we adopted was identical to that
8 language.

9 Jan, are we going to get it on the
10 screen? And then there will be a second motion
11 regarding comments on the proposed National Standard
12 rule.

13 Okay. Motion on the board.
14 Comments? Discussion?

15 (No response audible.)

16 COUNCIL CHAIR PETER JENSEN: Ready to
17 vote? Any questions, discussion on the motion?

18 (No response audible.)

19 (Motion as voted.)

20 {Move that if draft regulations have not been
21 deemed necessary and appropriate at the time of an
22 FMP or an Amendment or Framework adjustment to a
23 FMP is approved by the MAFMC, the Council Executive
24 Director shall review the draft regulations, when

1 available, for such actions before they are
2 implemented by NMFS.

3 After reviewing the draft regulations, the
4 Executive shell recommend to the Council Chair
5 whether they are necessary and appropriate for the
6 purposes of implementating the Council-approved
7 action.

8 After considering the Executive Director's
9 recommendation the Council Chair, on behalf of the
10 full Council shell make the determination to deem
11 the draft proposed regulations as necessary and
12 appropriate for the purposes of implementing the
13 action, consistent with Section 303(c) of the
14 Magnuson-Stevens Act.

15 Once this process has occurred and if approval has
16 been granted, the Executive Director shell forward
17 the appropriate docs to NMFS.}

18 COUNCIL CHAIR PETER JENSEN: All
19 those in favor, say aye.

20 (Response.)

21 COUNCIL CHAIR PETER JENSEN: Opposed?

22 (No response.)

23 COUNCIL CHAIR PETER JENSEN:
24 Abstentions?

1 (No response.)

2 COUNCIL CHAIR PETER JENSEN: No
3 abstentions, the motion carries. The Executive
4 Committee also had a second motion, which is on the
5 board, and this was to form a group to prepare
6 comments on the proposed rule National Standards.
7 The group in fact would be myself and Gene and Pat
8 and Lee and Rick and a definite maybe from Jeff.
9 And Vince -- Vince O'Shea from the commission. And
10 George has offered to meet with us and keep us
11 straight, and we will also be inviting the chairman
12 of the SSC to attend.

13 So, that's what the group would be,
14 and so the motion on the board is for that group to
15 meet one day on the week of June 15th, and Dan has
16 offered to coordinate everything.

17 So, that's the effect of that motion,
18 so -- that's made on behalf of the Executive
19 Committee. Discussion?

20 (No response audible.)

21 EUGENE KRAY: There was one -- those
22 of you who were not here this morning when we
23 discussed this, Dan -- with the staff who are deeply
24 involved -- have been deeply involved with this, are

1 going to prepare a strawman, as well.

2 So, we would -- and as you see in the
3 motion, we're hoping to recommend to the Council at
4 the August meeting what the comments of this Council
5 should be on the proposed rule to NOAA Fisheries.

6 COUNCIL CHAIR PETER JENSEN: Okay.
7 Did we vote on this one? Okay.

8 (Motion as voted.)

9 {Move to recommend the SSC/Council portion of the
10 Working Group meet for one day during the week of
11 July 14 and each member be tasked to review the
12 Proposed Rule National Standard 1 Guidelines and
13 send discussion items to Dan Furlong who will use
14 these to prepare the agenda. At the August Council
15 meeting this Working Group will recommend the
16 Council's Comments to NOAA Fisheries on this
17 Proposed Rule.}

18 COUNCIL CHAIR PETER JENSEN: All
19 those in favor of the motion, say aye.

20 COUNCIL CHAIR PETER JENSEN: Opposed?

21 (No response.)

22 COUNCIL CHAIR PETER JENSEN: None.

23 The motion carries.

24 Jeff, do you want to give your

1 Bycatch Committee report now?

3 BYCATCH/LAPP COMMITTEE REPORT

4 JEFFERY DEEM: Okay. For those of
5 you that weren't here, we had a presentation by Dr.
6 Wendy Gabriel on the SBRM allocations. They
7 obviously don't -- or apparently don't have enough
8 money to do all of the days-at-sea observers that
9 they'd want to do. They're short by about a third,
10 I believe it was. And they have very detailed and
11 specific process for determining how to allocate
12 those days. It's behind Tab 12, if you care to go
13 through it. At least the summary of it is.

14 She did an excellent job of
15 explaining all the effort and hours that must go
16 into doing this, because it's divided up so that
17 each day-at-sea observer covers as many needs as
18 possible, not just the gear type, but bycatch and a
19 number of issues. Where they could, they
20 overlapped them for one observer. So, it's a pretty
21 good effort on their part.

22 There were some comments in
23 particular from the audience that there appear to be
24 days-at-sea observers on trips where there has never

1 been any interaction with -- I believe it was marine
2 mammals.

3 And Dr. Thompson has offered to work
4 with us on trying to study the records and see where
5 that has occurred and whether or not we can break
6 out -- these are segments. This was a small mesh
7 gillnet, whether or not we can break out that from
8 the group of fisheries that -- they are broken into
9 three groups, whether or not you can separate those
10 and cut down on certain areas is not clear. She's
11 going to find that out for us, is that correct? I
12 mean am I saying that right?

13 NANCY THOMPSON: Yeah. I mean issue
14 is that the decisions that are made relative to
15 observer coverage for marine mammals is based on the
16 likelihood that a fishery and/or gear type would in
17 fact catch and probably cause mortality of marine
18 mammals if there was an interaction.

19 And what we heard from industry folks
20 is there might be the possibility of doing some
21 stratification within that gear type, again based on
22 the likelihood or not of capturing marine mammals.
23 And so that's what I will pursue. I'll pursue it
24 through the Regional Office obviously, because it's

1 within their purview, as opposed to being a science
2 issue, but it certainly is something that we ought
3 to pursue.

4 JEFFERY DEEM: That's what I said,
5 except I didn't use the word stratification, I
6 guess. I don't know. But anyway, that's the work
7 and she's going to do a great job for us with that,
8 I hope, and keep us apprised of it and I'll keep the
9 committee apprised.

10 We also reviewed the pamphlet that
11 Jim Armstrong and the committee have put together.
12 He's done a great job. There were a few
13 recommendations or additions that were made that we
14 will put into it and get out to everybody for
15 review.

16 A wonderful, nice piece of work. I
17 think it will help us push circle hooks and some
18 other bycatch monitoring reducing options.

19 We had a comment from Pat Augustine
20 about how New Zealand is handling their bycatch.
21 Apparently, everything that's brought in gets
22 processed, we're going to look into that and
23 hopefully come up with some things for the committee
24 to review. If any of you have any spare time,

1 whether you're in the committee or not, and you can
2 look into this and make suggestions, we greatly
3 appreciate it.

4 There are a couple of inner workings
5 that we have to work out, such as if somebody lands
6 this particular fish that doesn't have a permit or
7 that is covered by an LAPP for instance, how do we
8 compensate the person that has the legal right to
9 land that fish? And there was another one that I
10 didn't bring up, but we have to try to consider. I
11 brought up part of this at a previous meeting, and
12 there are some -- a good number of flounder, for
13 instance, that are just so small that I think
14 anything under 12 inches the processors don't want
15 to be bothered with, so we need to look at that, as
16 well.

17 But it's a great idea and I think
18 that's the way most Americans look at it, anything
19 you catch gets processed. Nothing gets thrown back
20 overboard. Regulatory discards, as we have, are a
21 real embarrassment for us.

22 And other than that, Pete suggested I
23 contact the species committees about something, and
24 that's where my pen stopped. So, if you would

1 kindly fill me in, I would appreciate it.

2 COUNCIL CHAIR PETER JENSEN: Well, it
3 was just to remind species committees that they need
4 to stipulate their priorities for observer coverage
5 so they can be blended into NMFS's scheduling each
6 year, which they will be doing through their process
7 that they've now -- that's what Wendy was giving us.

8 So, a reminder to species committees to keep that
9 on their radar, priorities need to be stipulated.

10 And the consequence, of course, is if
11 you don't stipulate it's a priority, there's a
12 possibility that because of limited resources we
13 wouldn't even cover it. So, that's why it's
14 important. Questions, comments on the report?

15 (No response audible.)

16 COUNCIL CHAIR PETER JENSEN: Laurie,
17 are you ready to give your report on surfclam/ocean
18 quahogs?

19 LAURIE NOLAN: Sure.

20 _____
21 SURFCLAM/OCEAN QUAHOG AND TILEFISH COMMITTEE REPORT

22 LAURIE NOLAN: Thank you, Mr.
23 Chairman. The committee met on Tuesday and we
24 reviewed Amendment 14. There's four issues in the

1 document now: EFH, cost recovery, excessive shares
2 and data collection. And it was discussed -- the
3 inclusion of ACLs and AMs. And a new overfishing
4 threshold and target for ocean quahogs. And the
5 committee agreed unanimously to include those in
6 Amendment 14.

7 The ad hoc committee did some work on
8 excessive shares and Step 1 of that document will be
9 handed off to FMAT for an analysis focusing on
10 market control as the first step in order to
11 determine excessive share values. And that's really
12 about it. I mean we just heard about the survey, so
13 that wasn't good news, but that was about it for the
14 committee report.

15 COUNCIL CHAIR PETER JENSEN:

16 Questions, comments?

17 (No response audible.)

18 COUNCIL CHAIR PETER JENSEN: Let's
19 see. We have the Ad Hoc SSC Committee. Gene, Rich.

20 _____
21 AD HOC SCIENTIFIC AND STATISTICAL COMMITTEE REPORT

22 EUGENE KRAY: We met yesterday
23 afternoon with the SSC, and you'll recall that they
24 had a joint meeting with the RSA Committee in the

1 morning and Rich and I met with them in the
2 afternoon for them to make decisions among
3 themselves as to how they were going to function.
4 And Rich, you want to give a summary on that,
5 please?

6 RICHARD SEAGRAVES: Yeah, sure. I
7 gave the ad hoc committee's report yesterday that we
8 had in Philly. As Gene indicated, yesterday morning
9 the SSC met in conjunction with the Research Set-
10 Aside Committee. One of the new Magnuson --
11 Reauthorized Magnuson Act requirements is for the
12 Council to develop a five-year research priority
13 list and have the -- in conjunction with and advised
14 by the SSC.

15 So, we spent the morning yesterday,
16 first item was to review the staff information we
17 put together. We gleaned out the research
18 recommendations from the most recent stock
19 assessment for each species. Also we took a look at
20 the research set-aside priority list and we also had
21 sent the SSC and RSA Committee members the National
22 Strategic Plan for fisheries research from NMFS, the
23 Northeast Regional part of that, and also the MRIP
24 research priority matrix that was available to us.

1 So, the committee reviewed those.
2 From that, we distilled a list of high priority
3 items for each species, and then came up with a list
4 of more or less generic research topics that we felt
5 important. And we got a good discussion I think
6 from the SSC and the Research Set-Aside Committee
7 and the plan is to take that -- the results of
8 yesterday's meeting, it's a work in progress, to
9 finalize the list. And that will be reviewed by the
10 Council at the August meeting.

11 Dennis, did you have anything you
12 wanted to add?

13 DENNIS SPITSBERGEN: You covered it
14 quite well.

15 RICHARD SEAGRAVES: So, that was the
16 first topic, and then we discussed the Ad Hoc
17 Committee's meeting in Philly, which kind of laid
18 out the process for how the SSC will be engaged. I
19 covered that yesterday. And as Gene indicated, when
20 we adjourned at noontime, then they reconvened for
21 about an hour and a half, two hours, just the SSC.
22 And I don't think Brian's here, but I'll go ahead
23 and cover what we talked about.

24 The first item was to review briefly

1 the proposed rule for National Standard 1, the new
2 guidelines for National Standard 1. We did --
3 basically just nailed down that it's clear -- there
4 are many things that we'll want to comment on as a
5 Council about that proposed rule, and all the
6 details of ACLA -- ACL and AM requirements and the
7 control rules for ABC, control rules for annual
8 catch targets and that sort of thing.

9 But I think what's clear in the
10 proposed rule is that the number that the SSC will
11 be providing to the Council which will set the upper
12 limit for any ACL or any action thereafter will be
13 is ABC. So, we discussed that and that was pretty
14 well agreed upon.

15 The next issue was how we were in the
16 longer term going to deal with integrating the SSC
17 in setting that ABC. And basically they were given
18 a chance to discuss and react to the findings of
19 this ad hoc committee and where they would be in the
20 queue in terms of meeting schedules, the need to
21 have information well ahead of time, and the need
22 that they discussed probably the most was the need
23 to be plugged into the stock assessment process,
24 which we've talked about quite a bit, so that they

1 don't get a huge document at the end and have this
2 responsibility of setting the upper limit for the
3 ACL i.e. the ABC without really fully understanding
4 the whole stock assessment process for any given
5 species that they're dealing with.

6 So, what Brian intends to do is to
7 assign one or more SSC members to sort of ride herd
8 or shepherd an assessment from its inception and the
9 development of the terms of reference to the final
10 completion and CIE report. And so those folks that
11 are tasked for that assignment would kind of have
12 lead responsibility to really be responsible for
13 fully understanding the process, development of that
14 assessment, and the conclusions and so forth of the
15 assessment, but that it's still a committee process,
16 but they're kind of given responsibility to make
17 sure they are aware of everything as it went along.

18 So, that was sort of the end of the
19 long-term thing. And the last thing we discussed
20 was okay, how are we going to handle the setting of
21 specifications for 2009, particularly for summer
22 flounder, given the time crunch between when the CIE
23 reviews are going to be made public and the fact
24 that we've moved the Council meeting up. So, the

1 plan currently is to hold an SSC meeting either in
2 conjunction or just prior to the monitoring
3 committee meeting either on the 30th of July or the
4 1st of August, which is a Thursday and a Friday.
5 They will be making a recommendation on ABC for
6 summer flounder, scup, black sea bass and bluefish
7 at that meeting.

8 We talked briefly with Brian about
9 some assignments of who's going to do what, but he's
10 still -- he wants to poll the committee and see
11 who's available first to do this, because we've
12 really only got about a month to accomplish getting
13 the SSC up to speed on all four of those assessments
14 and one of them's obviously ongoing next week.

15 But that's the general plan. I don't
16 know if Dan, you wanted to comment any more about
17 that, but that's -- and that's where we ended, and
18 would finish my report.

19 COUNCIL CHAIR PETER JENSEN:

20 Questions, comments for Rich?

21 EUGENE KRAY: I just have a general
22 comment. The general feeling that I felt in that
23 room was at first they were somewhat overwhelmed.
24 Yet on the other hand, there was some expression of

1 relief that now they feel part of the -- they feel
2 like they are part of the process and that they take
3 the responsibility seriously. So, I think it's
4 going to work. I think it's a good group to work
5 with.

6 COUNCIL CHAIR PETER JENSEN: Thanks.
7 Okay. Jimmy, I think we need to get a report from
8 you on Amendment 11.

9
10 SQUID, MACKEREL, BUTTERFISH COMMITTEE REPORT

11 JAMES RUHLE: Okay. Squid, Mackerel,
12 Butterfish Committee met on Monday of this week with
13 the advisors for the purpose of developing Amendment
14 11 to the Squid, Mackerel, Butterfish Plan.
15 Primarily Amendment 11 is concerned with limited
16 access program for mackerel.

17 A lot of good industry input.
18 There's a lot of concern about the agency's
19 definition of capacity. It appears that the agency
20 is in a position to think that the fishery is
21 totally overcapitalized, but yet there was a lot of
22 discussion about what constitutes capacity in a
23 fishery that has to have a very significant
24 infrastructure shoreside to allow the fishery to be

1 prosecuted. So, that was an interesting point that
2 was brought up.

3 Basically, we've -- the committee's
4 made a recommendation for analysis of different
5 qualifying tiers and years for the mackerel limited
6 access program. Those recommendations were passed
7 on to staff from the committee. Most of the boats
8 were either unanimous or very, very close to that,
9 so there doesn't seem to be a lot of discontent any
10 way, shape or form. New England was well
11 represented. And the motions are going to go
12 forward and hopefully there'll be a committee
13 meeting before the August meeting that will allow us
14 to review that information.

15 It's not going to take any Council
16 action at this time, but one of the issues that you
17 may be interested in is the NOI for mackerel
18 Amendment 11 and that will deal with the ACLs, AMs,
19 at-sea processor allocations or caps, EFH update on
20 designations of gear impacts, et cetera. That's
21 just a review that's timely with this amendment.

22 We won't know until we get the
23 information back on the analysis where we are, who's
24 going to be in, who's going to be out, but that

1 basically sums up the committee report.

2 COUNCIL CHAIR PETER JENSEN: Thank
3 you. Questions, comments on the committee report?

4 (No response audible.)

5 COUNCIL CHAIR PETER JENSEN: Red,
6 spiny dogfish.

7
8 JOINT SPINY DOGFISH COMMITTEE REPORT

9 RED MUNDEN: Thank you, Mr. Chairman.

10 The Spiny Dogfish Joint Committee met this morning.
11 We had 14 members from the Mid-Atlantic Council in
12 attendance, which included all of the Mid-Atlantic
13 Spiny Dogfish Committee members, as well as Frank
14 Blount, who is from the New England Council and sits
15 in on the joint committee.

16 We had an overview of Framework 2 by
17 staff member Jim Armstrong, and Framework 2 to the
18 Spiny Dogfish FMP is a single proposed action. The
19 purpose of Framework 2 is to improve the timeliness
20 and efficiency of incorporating the best available
21 scientific information into the annual management
22 process for spiny dogfish.

23 Mr. Chairman, I have one motion to
24 offer on behalf of the committee, and that motion is

1 now on the screen. I'd recommend that the committee
2 -- the committee recommendation is that the Council
3 move forward with Framework 2 to the Spiny Dogfish
4 FMP. That's my motion, Mr. Chairman.

5 COUNCIL CHAIR PETER JENSEN: Thank
6 you. No second required. The effect of this is
7 that Meeting 1 -- if we approve this, Meeting 1
8 would be in August and the second meeting would be
9 the following meeting. So, discussion on the
10 motion?

11 (No response audible.)

12 (Motion as voted.)

13 {Move that the Council move forward with Framework
14 2 to the Spiny Dogfish FMP.}

15 COUNCIL CHAIR PETER JENSEN: All
16 those in favor, say aye.

17 (Response.)

18 COUNCIL CHAIR PETER JENSEN: Opposed?

19 (No response.)

20 COUNCIL CHAIR PETER JENSEN: None.

21 Abstentions?

22 (No response.)

23 COUNCIL CHAIR PETER JENSEN: None.

24 The motion carries.

1 Is there any other business to come
2 before the Council before we adjourn?

3 (No response audible.)

4 COUNCIL CHAIR PETER JENSEN: Seeing
5 none, without objection, we are adjourned.

6
7 WHEREUPON:

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9 THE MEETING WAS CONCLUDED AT 11:44 A.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 17th, day of July, 2008.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 3, 2008

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