

Pages: 1-103

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL
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COUNCIL MEETING

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at

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I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS	
RICHARD ROBINS	3
BUREAU OF ENERGY MANAGEMENT (BOEM)	
JILL LEWANDOWSKY	5
CHRISTOPHER CLARK	39
AARON RICE	52
STATUS OF NEW YORK'S OFFSHORE PLANNING	
GREG CAPOBIANCO	73
MONKFISH AMENDMENT 6	
JAMES ARMSTRONG	94

1 [8:14 a.m.]

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3

INTRODUCTIONS AND ANNOUNCEMENTS

4

COUNCIL CHAIRMAN RICHARD ROBINS:

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Before the committee gets started, I just

6

want to point out obviously, our material to

7

go through we are running behind schedule.

8

In light of that we may not shift into

9

specifications exercise until tomorrow

10

morning, and meet at 8 a.m. We will confirm

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that later this afternoon, but that will be

12

dependent on the plan to accommodate this

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continued discussion so we can work through

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these final decisions on Amendment 14 on

15

behalf of the committee. I would also point

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out that staff is going to try and work

17

tonight on the plan and add an option perhaps

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that will mirror what came out of New England

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related to the cost sharing arrangements and

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put that in front of the full Council tomorrow

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so that we might be able to look at an improved

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version of that as a full Council rather than

23

trying to hash out those details -- what we

24

did -- the committee has been (inaudible) the

1 last hour. so with that, again we will have
2 an update on the schedule later this
3 afternoon when we will try to get through the
4 other 10 items that we have on the agenda for
5 the Council.

6 Staff will work on those other
7 options and put those in front of the full
8 Council tomorrow.

9 4:08 p.m.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Let's come back to our seats so we can get
12 started, please. Thank you, all. Just as a
13 reminder, we're going to be convening and
14 starting tomorrow morning at eight o'clock.
15 Thank you. Tomorrow morning, we're going to
16 start at eight o'clock.

17 Our next item is the BOEM presentation.
18 We have a Bureau of Energy Management presentation
19 by Jill Lewandowsky and Dr. Christopher Clark.
20 Before they start, I'm going to turn to Dr. Chris
21 Moore to introduce our newest council staff
22 member.

23 CHRISTOPHER MOORE: Thank you, Mr.
24 Chairman. I'd like to introduce our newest

1 staffer, Kiley Dancy. Kiley's over there against
2 the wall. She's a recent graduate of Duke.
3 Started with us yesterday. And welcome, Kiley.
4 Guess what species Kiley was involved with in her
5 master's program. Anybody?

6 UNIDENTIFIED: River Herring.

7 CHRISTOPHER MOORE: There you go.
8 So welcome, Kiley.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Congratulations and welcome, Kiley.

11 [Applause.]

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Okay. With that, are you all ready? Thank you.

14

15 BUREAU OF ENERGY MANAGEMENT (BOEM)

16 JILL LEWANDOWSKY: Okay. I'm over
17 here at the front. My name is Jill Lewandowsky,
18 and I am a protected species biologist with the
19 Bureau of Ocean Energy Management. I was asked to
20 come today to tell you about a document that we
21 currently have out for review that deals with
22 potential seismic surveys and geological surveys
23 in the Mid- and South-Atlantic.

24 So I'm going to talk a little bit about

1 the noise issue that's behind this document as well
2 as what the document contains, what some of the
3 effects analyses have shown. And then I think
4 after I'm finished, Dr. Chris Clark from Cornell
5 is going to give you a more -- a better feel for
6 the noise issue and where there may or may not be
7 impacts for fish and fisheries.

8 I'm going to talk to you a little bit
9 about BOEM and BESSE so you can understand where
10 our regulatory structure is, again, talk about the
11 noise issue and then move into the document and
12 explain the components of the document.

13 Well, a couple years ago after the Deep
14 Water Horizon incident, Minerals Management
15 Service was split into a number of different
16 agencies, and what's come out of that are two
17 agencies, the Bureau of Ocean Energy Management --
18 and my mandates are up here on the left side of the
19 screen -- and the Bureau of Safety and
20 Environmental Enforcement. As BOEM what we
21 basically do is we have purview over federal waters
22 and energy development and sand mining in those
23 waters.

24 So, when it come to determining what

1 should be available for leasing, leasing it, doing
2 the environmental analyses, approving any sort of
3 exploration activities like seismic on the outer
4 continental shelf, again federal waters, that
5 falls on the BOEM side.

6 And on the BESSE side would sort of be
7 the other half of the equation. And they are the
8 folks that will do the enforcement, that will look
9 for to make sure that all the conditions of a permit
10 or a lease had been adhered to, to look at our
11 mitigation measures that we put into those and see
12 how effective they've been and then have a feedback
13 loop with us at BOEM to talk about what changes may
14 need to be made based off of those evaluations.

15 And also importantly, BESSE has the
16 larger role here in oil spill response and ensuring
17 that companies have more robust oil spill response
18 capabilities and preparedness in process. So
19 noise and marine life, this is an issue that is
20 faced by a number of federal agencies. It's not
21 just BOEM. I know National Marine Fishery
22 Service, National Science Foundation, the U.S.
23 Navy, U.S. Geological Survey, a lot of different
24 agencies are regulating noise producing

1 activities.

2 And as you'll probably hear in Dr.
3 Clark's presentation, the differences in how noise
4 travels in water and where it can and cannot be an
5 issue are very complex.

6 To date most of the emphasis has been on
7 marine mammals. That's probably a result of some
8 of the strandings that occurred potentially
9 coincidental with Navy military exercises and also
10 some of the litigation that then resulted.

11 So a lot of the attention from the
12 various agencies has been placed on marine
13 mammals. But I think agencies -- and I can speak
14 to BOEM in particular -- are beginning to really
15 start focusing more effort on fish, invertebrates
16 in fisheries and the effects of noise producing
17 activities on these species.

18 So there has been research mostly again
19 on marine mammals. There's been a little bit on
20 fish and fisheries and invertebrates. But as with
21 a lot of research, the more questions you answer
22 the more questions that come out of it too. This
23 is just a quick snapshot. It's a little bit of
24 an older graphic, but it gives you an idea.

1 And these bars up here are going to tell
2 you what, for example, whales in the red at the top
3 the general area, a frequency hearing range that
4 whales will hear in.

5 And fish is just below there kind of in
6 the pink color. And if you look further down on
7 that graphic, you'll see where the sound is
8 produced from things like seismic surveys, sort of
9 in the 10 hertz to 1 kilohertz range.

10 And if you follow back from where it says
11 seismic surveys and up in that little bar there,
12 you can see that there is cross-over between the
13 frequency of noise that is produced by seismic
14 surveys and what at least many of the fish species
15 we think can hear.

16 So the potential for impacts, this is
17 one think we've learned in the marine mammal world
18 is that it really depends on so many different
19 variables. It depends on the type of sound that's
20 out there not just the frequency, how loud it is,
21 what's the duration exposure, how far the animal
22 is from the source. It depends on the water, if
23 it's deeper environment versus shallow, the sounds
24 will propagate very differently. The sediment

1 can also have an effect on how that sound
2 propagates.

3 It depends on the species: what is the
4 general hearing range of the species, what is their
5 life history. It depends on the individual:
6 what is their size, their age, are they juveniles
7 more vulnerable to the noise than you might find
8 in an adult, what is their motivation, are they so
9 intent on feeding or spawning that even a
10 potentially injurious noise or disturbing noise
11 would not have the normal rate from that activity.

12 The range of impacts can go from no
13 effect to habituation to a change in behavior. It
14 can be masking if there are important sounds that
15 they're making to track mates.

16 Then if the seismic noise is at that same
17 level of frequency and they can't compensate for
18 it, then you might mask some of their important
19 biological cues. It can go to hearing loss, other
20 physiological effects that maybe don't result in
21 mortality but could be sublethal. For example, we
22 know that -- we think we know to some degree that
23 the hair cells in fish if damaged can grow back.
24 Okay, so it might not result in the death of a fish,

1 but how long do those hair cells take to grow back
2 and what happens to that animal in the interim?

3 Are they more vulnerable to predators
4 because they're not as aware of their environment?
5 So there's a lot of factors and a lot of degree of
6 different effects that you can have.

7 And then the state of the science. I
8 would pretty much classify that with fish we know
9 a little bit about their hearing ranges. Most of
10 it is from laboratory tests. There's some that's
11 been done from field tests.

12 Fisheries there's been a few different
13 things that are out there, like from Norway, and
14 the Canadians have sponsored some studies to look
15 at effects to very specific situations with
16 fisheries.

17 And in verbiage there's really not much
18 at all. There's a couple of studies, and we really
19 don't know if invertebrates can hear and if so what
20 they can hear. We also don't know if things other
21 than just the noise itself, whether it's the
22 particle motion that's created by the noise or the
23 noise into the sediment layer and how that might
24 affect benthic resources --

1 (Changes microphone)

2 JILL LEWANDOWSKY: Oh, that
3 sounds a lot better. Okay. So, again, with
4 the invertebrates there's a little bit out
5 there, but really they're kind of a large
6 unknown to us at this point in time.

7 So we still need basic information on
8 what the fish can hear, what sorts of -- you know,
9 things are going to be proved to be more of an issue
10 for them than not.

11 And the other thing is we're left with
12 that level of information. We'll have to sort of
13 rely on some basic biological principals that we
14 would apply to marine mammals and other species
15 groups.

16 So, recognizing there's a lot that needs
17 to be known on the issue, back in March of 2012 BOEM
18 did sponsor a fish and invertebrates and sound
19 workshop where in advance of that workshop we
20 contracted out to have a literature review of all
21 the information that's out there that has
22 relevance to answering the questions of what the
23 level of impacts might be.

24 And this is for fish, fisheries as well

1 as invertebrates. We then held a workshop with
2 various stakeholders from lots of different
3 disciplines, and we're working on a report from
4 that right now that will basically come up with
5 some research recommendations that we'll then try
6 to feed back into our studies program that we have
7 within BOEM.

8 And we'll also try to work with our other
9 partners to also try to perceive some of those
10 studies. So I have the workshop address down
11 there, and I'm going to leave this presentation,
12 and that could be distributed. So you'll also be
13 able to get access to it.

14 But there's a lot of good information
15 that's still up on that website even short of the
16 report being finalized. So, now looking at the
17 document that's at hand, this is a programmatic
18 environmental impact statement that's being
19 prepared under the National Environmental Policy
20 Act.

21 And what that act requires is that if
22 there is an action we are proposing or we're
23 considering that we have to do a full analysis of
24 what the effects to the environment, and this a

1 human as well as the biological and the physical
2 environment, what those might be and NEPA sets out
3 a process for that to occur.

4 What we're doing is we have about 10
5 different companies that have requested to do
6 seismic surveys off the Mid and -- well, they
7 requested it off the entire Atlantic coast. A
8 decision was made early on that this document would
9 only focus on the Mid-Atlantic and the South
10 Atlantic and not the North Atlantic. So that is
11 not in consideration at this point in time.

12 And we also know that for other
13 activities like renewable energy, for sand mining
14 that there are seismic surveys that happen as well
15 as some geological surveys that happen in
16 conjunction with those.

17 They tend to not be at the level and
18 intensity I would say certainly of oil and gas type
19 exploration, but we did want to look at all of these
20 programmatically. So that's why this document
21 looks at seismic and geological surveys for marine
22 minerals, sand mining, for renewables as well as
23 oil and gas.

24 So generally the process that we follow

1 -- basically we have a host of subject matter
2 experts. So we have folks like myself who are more
3 knowledgeable about marine mammals. We have
4 folks who are knowledgeable about fisheries.

5 We have archaeologists, meteorologists
6 who can do air quality, chemical oceanographers.
7 And so we all basically start by looking and
8 determining what species are present in the action
9 area. Then we decide, okay, what are their
10 distributions, what are their relative densities,
11 and in many cases there isn't a lot of information
12 out there about that.

13 And in our analysis, we do note where we
14 have good information and where we don't. So then
15 we define significance criteria. And I'm going to
16 show you what we use for this document in a moment.

17 And then we define what we call impact
18 producing factors, and these are things that we
19 think potentially could affect our specific
20 resource area. We look at the data related to
21 effects.

22 We establish mitigation measures that
23 we feel would lessen that potential for effects,
24 and then we have to come up with a determination

1 on the level of impacts and provide this to our
2 decision maker, which in this case will be the
3 director of our bureau.

4 And so this DEIS kind of documents all
5 of that for all the resource areas. And I do want
6 to also mention besides NEPA we have a host of other
7 different environmental statutes, executive
8 orders. I think there's like 30 some in total that
9 we must comply with for this type of action. And
10 these are some of the highlights here. And
11 notably for this group that does include
12 Magnuson-Stevens, so we do undergo an essential fish
13 habitat consultation for this project.

14 And the last I heard from NOAA on that
15 is that they will probably be deferring the EFH
16 consultation to a project-by-project basis so they
17 can look at each project and determine on a project
18 basis what they think the potential impacts could
19 be and what mitigations they may or may not
20 recommend.

21 So a proposed action is you can see up
22 here is the Mid and South Atlantic -- you'll see
23 there's three planning areas around the east
24 coast. These are planning areas that BOEM has

1 identified.

2 There's the North Atlantic, the
3 Mid-Atlantic, and the South Atlantic. And,
4 again, we're only talking about the Mid-Atlantic
5 and the South Atlantic for the purposes of this
6 document.

7 And to give you an idea of what areas are
8 being requested, this graphic up here will show you
9 kind of relative densities for all the surveys that
10 we have proposed. It shows you they're kind of
11 overlaying each other. So where you see something
12 darker gives you an idea that there's more --
13 there's interest from multiple operators to survey
14 in a particular area.

15 Some of these surveys are quite large.
16 Some have requested the entire sea board. The
17 larger they are the further apart that their
18 transit lines tend to be. The smaller the survey
19 the closer they tend to be.

20 And those can certainly play into what
21 level of impact could potentially happen or may
22 not. The types of activities. I talked about
23 seismic because that has tended to be the main sort
24 of sound source of concern for a variety of

1 species.

2 The rest are looking at geological
3 surveys that would deal potentially with some sort
4 of bottom disturbance activities trying to get
5 some samples of the sediment.

6 A lot of these things are needed to not
7 just explore the hydrocarbons but sort of a
8 renewable project. They need seismic surveys
9 done. They need some of those geological samples
10 taken in order to help site the wind turbines. And
11 for marine minerals they also need to do these
12 sorts of things to look at the (inaudible) plan
13 post mining. This gives you a quick list. I'm
14 not going to read through it. But it gives you a
15 list of all the different resource areas that we
16 look at. And if you go into the document, you'll
17 see those fairly plainly.

18 These are all the different
19 impact-producing factors that we consider for
20 every resource. And basically as a subject matter
21 expert, I'll look at my resource and determine
22 which ones I think are relevant. They may all be,
23 or it may be half of them. And we're going to talk
24 about what we found for fish a little further.

1 So we came out with three alternatives.
2 And I'll show you a graphic on the first two. All
3 of the, A and B, are basically meant to be sort of
4 alternatives that have an action of some level.

5 And then Alternative C is going to be the
6 no action. So it's sort of the status quo of what
7 is occurring in the Atlantic, which at this point
8 in time are the more small scale surveys dealing
9 with renewables and marine minerals and no large
10 scale surveys dealing with oil and gas.

11 But Alternative A would have a time area
12 closure for northern right whales, the same as has
13 been established through the shipping rule.
14 There would also be the basic mitigation that we
15 require for all our seismic surveys, and that
16 includes such things as establishment of an
17 exclusion zone around the vessel.

18 And these are all geared towards marine
19 mammals, but they will obviously provide benefit
20 for any species that's found within these
21 particular areas that are being mitigated.

22 And that zone has to be observed for a
23 time before, also during, and after to be sure that
24 no marine mammals are present, and if so the

1 seismic source has to shut down.

2 Prior to starting in addition there has
3 to be a ramp-up procedure. And the concept behind
4 a ramp-up is that you slowly gradually add noise
5 into the system instead of just turning your array
6 on at full capacity and then if an animal does find
7 it disturbing, it would have the potential to move
8 out of the area if they can, before it reaches the
9 full power.

10 And so there's a lot of other types of
11 mitigations that go with our standard package,
12 some that deal with avoiding vessel strikes, not
13 so much an issue for fish, marine trash and debris
14 awareness. Alternative B is everything that A
15 has, but it has some additional mitigation. So
16 the right whale closures are expanded pretty much,
17 and I'll show you again in a graphic in a second.
18 You're also going to find that there is another
19 closure added for sea turtles down in Broward
20 County, Florida.

21 There's requirements for separation
22 distances between surveys that may be operating at
23 the same time, and there's also required passive
24 acoustic monitoring, which has not really been

1 developed for use for fish but is being used for
2 marine mammals at this time.

3 And then Alternative C is the no action
4 for oil and gas. So this is Alternative A. We've
5 already talked about the mitigation included in
6 Alternative A.

7 You can see in these yellow areas these
8 are the seasonal management areas. At certain
9 times of the year, they will be closed just to any
10 seismic using air guns.

11 If it's another sound source besides an
12 air gun, we would consider that on a case-by-case
13 basis. And the reason for that is our
14 understanding of the difference in intensity
15 between the use of an air gun array versus other
16 technologies that are out there. And you can see
17 sort of a grid pattern on the bottom, and that would
18 be the right whale critical habitat. Alternative
19 B you'll see the same areas in yellow. And it's
20 a little harder to see on this graphic, but within
21 each of those yellow areas there's also areas that
22 will be sort of sectioned off.

23 That's all from offshore after 20
24 nautical miles; and again, nobody using an air gun

1 would be allowed to operate in those areas during
2 those times of the year.

3 And then down in Broward County,
4 Florida, you can see where the sea turtle closure
5 was added. And we know that there's a nesting site
6 down there, and this alternative's meant to be
7 protective of that nesting area.

8 This just gives you a quick overview of
9 the differences across the different
10 alternatives. Again, I would say A is going to
11 have mitigation in it, but Alternative B is going
12 to have more intense mitigation at least when it
13 comes to marine mammals.

14 And Alternative C would be whether the
15 no action for oil and gas but we would pursue on
16 a case-by-case basis requests from the renewable
17 and marine minerals program. So here's the
18 significance criteria. We are basically in our
19 document we are asked to kind of come up with our
20 best guess at what we think that the impact could
21 potentially be. And when we do that, we have to
22 explain what information's out there, we have to
23 explain why we came to that conclusion, and then
24 we also need to identify what's missing, what other

1 kinds of information will be helpful for us to kind
2 of better understand the issue.

3 So here we range from negligible to
4 major. And you can pretty much read those up
5 there. Negligible is going to be little to no
6 impact. Minor steps it up where you can detect the
7 impacts, but you don't consider them extensive or
8 severe.

9 And then you will kind of go on getting
10 more intense with moderate and major. This is a
11 snapshot. I'm going to dig into the fish parts in
12 a minute. This is all across the different
13 alternatives, the conclusions on the significance
14 criteria that our estimators have come to.

15 And then when we talk about fish, fish
16 in general we looked at demersal fishes, pelagic
17 fishes. We looked at EFH issues, all of those.
18 Impact-producing factors we looked at the sound
19 sources, vessel and equipment noise, sea floor
20 disturbance. We looked at discharges from some of
21 the very small scale drilling-type things that are
22 sometimes done to look at siting and issues and any
23 sort of accidental fuel spills from the vessel.

24 The range of impacts we felt were:

1 behavioral responses, masking, could be temporary
2 hearing loss, habituations. We feel that the fish
3 are probably likely habituated to the vessel
4 noise.

5 So basically, we came up with an impact
6 level of minor, meaning there would be detectable
7 impacts but nothing that would be extensive or
8 severe. And a lot of that was based on the fact
9 that these will be localized, short-term surveys
10 moving through the area.

11 And I would also point out one of the
12 mitigations is that any operator will be required
13 to contact the U.S. Coast Guard and the local
14 harbor master to basically notify them of when they
15 would be operating.

16 Looking at ESA species, we looked at two
17 endangered species, the small toothed sawfish as
18 well as the short nosed sturgeon. There's one
19 proposed, the Atlantic sturgeon.

20 And we also looked at two candidate
21 species, the blue back herring and the alewife.
22 Same impact producing factors. Found same
23 potential impacts. We did find for the small
24 toothed sawfish and the short nosed sturgeon and

1 the alewife that they would be negligible, and
2 that's mainly 'cause they're not really found in
3 the areas that these surveys would be occurring.
4 They tend to be more coastal.

5 And then minor impact to Atlantic
6 sturgeon and blue back herring who can be offshore
7 during certain times of the year. Okay.
8 Fisheries we looked at commercial fisheries as
9 well as recreational fisheries.

10 We basically had the same impact
11 producing factors. We basically felt that there
12 was evidence there can be temporary avoidance
13 behavior that could result in short-term,
14 localized reduction in fish catch but very, very
15 minor.

16 Vessels and arrays could temporarily
17 interrupt. Vessel presence could temporarily
18 interrupt commercial fishing operations. We did
19 feel, though, that a lot of the gear that's set in
20 the water is pretty well marked, and again where
21 the surveys are going to be it would be easy for
22 the surveys to avoid going through areas where
23 there's gear marked and potentially damaging gear.
24 And so the impact ranged from negligible to minor.

1 I would note again the EFH consultation and that
2 -- you know, on a project-by-project basis is what
3 NMFS is looking at right now and that would give
4 them the better feel for what a specific project
5 may or may not do and what the impacts on EFH would
6 be.

7 So the status of the document. We've
8 had our public hearings, but we do have a comment
9 period that's currently open. We did extend it to
10 July 2nd.

11 After that point, we'll review the
12 comments; we'll prepare a final EIS, and we're
13 looking to issue a final EIS in December of 2012.
14 Generally, after the EIS is issued, our agency will
15 come out with a record of decision 30 days later
16 that will basically say which alternative is
17 chosen, what the next plan may be.

18 The alternative may be Alternative C and
19 that there isn't a next plan, but it may be A, and
20 it may be B. And with a record of decision the
21 director will also not just look at the NEPA
22 document but look at all the other consultation
23 processes and the outcomes of those that have
24 occurred. And for many comments we do have an

1 e-mail that's set up. You can also mail your
2 comments. And we do have a website for this
3 project that's got a lot of good information on it.
4 It has fact sheets on geological and geophysical
5 surveys. It will show you all the applications we
6 have in hand, where they want to operate, what they
7 want to do.

8 And there's a lot of just good
9 background information that could be very helpful
10 in forming a comment. And that's all. I don't
11 know if you want to take questions or wait until
12 after the next presentation.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Jill, why don't we go ahead and take questions, if
15 that's okay.

16 JILL LEWANDOWSKY: Okay.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
18 Karr.

19 WILLIAM KARR: Thank you. That was a
20 very informative and complete presentation. I
21 have a few questions. It is past well established
22 that under certain conditions fish do respond to
23 environmental noise, and one of the concerns I
24 think that we might have is just that the response

1 really seems to depend a lot on the physiological
2 condition of the fish and environmental factors,
3 the depth, topography, physical factors relative
4 to the oceanography as well. So under the
5 greatest concerns we might have might be at times
6 when the fish are spawning, for example, that there
7 might be disruption of spawning activity, or just
8 a change in the distribution fish which might
9 change their availability to commercial fishing.

10 So I just wonder to what extent you're
11 able to take those kinds of things under
12 consideration and what actions you might be
13 taking.

14 JILL LEWANDOWSKY: Okay. That's a
15 great question. And I think, yes, I think this is
16 the time to put in that type of input. I think that
17 certainly as we would go through a consultation
18 with NMFS, if there is important spawning
19 happening, that's something that would be looked
20 at and determined what the effect of this activity
21 might be; and if it's too great, then it doesn't
22 happen during that time. But any information that
23 you all can provide on when those critical times
24 would be.

1 We've combed the literature, but we're
2 not as intimately familiar with it as you all will
3 be, and we're open and want the guidance as much
4 as you can give it. If it's not before July 2nd,
5 I would say the sooner the better still. We could
6 still take the information, but we would want to
7 subsume it into this process before any final
8 decisions are made.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Erling.

11 ERLING BERG: Yeah. Thank you, Mr.
12 Chairman. These air guns I understand that's what
13 you're going to use. What kind of sound level are
14 they? How many decibels do they generate when
15 they are doing this exploration?

16 JILL LEWANDOWSKY: It depends on the
17 size of the array. It can be like 230 decibels.
18 When you're looking at a sound source, it's not
19 just the decibel level. It's the frequencies, the
20 decibel level. It's the environment that the
21 energy is being put into.

22 I mean there's a lot of other variables
23 that go with it. We would definitely say air guns
24 have the potential for greater impact.

1 They won't be the only sound source
2 used, but certainly they're going to be the more
3 intensive, which is why we focused a lot of the
4 mitigation on air guns.

5 ERLING BERG: And how far would that
6 sound carry under water? I think sound carries
7 quite a ways.

8 JILL LEWANDOWSKY: Yes.

9 ERLING BERG: It depends on temperature
10 and all that.

11 JILL LEWANDOWSKY: Yeah.
12 Temperature, ocean salinity. And I think Dr.
13 Clark will probably give you a better flavor for
14 that. It depends on where it is.

15 And even though it may travel farther,
16 at those distances, it doesn't mean it's at the
17 same intensity level. It's the decibel level as
18 where it started. As it propagates out, that will
19 change.

20 And there's a lot of research that's
21 being put out there to try to better characterize
22 the noise in different environments.

23 Industry is getting ready to release a
24 very robust study that looked at measuring a lot

1 of different types of air gun arrays and a lot of
2 different types of environments to get a better
3 feel for the propagation.

4 So what we have right now are some
5 studies that have measured in the field, and we
6 have a modeling that we use to try to predict what
7 we think those would be. And the document has that
8 for the air guns, and it also has it for the other
9 sound sources. So it gives you an idea. And
10 it's in Appendix J I want to say, if not J, K. And
11 it will show you graphically how far off we think
12 the noise will go.

13 ERLING BERG: If I may, Mr. Chairman?

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Sure.

16 ERLING BERG: I've been around a long
17 time, and I was around back in the early '70s when
18 they first started looking for oil and gas in the
19 Mid-Atlantic. You had these research boats
20 setting off explosives, and there was miles and
21 miles and miles of dead fish, and it caused quite
22 a stir.

23 JILL LEWANDOWSKY: Yes.

24 ERLING BERG: They stopped doing that,

1 Chairman. Are you able to put specific permit
2 conditions on there, for example, time and space?

3 I know that a lot of other activities
4 have fish windows: You can't carry out this
5 activity in this particular water body from
6 October through January during spawning. We have
7 various species that we have some idea where they
8 migrate through, and the last thing we would want
9 there. And then the other one is notification
10 requirements because there are not only
11 recreational vessels but there are commercial
12 vessels out there. And the third, who has the
13 right of way? You've got a vessel under tow, and
14 you've got a vessel that's towing. Right.

15 So, when they've got a commercial net
16 out, they're less maneuverable. So my
17 interpretation would be they've got the right of
18 way, but I don't know what the law is. So there's
19 three points.

20 JILL LEWANDOWSKY: Okay. The first
21 question is yes. And we can condition any permit
22 however we see fit. So any of those sort of
23 windows that you're aware of or any sort of similar
24 mitigations that you see within the construct and

1 the world that you work in that you can offer to
2 us would be very welcome.

3 Notification I mentioned there the
4 Coast Guard. I mentioned the local harbor master.
5 If that doesn't get at it -- 'cause that's
6 generally what's done in the Gulf of Mexico -- but
7 if that's not enough, we would want to hear that:
8 what would the other suggestions be, where would
9 the other key places for notification to occur or
10 a place that things could be posted that everyone
11 could know they could go and check. I believe in
12 the Gulf of Mexico that you're right about who --
13 there's no official like law that tells you who has
14 the right of way, but certainly there's a lot of
15 coordination that's happened in the Gulf with
16 fishing gear and these seismic vessels.

17 I mean there's in the Gulf of Mexico
18 about a hundred of these surveys occur on a yearly
19 basis, and there's a lot of fishing intensity --
20 you know, activity going on down there too. So
21 they have been able to work through it.

22 If anything, the stuff we've heard about
23 more has been when some of these surveys will lay
24 a cable on the bottom that receives the sound and

1 if oil and gas were to come into the Atlantic,
2 there's that opportunity to identify a greater
3 speed of mitigation.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thank you, Jill.

6 JILL LEWANDOWSKY: Okay.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
8 Clark, are you ready?

9 CHRISTOPHER CLARK: Yes.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Thank you. And, Jill, we may have some more
12 follow-up questions. That's fine.

13 CHRISTOPHER CLARK: Thank you very
14 much. This is going to be a joint presentation.
15 This will be a joint presentation by me and with
16 my colleague, Dr. Aaron Rice, who is a fish
17 biologist, a specialist in acoustics and fish.

18 There are three basic messages we want
19 to get across today, and these follow I think very
20 well from what Jill just presented. And as some
21 of you in this room already realize, that marine
22 animals there are no known deaf marine
23 vertebrates. So fish just like marine mammals
24 rely on sound for all these critical life

1 functions.

2 Complimentary to what Jill mentioned,
3 Item No. 1, we've learned a lot in the science of
4 sound in the ocean, learned a lot from the lessons
5 of trying to evaluate the impacts of anthropogenic
6 noise generating activities. That's a long-term
7 phrase for basically things that go bang and boom
8 in the night on marine mammals.

9 So, No. 2 there, we now know how to
10 measure sound levels from seismic surveys, from
11 mid frequency, low frequency, Navy sonar, from
12 ships, etcetera. And we now know how to do this
13 from on large scales to small scales and from small
14 scales up to large scales. And I'll show you some
15 examples of this. So, in answer to your question,
16 sir, about, okay, so how loud is it and over what
17 areas, etcetera, etcetera. And the last point
18 which I think is where Aaron is going to shine is
19 this whole issue of most cases you would ask a
20 question and the answer is we don't know or we know
21 with such pathetic basis of information
22 scientifically that try and now pronounce what the
23 scales of these impacts might be I think would be
24 premature.

1 All right. So I don't know if you can
2 see that. This is just a pretty picture of a
3 seismic ship in the background. You can see it
4 looks almost like it's towing a net behind it
5 streaming off the stern. That's actually the
6 streamers that are the sensors that come off the
7 back of a seismic vessel.

8 Typically, the vessel will be towing an
9 array of air guns, roughly maybe 40 air guns that
10 are coordinated and they explode compressed air.
11 I'll show you an animation of this.

12 And they explode simultaneously to
13 create an enormous acoustic impulse. Most of the
14 energy is projected down because it's an array of
15 air guns in the horizontal plane. They become
16 coherent just like the lights on -- where are we?
17 We're in New York. So Yankee Stadium from afar you
18 see lots of lights, and from a distance, you're
19 driving down through Yonkers, you might see the set
20 of lights. It looks like one light. But if you
21 get up close, oh, they're individual lights.

22 So here you have 40 guns going off
23 simultaneously, and it's a giant hammer that
24 literally raises the ocean level by about a meter

1 and slams down. It's a hammer.

2 And I grew up on Cape Cod, and I remember
3 as a boy we knew when there was exploration
4 offshore because there were dead fish on the beach.
5 All right. Fact of life.

6 So we have a series of proposed
7 possibilities, and basically each of these
8 applicants basically claims large areas, not that
9 they're ever going to explore in all those areas,
10 but that's a typical proposal that you'll see,
11 large areas along the coast of the East United
12 States.

13 A seismic air gun -- is there any way to
14 dim the lights? Or just turn them all off. Okay.
15 Or we'll unscrew the light bulbs. So I'll run
16 this. And in the middle, right here, that's a
17 small air gun. It's a compressed air gun highly
18 designed mechanically because you can imagine it's
19 going through a great deal of mechanical stress.
20 You'll see it will explode. You'll see a single
21 bubble. This is caused by a partial pressure.
22 You all know what partial pressure is. That's
23 what happens when you boil water.

24 And when you change the partial

1 pressure, you create this bubble. You'll see a
2 monopole bubble. Then you'll see a collapse and
3 go into a dipole, collapse again and go into a
4 quadrapole.

5 And this is just physics. You've
6 created a partial pressure, and it's an explosion.
7 And here goes. Okay. It's silent in this movie.
8 It's not silent in the water.

9 And by coordinating those, you can
10 create an enormous pressure differential which is
11 an impulse. So Jill couldn't give you an answer
12 to your question without a lot of explanations of
13 how loud it gets because a DB is not the same as
14 a DB because the DB is a relative measure.

15 It also has to be referenced to
16 something. So I could tell you the sound source
17 was 100 DB and it could kill you, or I could say
18 if the sound source was 100 DB and you could barely
19 hear it because it's always 100 DB relative to
20 something. And if that something is really great,
21 then 100 DB you wouldn't hear it; but if that
22 something is really small, it could blow your ears
23 off. Does that make sense? It's relative just
24 like bow.

1 You could say you're going to get 100 DB
2 of apples. Well, if 100 DB of apples is relative
3 to one apple, then that's a lot of apples; but if
4 it's relative to 10,000 apples, then it's not very
5 much at all.

6 Okay. So here is -- I was going to play
7 these for you, but we don't really have the audio
8 system set up. This is an air gun array operating
9 at 30 miles at normal speed. Maybe I'll do this.
10 This is like the state trooper. Can you hear that
11 at all?

12 So this starts out as a 100 millisecond,
13 tenth of a second impulse, an explosion just like
14 -- most of you are males in this room, so you're
15 probably partially deaf already.

16 But I'm sure many of you played with
17 M-80s, small explosive things that you've put
18 in -- we used to put them in upside down cans on
19 the beach with a fuse which was a cigarette, and
20 we waited for someone to come by and maybe it would
21 explode. And it's a broadband impulsive shock.
22 Okay. After that sound propagates to the ocean,
23 it gets dispersed. Just like you would hear a gun
24 shot in the woods, it ricochets and reverberates

1 and spreads out.

2 Now, here's that same impulse that now
3 it's 1500 miles away. Okay. This is as great as
4 from Jacksonville up to Maine. And I'm going to
5 play it fast so you can hear it. [Inaudible.]

6 So these are just illustrations of what
7 Jill was talking about. The sound when it
8 propagates the ocean, it changes its shape because
9 the ocean is a refractive environment.

10 Just like light goes through a prism and
11 gets separated out into different frequencies,
12 sound goes through the ocean and gets separated out
13 into different frequencies.

14 So where am I going with this? Okay.
15 Scale. So the top shows you time. Right here.
16 This is the 9th of September in 2011, last
17 September, going all the way into pretty much the
18 end of October. All right. So this is almost a
19 two-month -- it's about a 48-day period.

20 And all this stuff here, whatever we're
21 doing, is we're converting sound into visual
22 images, and this is showing you -- these red
23 blasts, these are periods of time when the air gun
24 array is operating. They mow the lawn. They go

1 in a straight line. They set off the shots every
2 nine seconds and they stop, and then they turn and
3 go back, back and forth and back and forth over an
4 area. So these patches, these operational areas,
5 are just constantly exposed to sound.

6 Now, here is a zoom-in of one particular
7 day. This is a 24-hour period, and you can see
8 here's the air gun operating pretty much
9 continuously, and then there are gaps when the ship
10 turns around.

11 It's got a very long tail. The sensors
12 are roughly 10 or 12 kilometers long. Turns
13 around and starts in again. Can you see that?

14 It's basically you mow the lawn. You
15 bam, bam, bam, bam, bam; bam, bam, bam, bam, bam.
16 And these things will last like for 10 hours, but
17 the entire survey could last for over a month. In
18 some cases over many, many, months.

19 Okay. Here's another scale I want to
20 show you. You have seen pictures of sea surface
21 temperature on the evening news. You know the
22 North Pacific is getting warmer. The El Nino is
23 moving across or whatever it is. So now instead
24 of temperature think of yourself as loudness of

1 sound. So you're looking down on an area. This
2 is 250 miles by 400 miles, so this is roughly a
3 100,000 square mile area. Imagine what that is
4 along the East Coast. It's a fairly large area.

5 This is a single area we're monitoring
6 acoustically, and this as a map is noise. So all
7 down here where it's red means it's really noisy
8 down here. Where it's blue it's quieter. Right.

9 And here's our noise thermometer from 60
10 to 100. That's four orders of magnitude. From 1
11 to 10,000. And on the bottom here is August 26th
12 into September.

13 And I'm going to show you an animation
14 where every 15 minutes we map the noise over
15 100,000 square miles. We opened the shutter so to
16 speak, map the noise for one minute, waited 15
17 minutes and did it again over and over.

18 So here's the animation. And you're
19 going to see some little bright spots up here. Up
20 in here you're going to see flashes of red. Those
21 are whales that are singing. And then you're
22 going to see some dramatic. Okay. Here's the
23 animation. And watch for something down here.
24 Bam, bam. So what that shows you is that first

1 exposure when it went off around the 30th of
2 September, there was a seismic air gun survey
3 happening right down in here. Okay.

4 So to answer your question, sir, about
5 the area over which this propagates, this gives you
6 some idea. This is 100,000 square miles. And the
7 reason it has this particular shape in terms of the
8 color and the intensity is because of the depth of
9 the water. Okay.

10 This is very deep water. This is 4,000
11 meters deep. This is shelf water. Okay. So
12 that scene, that acoustic scene is driven by the
13 sound propagation characteristics as well as the
14 sound intensities and things like that.

15 This gives another scale. So this is
16 now mapping one year from that same area. This is
17 one year. So think as though you had little dots,
18 hundreds of little dots, in here, your
19 microphones.

20 And now we're looking at one year in the
21 life of this area. And here's the seismic survey
22 that occurs in the summertime, and it's basically
23 exposing the entire area for about two to three
24 months at a time.

1 And lastly, I want to show you an
2 animation that is for the model of a propagation
3 of a seismic air gun array off of Virginia, right
4 about 100 kilometers offshore, about 65/67 miles
5 offshore. And what you're going to see is: the
6 seismic air gun array is right here, there's a ship
7 right here, and there's another smaller survey
8 array down here with a single gun.

9 So this is a 40 air gun array, and this
10 is a ship. Sorry. This is actually modeled for
11 an arctic ecosystem. And this right here would be
12 if all of us were sitting under the water, and down
13 here it's going to show you how loud that sound
14 would be if we were right there listening to all
15 this.

16 And notice the periodicity of the
17 spikes. That's the periodicity of a hand grenade
18 going off and the sound coming by you every 9 to
19 10 seconds. And one of the things to remember now
20 is it's not an impulse anymore. It's a big sort
21 of smudge of noise. Or if you're really close to
22 it, it's an impulse.

23 So you'll see in the middle here's the
24 clock. And I'll run this again so you can see what

1 happens. These rings it's the explosion. The
2 sound propagates out. There's another explosion.
3 It propagates out. And it just keeps going. This
4 is 150 miles by 150 miles. That's the space we're
5 talking about. Yes, sir.

6 CHRISTOPHER ZEMAN: And these
7 explosions happen like right on the sea floor?

8 CHRISTOPHER CLARK: No. The air guns
9 are suspended typically about 5 meters below the
10 surface.

11 CHRISTOPHER ZEMAN: Okay. Do you have
12 any studies about like the impacts of that on deep
13 sea corals?

14 CHRISTOPHER CLARK: No. I don't know
15 that anybody's actually looked at corals. There
16 are some suggestions that larval fish are using
17 noise ambient noise to orient and navigate back to
18 their spawning grounds. But, no, not corals.

19 So what I want to make sure is that you
20 understand the scales that we're mapping here.
21 This isn't sort of the pond in your backyard. This
22 is 150 by 150 miles. And this happens every nine
23 seconds, and it might go on for a month. Is that
24 getting across the scale?

1 showing that sound production in fishes isn't some
2 sort of little quirky thing that a couple species
3 do. This is likely widespread across fishes as a
4 whole, all 30,000 species. So among that 30,000
5 species collective of fishes, we estimate that as
6 many as between 10 and 19,000 species may be using
7 sound to communicate at some level. And so in the
8 fisheries context, you got a number of fisheries
9 stocks that are using sound notably in their
10 spawning aggregations, probably the best cases
11 being drum and groupers, but there's many others.

12 And so where our lab comes into this is
13 really using the sounds produced by fishes to
14 understand patterns, seasonal patterns of their
15 behavior and then also being able to understand how
16 their behavior may change in response to some of
17 these other anthropogenic occurrences.

18 So what I want to do is start with these
19 two focal species that are widespread along the
20 Atlantic coast, black drum and the oyster
21 toadfish.

22 You can see these little thumbnails of
23 their calls. These are spectrograms where you
24 have frequency going up and then time here. So

1 they're about a half a second long.

2 And what I want to do -- these sounds,
3 like I said, fairly short duration. So, if we go
4 to one of our acoustic sensors that is recording
5 off the coast of Georgia. So this is 24 hours in
6 the life of a Georgia coastal habitat. We're
7 starting at midnight here and ending at midnight
8 up here. And if you can see these green bands,
9 this is the spawning chorus of black drum.

10 They start in the evening, and they go
11 through the morning, and there's still quite a bit
12 of acoustic activity that goes on throughout the
13 day. And these are sort of the different-- you
14 know, what we call harmonics of the sounds.

15 If we go down a little bit south of
16 Jacksonville and look at toadfish, it's the same
17 thing. Twenty-four hours in the life of the
18 Jacksonville coast. These stripes are the
19 spawning choruses of toadfish.

20 So when we look at -- so this is just a
21 day in the life of one particular place in the
22 ocean. And so if we sort of step back in time and
23 we now look at a four-month time slice, what you
24 can see we have black drum that start chorusing in

1 late February/early March, these sort of vertical
2 bands here; and then the end of March/the beginning
3 of April their spawning activity dies down, and
4 toadfish spawning activity picks up.

5 So, again, these aren't these short
6 duration-- you know, quiet sounds. These are
7 really loud and pervasive just like you would be
8 able to go out into a forest and hear either robins
9 singing or frogs calling. Fish are doing the
10 exact same thing in their habitats. And there are
11 tremendous -- so they use sound for navigation, for
12 courtship, and these really do structure sort of
13 the acoustic component of the ecosystem.

14 Now, as Jill had mentioned, the data
15 available on how fish respond to seismic surveys
16 is fairly minimal. There is some work out there,
17 but certainly more is needed. And so you can look
18 at the available research that has been collected
19 and sort of divide it up into two different area,
20 the first being what we would call acute impacts,
21 what happens immediately.

22 Well, we know that if fish -- captive
23 fish are exposed to an air gun at 229 decibels,
24 they'll die. From a fisheries perspective,

1 lethality may not be the useful metric of the
2 impact. We may be more concerned with what
3 happens if they're not dying necessarily.

4 But some of the other acute impacts
5 would be deafness or damage to the ears. We also
6 know that as with humans or any other animal, if
7 you are exposed to an extremely loud sound, it can
8 be stressful.

9 And there is the physiological basis of
10 stress. We know that fish exposed to seismic air
11 gun surveys maintain an elevated stress level for
12 about 72 hours before it returns to baseline. And
13 then notably the other thing, too, is that you'll
14 see these two papers refer to cases where catch
15 levels were decreased in an area before, during,
16 and after where seismic surveys had occurred.

17 And so what's likely happening is that
18 fish that can swim away will, but it raises the
19 question of what's happening to benthic and bottom
20 fish species that have a reduced swimming ability.

21 So in terms of impacts, you can look at
22 it sort of the acute scale. The more difficult
23 thing to measure often is the chronic sublethal
24 impacts. And so this is where there are very, very

1 few data on fishes and seismic surveys.

2 But judging from and making inferences
3 from the available data collected, we can have sort
4 of three domains in which we would predict some
5 level of effect.

6 One is sort of with long-term stress.
7 As Chris had mentioned, these surveys are lasting
8 for months and months on time. This isn't a single
9 -- you know, hour long event. These go on for
10 extended periods of time. And where the
11 cross-vertebrates demonstrates that long-term
12 periods of increased stress compromise the immune
13 system; they change behavior. So one would be
14 able to predict decreased foraging activities or
15 decreased spawning activities.

16 These fishes are, like I had mentioned
17 earlier, using sounds for communication notably in
18 spawning. And so if you have a survey going on,
19 if these fish can't hear each other sing or speak
20 -- you know, that may disrupt their ability to find
21 mates and spawn.

22 And so both of those may feed into
23 disrupted reproductive behaviors and where in
24 which case from the acute perspective a survey may

1 not result in complete mortality of a population,
2 but where you may see impacts is related to
3 decreased spawning levels and sort of the amount
4 of young of the year the following year. So these
5 changes may be visible over multiple year time
6 periods.

7 And so really the take-home message is
8 that the long-term consequences of seismic surveys
9 on fish populations is not known. The data are not
10 there. And this is sort of one of the really point
11 of that BOEM workshop was to identify the data
12 gaps, and this is one of them.

13 CHRISTOPHER CLARK: Great. Thank you,
14 Aaron.

15 CHRISTOPHER ZEMAN: I have a question.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Go
17 ahead, Chris.

18 CHRISTOPHER ZEMAN: Was there any of
19 those studies actually sort of look at like
20 bivalves, scallops; and would that shatter like a
21 scallop shell?

22 AARON RICE: None have looked at
23 bivalves. It probably wouldn't shatter the shell
24 itself. But, again, this is one of the sort of

1 critical areas of study. I believe work by the
2 French have shown that the squid auditory organ,
3 the statocyst, will incur auditory damage at about
4 186 decibels, which is consistent with that of
5 fishes; but for the benthic invertebrates
6 completely unclear.

7 CHRISTOPHER ZEMAN: So for a 40-gun
8 array, what's the sound sort of at 10 feet, 100
9 feet; what's the decibel range at; how far do you
10 have to go out until it becomes nonlethal?

11 AARON RICE: I believe that the
12 literature states that it's at least a 50 meter
13 radius outside of the gun before you get out of the
14 lethal zone, but I would want to double-check that
15 number.

16 CHRISTOPHER ZEMAN: Okay.

17 AARON RICE: It's directly under the
18 gun where you have these peak amplitudes.

19 CHRISTOPHER ZEMAN: Right. Why is
20 there such a little dearth of information about the
21 impacts of sound on fish? I mean we've been
22 blowing things up in the ocean for a very long time.

23 I mean I'm sure minerals management
24 survey has been doing that for a very long time.

1 So like why hasn't that research been done?

2 AARON RICE: Great question. I mean I
3 think part of it is awareness. Part of it is
4 interest. Certainly, the discipline of
5 bioacoustics as applied to fish is fairly recent.

6 I mean this whole field of science
7 really took off after World War II when the
8 technology sort of began to get distributed into
9 the civilian realm. So we're looking at a young
10 type of science.

11 So I think now that you have the
12 technology to be able to do these long-term studies
13 in challenging locations, there's an awareness
14 that this is an issue.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Peter, do you have a question?

17 PETER HIMCHAK: Yeah. I mean I find
18 the potential impacts of this to be somewhat
19 frightening. I mean we just went through an
20 exhaustive process to protect river herring
21 resources, and if you're sending one of these off
22 in a 50-mile radius, you could wipe out the remnant
23 of a river herring run.

24 I find that to be -- I think your

1 attitude is very cavalier, a fact of life. And I
2 had one other question.

3 AARON RICE: What? Wait a minute.
4 Cavalier?

5 PETER HIMCHAK: Yeah. It's a fact of
6 life that all these fish are going to die and you
7 could have these subacute exposure impacts that
8 are not quantified either on fine scale, small
9 scale, few individuals. There's nothing
10 quantifiable here. I think this could be
11 devastating.

12 AARON RICE: Oh, it absolutely could.
13 Now, one of the things, too, though, is that what
14 all I'm showing here is what the data show and what
15 data have been reported. I'm happy to take off
16 my Cornell hat and put on my Aaron hat, and we can
17 go talk outside, and I would agree with -- and we
18 could come to some level of agreement about the
19 potential concern. But my role as a scientist
20 representing Cornell is that all I can report on,
21 what did the data shown.

22 As a scientist what I find horrifying is
23 just the lack of information that has been
24 collected. And so it's very difficult to be able

1 to make an inference on what action plan or
2 mitigation plan should be decided on when we don't
3 know.

4 We can make inferences from the data
5 that have been collected to make predictions and
6 inferences about what can happen, but, again, not
7 knowing to me as a scientist is very scary.

8 COUNCIL CHAIRMAN RICHARD ROBINS: And,
9 Pete, we've asked BOEM if they would extend the
10 comment period, and they did. So that will give
11 us an opportunity as a council to work with our
12 staff to develop a letter that we can send in to
13 highlight our concerns about the extent of the
14 project.

15 PETER HIMCHAK: One additional
16 question. I wasn't able to attend the Atlantic
17 City meeting that you had on this. But did the
18 draft environmental impact statement in
19 addressing potential or actual takes, estimated
20 takes on marine mammals come up with a number of
21 138,612 Level A takes over an eight year period?
22 Is that statement in your draft EIS?

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Jill, you want to respond?

1 JILL LEWANDOWSKY: Yeah. I'm over
2 here now. I'll answer that. And really just
3 remember a part of this process is to put this out.
4 We have the request, and we're looking for this
5 sort of feedback. A take is defined in the Marine
6 Mammal Protection Act --

7 PETER HIMCHAK: I know what a take is.

8 JILL LEWANDOWSKY: Okay. You all know
9 what a take is. Okay. When we're looking at that
10 with the mitigation implied, we're not talking the
11 Level A mortality takes. We're talking
12 behavioral disruptions.

13 And the models are made to be
14 ultraconservative. They're conservative inputs,
15 and it's a conservative based model. But we have
16 to have something in order to conduct our
17 evaluation.

18 So this document, the NEPA process is to
19 put the information out there and also to talk in
20 the cumulative effects section about the other
21 things that are affecting fish, that are affecting
22 the chronic noise out there, the commercial
23 shipping, all those sorts of things, so that we can
24 get input on it and can be put in front of the

1 decision maker. And we can be like this is the
2 breadth of what we have, noting where we just don't
3 know.

4 And then that's where the decision has
5 to be made. So however we can educate the decision
6 maker, our director, with all this information the
7 better.

8 PETER HIMCHAK: Okay. And in that
9 vein, one last comment. I would be anxious to see
10 what the take reduction teams had to say during the
11 comment period for the draft EIS. I will look for
12 that.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Well, Jill, I wanted to ask: Was there any thought
15 given to excluding any habitats that may
16 significantly concentrate benthic fish?

17 JILL LEWANDOWSKY: I know there was
18 that evaluation, but there wasn't -- again, on the
19 marine mammal person we had our fish -- the folks
20 who focused on the fish resources, and we had
21 contractors. There wasn't anything that came to
22 the level of needing a closure, such as the North
23 Atlantic right whale, the sea turtle closure area,
24 but that's the point of the process that we're in.

1 What we provided is a preliminary analysis, and
2 we're looking again for that feedback.

3 So, if you have in your minds what good
4 closure areas might be or when areas or certain
5 species need to be avoided and you look at where
6 the activity's going to be and you ensure that
7 there is a cross-over, then we're looking for that
8 kind of feedback. And so there's nothing to say
9 that that could not be included.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
11 you, Jill. I think what we'll plan to do is work
12 through our staff and members to develop a comment
13 letter that highlights our concerns --

14 JILL LEWANDOWSKY: Absolutely.

15 COUNCIL CHAIRMAN RICHARD ROBINS: --
16 and send that in to you. Okay. Thank you very
17 much. I appreciate the presentations. We'll
18 take two more quick questions, and then we got to
19 move on. Rob.

20 ROBERT O'REILLY: It was just the depth
21 treatment there that Dr. Clark showed the deeper
22 areas with sort of the less impact from the sound.
23 Is that something that might be a mismatch with
24 some of the projects that are being presented by

1 BOEM especially the shelf area?

2 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
3 Clark.

4 CHRISTOPHER CLARK: Yeah. In that
5 particular case, the seismic survey was happening
6 in shallow water. So think of shallow water as the
7 surface of this table. Then there's the shelf
8 break, and then there's the deep water.

9 So the middle of this room is the deep
10 water. And the vessel is surveying here. All
11 right. So the sound from that hammer is not
12 propagating very effectively until the ship gets
13 out near the shelf break. If it gets to the shelf
14 break, that sound will actually come, go down,
15 bounce off the shelf and go right into the water.

16 So that map you saw is very indicative
17 of where the vessel was. It was up on a shelf in
18 shallow water. Now, as soon as it goes into deep
19 water, it illuminates the whole area.

20 So you have to think of this as a very
21 loud acoustic strobe that the footprint of that
22 strobe depends upon whether it's up on the shelf
23 -- am I in the attic and some of it's getting down
24 into the living room, or am I in the living room?

1 Do you see what I'm saying?

2 ROBERT O'REILLY: Yes.

3 CHRISTOPHER CLARK: And the other
4 feature of that is the color of strobe, what
5 frequencies are being emphasized change quite a
6 bit. But by and large the majority of the energy,
7 over 90 to 95 percent of that energy is all in the
8 low frequency band right on top of the fish that
9 Aaron showed you. All right.

10 You produce low frequency energy
11 because you're trying to propagate the energy into
12 the earth as far as you can go.

13 ROBERT O'REILLY: Thank you.

14 CHRISTOPHER CLARK: And, sir, Peter, I
15 apologize if I sound cavalier. I am not trying to
16 project cavalier. This to me is very, very
17 serious. Okay. And what I was trying to get
18 across was the time scales and the spacial scales
19 over which these kinds of actions propagate
20 through an ocean habitat.

21 And we now have the mechanisms --
22 recently only just a month ago or less we actually
23 had a workshop where a group of us putting the
24 mechanisms to be able to show you these dynamics.

1 We finally started to do that. Now, what's the
2 impact on the ecosystem? What's the impact on
3 species X, Y, and Z?

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Chris, any final word?

6 CHRISTOPHER ZEMAN: This is a question
7 of both you and also NOAA. In terms of what are
8 the plans to sort of improve our level of
9 understanding of this? This must be happening
10 routinely.

11 Why isn't BOEM or NOAA doing experiments
12 and observations on a small scale so when one boat
13 is going with an array or actually trying to learn
14 -- to see the overall impacts, why isn't that being
15 done? Is that being done here as part of this
16 proposal, or you just have no plan to even at this
17 point in the game --

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Jill.

20 JILL LEWANDOWSKY: Yeah. I think
21 there's a little -- that's okay -- there's a little
22 blurb being made. Yeah. Chris is completely --
23 although I interact with him and Aaron on many of
24 these, he's completely separate from the federal

1 government. I think gladly probably.

2 So, yeah. But yet I know sort of what
3 he has in his presentation, so I sort of
4 accommodated mine around his. The question
5 being, yes, there's been a lot of study. BOEM has
6 sponsored millions of dollars. I think over the
7 last -- you know, 30 years it's been somewhere in
8 the forty million dollar range. That's just
9 protected species. And a lot of that has gone into
10 information to look at this issue.

11 I think when it first came to sort of the
12 federal light, the focus has been on marine
13 mammals. Anytime you have to do a study that
14 requires -- you know, working in the marine
15 environment I think everyone here knows that it's
16 very expensive. We try to partner. But our
17 resources have gone towards marine mammals.

18 Now that we are operating, generally we
19 are approving seismic in the Gulf of Mexico. A
20 smaller scale gets approved up in the Arctic. And
21 now the Atlantic is being considered. Those are
22 the only area where we're doing approvals.

23 And like I said, in the Gulf of Mexico,
24 things sort of -- both the fishing industry and the

1 oil and gas industry have sort of evolved together.

2 So up in the Arctic, there's not really
3 a whole lot of commercial fisheries, and now that
4 we're considering the Atlantic, it's just more on
5 the radar now. It's not that money hasn't been
6 spent. It's just that the concern was with marine
7 mammals, and this is the same for every federal
8 agency, and now we're seeing that we've got to
9 expand that scope to look at other species.

10 So there are plans. We hosted a
11 workshop. That alone is a few hundred thousand
12 dollars. Out of that's going to come a list of
13 study needs. We've already shared some of that
14 with the joint industry program on sound and marine
15 life.

16 So it's an industry program that's just
17 dedicated towards trying to better address sound
18 impacts. So there will be a lot more coming out.
19 In time for this decision? No. That won't happen
20 before this decision comes online.

21 Following this if the director were to
22 choose an option to consider allowing oil and gas
23 exploration, we would have a project, a specific
24 NEPA that would be done, and in that case we would

1 also do the EFH consultation. We would check in
2 on the ESA.

3 Whatever information may develop at
4 that point we would consider in that analysis.
5 But, yeah, what has been presented here is going
6 to be the state of knowledge when this decision is
7 made.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Jill, Aaron thank you very much for the
10 presentation, we appreciate it. We will be
11 submitting comments to BOEM on this issue.

12 Our next presentation is Greg
13 Capobianco from New York Department of State.
14 Greg has a brief presentation on New York's
15 offshore planning. We also have a monkfish
16 issue. There's essentially one question.
17 I think Jim Armstrong will present that after
18 that.

19 And then we've got about 20 people
20 waiting for us online for our listening session.
21 So I want to try to get through both of these fairly
22 quickly. My apologies to those who are waiting,
23 but we have been running over today, so we'll try
24 to get to these expeditiously. Greg, welcome.

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STATUS OF NEW YORK'S OFFSHORE PLANNING

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GREG CAPOBIANCO: Thanks, Rick. I appreciate it. Is the presentation up, or is it still loading? While that's getting figured out, I just want to thank the Council for making some time on what's clearly a very busy and intense agenda today.

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And actually it was really valuable for me to sit in, listen in and have a new appreciation for the work that you all do. But thank you to the Council. Thank you to Rick for helping me out to get a spot and Jim Armstrong also for some of the logistical help. Really appreciate it. So how are we all doing? It's a pretty long day. I only have 72 slides. I'm only kidding. I have 12 slides, and I'm going to shorten the talk and leave some room for questions.

19

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So, if it sounds brief, it's intentional because it's been a long day. And what is it, after five already? So let's move forward. And I'll just try to give you a brief rundown.

23

24

Just so we all know, I did speak in Virginia to the Council at the Ecosystems

1 workshop, and at that point in December 2010, I
2 sort of let folks know where we were going and what
3 we were planning to do.

4 And I think we've made good on most of
5 what we asserted that we were planning to do and
6 I just sort of catch you up. This is really a
7 necessary coordination item that we're going to do
8 today.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Greg.

11 GREG CAPOBIANCO: Yes.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Pull
13 the microphone a little bit closer.

14 GREG CAPOBIANCO: Okay. Okay now?
15 Better? Let me slide this over because I'm going
16 to be -- here we go. So basically we're
17 undertaking an offshore planning process. We're
18 trying to be as rational as possible with the
19 approach that we're taking, and we're calling the
20 effort an Atlantic Ocean amendment, but what we're
21 really trying to do is amend our coastal management
22 program under the CZMA authority that we have to
23 do so.

24 That will result in a few products that

1 will hopefully strengthen our ability to make
2 sounder and smarter decisions on activities taking
3 place offshore, proposed offshore, that affect our
4 coastal resources.

5 And I'll get into some details on that
6 a little bit later. But just very briefly our
7 authority for doing this planning is the Coastal
8 Zone Management Act.

9 I work for the Coastal Management
10 Program. The Coastal Management Program in New
11 York State is housed in the Department of State.
12 I've been with the Department for 22 years, and we
13 have a pretty rigorous coastal management program
14 with a lot of activities and, as you can imagine,
15 in many different places because: we have the
16 marine coast, we have the harbor, we have the
17 Hudson River tidal estuary up to the Albany Dam,
18 we have the Great Lakes and St. Lawrence River and
19 Niagara River. So it's very diverse, very wide
20 ranging. Really, the purpose is twofold. We
21 have been saying this from the get-go. We're
22 trying to get ourselves in a position to most
23 responsibly site if feasible offshore renewable
24 energy in our ocean and have a role, a mini role

1 in doing so and to also identify and protect those
2 ocean areas important to New York's industries,
3 clearly fishing areas being one of those.

4 Just to get you in a context frame of
5 mind here, this is a map that's showing some
6 current state ocean planning efforts. So the New
7 Jersey effort in the green, the Rhode Island SAMP
8 in the purple, and the Massachusetts ocean plan in
9 whatever that is -- red up around Massachusetts
10 state waters.

11 And in the center the white area is
12 our offshore planning area extending from about
13 1500 feet offshore to the Continental Shelf edge,
14 about 16,000 square miles in size. So just to give
15 you a sense of what other states are doing.

16 I will briefly just tell you that part
17 of the reason we went with such a large area was
18 -- you know, we realized as we were jumping into
19 this, if we're going to be going through the pain
20 and effort of collecting all of these data and
21 trying to make sense of these data, let's do it for
22 a large area and try to be a little forward looking
23 about things as they may unfold in the future.

24 So this is the take-home slide. I'm

1 going to run through a lot of these others quickly,
2 but this is what we're doing. This is what we're
3 delivering.

4 We've got four basic deliverables that
5 we're trying to get out of this work. We want to
6 be able to identify potentially suitable offshore
7 wind lease areas. That is, we want to be in a
8 position after the analysis that we're currently
9 undertaking is completed, and we share it out with
10 you all and many other stakeholders and the public.

11 We want to be able to identify lease
12 blocks that New York says: BOEM, we'd like you to
13 seek interest in these lease blocks. And by doing
14 so, those lease blocks are going to be the lease
15 blocks that make sense to New York State, that are
16 respectful of some of the potential conflicts or
17 existing uses or planned uses across all the
18 sectors: navigation, fishing, recreation,
19 etcetera. The second is to identify offshore
20 habitat areas and ocean use areas that are
21 important to our state's industries. So what
22 we're doing is we're looking at a colossal amount
23 of data, mostly federal in nature. It's a long,
24 long data list, and I won't go into it now.

1 But we're basically looking at the best
2 available data that's out there and trying to
3 understand where some hot spots might be based on
4 various taxa and trying to stack occurrences of
5 some selected fish species but certainly
6 cyrtations (phonetic), turtles, corals, and some
7 of the oceanographic features that are occurring
8 in various places in the planning area.

9 The third thing and the most important
10 thing from my perspective as a Coastal Management
11 Program staff person is we're basically
12 undertaking this work so that we can modify our
13 policies, and that's what we're going to be back
14 to NOAA with.

15 We're going to be going back to NOAA with
16 some modifications to the policies that we use to
17 base our decision making on. And remember that
18 CZMA in some ways is the only game in town for
19 states to have some level of say or some input into
20 what happens in waters beyond three miles in
21 federal waters, particularly if those activities
22 are going to be affecting the state's coastal
23 resources. So this is sort of the centerpiece and
24 the important thing from a decision making

1 standpoint. And lastly, we're going to make all
2 these data or many of these data as appropriate
3 available on our Ocean and Great Lakes Atlas, which
4 is a web-based mapping application.

5 And I think it's pretty exciting. I
6 mean I know there's a lot of portals and there's
7 a lot of data out there, but I think what we have
8 amassed is pretty interesting and pretty exciting.
9 It will be great to have that information available
10 to the public.

11 So real quick on the status of where we
12 are. George Stafford, my boss, and myself back in
13 March 2010 I think we did 55 briefings with all
14 sorts of stakeholders from legislators to elected
15 officials to folks such as yourselves and many
16 other users and interests regarding New York's
17 offshore area.

18 We've been collecting and amassing a
19 huge amount of information including
20 infrastructure, biological, geological and
21 physical data relying on those existing data with
22 really two exceptions.

23 One is we have created a new ocean use
24 information or a new ocean use database that we

1 generated ourselves, DOS staff and with the help
2 of NOAA's Coastal Services Center folks where we
3 brought together -- and I'll touch on some details
4 later -- but we basically put together an offshore
5 use map through a participatory GIS process.

6 And the second thing that we are
7 generating is pretty intensive commercial fisher
8 and boat-for-hire captain consultations where we
9 have secured the help of our good friends at
10 Cornell Cooperative Extension out in Suffolk
11 County who the fishermen in New York told us they
12 would speak with and they trust some of the
13 leadership in the fisheries marine resources
14 section there.

15 So we put together an agreement with
16 Cornell to reach out to the commercial fishers and
17 boat-for-hire captains to go through the same kind
18 of participatory GIS mapping process
19 understanding where folks are fishing, what
20 they're doing. And this was across six ports,
21 multiple gear types, multiple fisheries.

22 I think it's been a very productive
23 process. We're about to wrap up this first phase
24 of the discussions with aggregate maps similar to

1 what you might remember seeing in the Rhode Island
2 SAMP about where folks are doing what in the ocean
3 from a fishing standpoint. One hundred three
4 folks gave us data and very detailed data, so we
5 have maps that are going to be put into GIS format
6 -- they currently are actually in GIS format -- and
7 a lot of attribute data that goes along with those
8 polygons.

9 So it's been a terrific effort, a lot
10 of data organization and synthesis in process.
11 The big things right now that we're wrapping up are
12 developing our siting
13 criteria. And there's really sort of two pieces to
14 that. There's a baseline criteria piece and a
15 compatibility assessment.

16 The baseline criteria you could think of
17 as what are the real can't-go-there constraints;
18 what are the real problem areas that we just need
19 to stay away from these areas for obvious reasons.

20 And the more tricky part is the
21 compatibility assessment. We tried real hard to
22 come up with a very nice methodology of coming up
23 with a cute table or a cute way of sort of boxing:
24 if you do this in this area, these are going to be

1 the effects, and these are the concerns or the
2 mitigation issues you need to be looking at. And
3 it just wasn't working for us. We just did not
4 find it practical. So the approach we've taken --
5 I'll talk to a little bit further down here -- is
6 a compatibility assessment process where we've
7 based on locations within our planning area we have
8 developed a very intensive set of questions that
9 we will be at the ready to ask based on various
10 proposed uses, which I think at this point based
11 on existing information and knowledge is a big step
12 up from where we were.

13 So we're going to get away from the
14 reactive when someone proposes something -- oh,
15 jeez, what do we ask; what do we do -- and be very
16 prepared with questions based on data analysis and
17 data gaps.

18 We are going through our analysis and
19 getting ready to begin identifying our potential
20 lease areas. And the last step in this process
21 once we get through our work with stakeholders and
22 the public this summer, is going to be to submit
23 this to the feds for approval, to OCRM at NOAA for
24 approval.

1 So I'm going to run through basically
2 the baseline criteria initial exclusion areas.
3 Really, I'm going to shortcut the slides, but based
4 on known and expected use constraints, so
5 navigation lanes, disposal sites. And I put a 12
6 nautical mile buffer in there. At this point
7 we're not sure exactly what it's going to be, 12
8 or 15, but what we have heard loud and clear from
9 communities across Long Island shoreline is people
10 do not want to see wind farms, so we are looking
11 at providing some kind of buffer from at least a
12 state policy perspective. We don't want to see
13 proposals closer than 12/15 miles, what have you.

14 This is sort of a telling map that sort
15 of shows you what some of the analysis, the basic
16 baseline criteria analysis shows. So this orange
17 line that you see squiggling out is the 60 meter
18 depth contour.

19 The green, greenish-yellow areas are
20 disposal sites. And you can see the navigation
21 lanes grayed in there. So you start to see if 60
22 meters is the current depth limitation for
23 technologies in terms of putting the jacketed
24 footings in place in order to support wind

1 turbines, you can start to see where the potential
2 locations might be for siting a wind farm now.

3 Now, again, technology is changing
4 rapidly, and this is a very long regulatory process
5 when and if a proposal comes through and starts to
6 get some juice, so it's quite possible that
7 technology will change and push that 60 meter
8 contour back. But at this point in time, you can
9 sort of see where in our planning area it's
10 possible.

11 And actually, you can refine what you're
12 seeing if you just put in another factor, which is:
13 you've got to be able to connect to sources, you've
14 got to be able to connect to the grid, you have to
15 have load centers to bring the power to. So that
16 starts to put more emphasis on those western areas
17 that you're looking at on this map.

18 So this is just a quick
19 run-through of what I essentially said earlier. I
20 won't dwell on it 'cause we're tight for time, and
21 I want to answer questions and make sure you guys
22 have some questions answered that you want to ask.

23 But essentially, the idea of
24 identifying questions to access compatibility

1 with known resources seems to be making a lot of
2 sense to us and our partners as we're putting
3 together this document that we're going to be
4 coming out with sometime in early July that
5 basically runs through the analysis that we've
6 done and the proposed changes that we are going to
7 be making to our Coastal Management Program
8 pending NOAA's approval. And I'll stop there with
9 this because I've touched on a lot of this. The
10 new data set that we created was a very interesting
11 process.

12 We have really about three or so staff
13 working on this at the Department of State, and we
14 were unable to secure any additional financial
15 assistance to do this work, so we basically
16 undertook it ourselves, and it did go really quite
17 well.

18 What we ended up doing was talking with
19 sort of key leaderships at the cross sectors
20 including representatives of 29 organizations of
21 ocean users.

22 Now, this is exclusive of the commercial
23 and boat-for-hire guys because we're doing that
24 separately with Cornell, as I mentioned to you

1 earlier, with cooperative extension folks.

2 But we basically got them to come. We
3 essentially gave them a bunch of paper maps, went
4 through a mock participatory GIS exercise and
5 asked them to go back to their constituencies and
6 tell us where they're using the ocean: what are
7 they doing; where, when and how are they using the
8 ocean. It was kind of a gamble. We didn't know
9 what we would get back. We got back 130 data sets
10 which I think is it's not everything, but it's
11 really quite representative of who's doing what,
12 when, and where in our ocean. And we have that now
13 compiled in a GIS format connected to the tagler
14 attribute data.

15 So it was a really very interesting
16 process, and I think quite successful really on a
17 nickel. We didn't spend any money doing it.

18 And just a quick run-through then on the
19 biological data. A lot of our analysis work based
20 on existing data sets corals and sponges, sea
21 birds, marine mammals, sea turtles.

22 And right now between the commercial and
23 boat-for-hire data that we're going to be getting
24 from the cooperative extension folks and the VTR

1 and VMS data, which is on its way to us, we'll be
2 looking at that as well.

3 I'm running through this quickly. I
4 should say that I think in the packet the abstract
5 that was in there was essentially the executive
6 summary of work that was done by the biogeography
7 branch at NOAA's National Center for Coastal and
8 Ocean Science. And if you haven't seen this work
9 that they've done -- and I'll pass around a
10 volume. These maps that are up here are from this
11 document. But basically, the NOAA folks just sort
12 of dropped out of heaven and helped us with this
13 pro bono to sort of organize the seabird data that
14 was out there and make some sense of it and create
15 a vetted, strong, predictive analytical tool for
16 where seabirds are across our planning area.

17 So I'll pass this around. I think it's
18 a terrific piece of work. And we're very much
19 thankful to the support that they gave us for this.

20 This map that I'm putting up here is just
21 a seabird species richness by seasons. And I'm
22 not going to analyze it or infer anything, but you
23 can sort of see sort of heat map styles, so higher
24 richness in the darker reds, less in the blues.

1 And you can see in the spring maybe
2 that's indicative of some migratory patterns.
3 There's certainly a lot of activity sort of
4 condensed across the center of our planning area
5 as opposed to the summer and the winter images. So
6 let me just run down next steps, and I'd be happy
7 to answer any questions. We are really in the
8 final throws of organizing all of this work, and
9 I wish I could show you more. I was hoping that
10 by the time this conference came around we would
11 be in a position to be ready to go public with the
12 work we've done. We're not yet, so I can't go too
13 far with you.

14 But what we're planning to do is to
15 continue wrapping up our analysis, continue with
16 our policy refinements and guidance which are
17 close to completed, and then we are hoping to get
18 the green light to go out with this early July, and
19 we'll probably go through a full two months of
20 public meetings and stakeholder briefings and try
21 to solicit as much input as we can to make some
22 refinements before we actually submit it to NOAA
23 OCRM for approval sometime in the fall at which
24 point through the NEPA process they'll be at

1 another window of opportunity for public comment.

2 I guess I will end there, and I'd be
3 happy to take any questions. I know I ran through
4 it quickly, but it's awfully late, so.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Greg, thank you very much for the update.

7 GREG CAPOBIANCO: Sure. You're very
8 welcome.

9 COUNCIL CHAIRMAN RICHARD ROBINS: It
10 sounds like the participatory mapping exercise
11 with the fishing industry had a favorable
12 response. So it sounds like you've gotten off to
13 a good start with that.

14 GREG CAPOBIANCO: It did. I think the
15 lessons there are, well, (a) clearly it's this idea
16 of the sectors and who's got real skin in the game,
17 and clearly the commercial fishers and the
18 boat-for-hire folks have skin in this game, and you
19 need to recognize that and honor that, and you need
20 to have some folks available that they trust that
21 they want to talk to.

22 I was told by some fishermen they don't
23 want to talk to a bureaucrat in a suit, and that's
24 fine; I get that. But the process has been I think

1 very valuable. And you know, from a Mid-Atlantic
2 fishery management perspective, I'm hoping some of
3 the things that we've done in New York are going
4 to serve -- yo know, at least something to build
5 off of, if not -- I hate using the word serve as
6 a model or the phrase. But I think we've done some
7 very good work.

8 I think, and I am hopeful -- and we talk
9 every week the MARCO states, the Mid-Atlantic
10 Coastal Program folks that are essentially
11 marshalling MARCO forward. I think there's a lot
12 of synergy to be found in trying to have the other
13 states at their pace and their capability based on
14 funding to sort of do something similar. At the
15 end of the day, we want something seamless across
16 the region, obviously.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Sure. Are you getting access to other data sets
19 for fisheries that you need? I know in the MARCO
20 presentation we've had before, there have been
21 some VTR overlays and a little bit of work with some
22 VMS data.

23 GREG CAPOBIANCO: Right.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Are

1 you consulting with the regional office to try to
2 get whatever --

3 GREG CAPOBIANCO: Yeah. The Northeast
4 Fishery Science Center has been just unbelievably
5 helpful. They've given us -- actually given us
6 the data, and then we've gone back to them several
7 times John Fogharty and Brian Gamble and asked
8 them: Hey, this is what we're doing with the data,
9 this is how we're ramping it, this is what how we're
10 looking to display it and interpret it; does this
11 make sense to you? So we've been pretty careful
12 about that. But, yes, we've had pretty good
13 access to the information.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Well, Greg, thanks again. Other questions for
16 Greg? Greg, thanks for doing this on an expedited
17 timeline. I appreciate it.

18 GREG CAPOBIANCO: You're very welcome.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Thanks for coming and making the presentation.

21 With that I'll go to Jim Armstrong.
22 Behind Tab 6 we have one monkfish issue that
23 came out of the recent New England meeting.
24 They had made a motion to take one of the

1 options out of Amendment 6. I think we ought
2 to have a brief discussion on it.

3 And I'll look to Jim as soon as he's
4 hooked up there, and then we'll cut over to our
5 listening session with Jon Hare from National
6 Marine Fishery Service on the effects of climate
7 on fisheries resources in the
8 Mid-Atlantic.

9

10 MONKFISH AMENDMENT 6

11 JAMES ARMSTRONG: Okay. Thanks. My
12 boss told me I've got about five minutes to get your
13 guys primed for this, so I will try to achieve that.
14 This is a proposal that came up at the New England
15 Council meeting in April for Monkfish Amendment 6
16 when just a status report on progress on the
17 amendment was being conducted.

18 At that council meeting the proposal was
19 to remove ITQs from the amendment to continue to
20 develop it but absent a consideration of ITQs.
21 The issues that are currently under consideration
22 for amendment six which was introduced and scoped
23 as a catch shares amendment are to explore under
24 catch shares both sectors and ITQs. Also the

1 Committee has charged the PDT with exploring
2 alternatives relative to modification of the
3 current days-at-sea system. And then one of the
4 issues that's come up is the RSA allocation, and
5 so that's on the list as well.

6 So the proposal is to remove ITQs. It
7 was made by Jim Odlin and seconded by Glen Libby.
8 That rationale is that progress on the amendment
9 is slow and has been slow, and it would speed up
10 progress on the amendment if the issue was removed
11 both in terms of the time required for document
12 preparation as well as the overall timeline since
13 ITQs unlike the current interpretation of sectors
14 would trigger the referendum requirement. So
15 that would in and of itself would add time.

16 It was further stated that the fishery
17 could still be improved through the remaining
18 issues. Just to elaborate a little bit on what
19 those remaining issues would be if ITQs are taken
20 out, under modification of the current days-at-sea
21 system, some of the approaches that the plan
22 development team is exploring is use of groundfish
23 days at sea, different allocation for Category F
24 or offshore vessels, the use of allocation of

1 days-at-sea to address latent effort, the
2 elimination of the H permit, folding that in with
3 the A and B permits, and then allowing days at sea
4 leasing. Under sectors the approaches that are
5 under consideration are either to integrate
6 monkfish into groundfish sectors somehow or to
7 create monkfish sectors.

8 And under RSA, basically what would
9 happen is rather than a cumbersome
10 days-at-sea-allocation approach that's currently
11 used -- I actually don't understand it too well
12 myself, so I can't explain it -- but the set-aside
13 would occur after determination of the ACT. So
14 that's an approach there.

15 The options before the Council today
16 then in response to this would be to take action
17 or not to take action. If action is taken, then
18 that could be in support of removing ITQs from
19 consideration in Amendment 6, which wouldn't take
20 them off the board forever. It would just for the
21 purposes of moving this amendment forward.

22 But the other action that could be taken
23 would be to endorse retaining ITQs in the
24 amendment. So those are the options, and that's

1 my presentation.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
3 thank you. Thank you for doing that. When I
4 learned of this, I had a couple of initial
5 concerns, and one was the fact that if ITQs were
6 in fact taken out of the amendment, then the only
7 allocated option left in the amendment would be
8 sectors. It just seems to me that based on the
9 conversations we've had in the Mid-Atlantic, we
10 really haven't heard support for sectors.

11 The other concern just in the sequencing
12 of how we've approached this amendment is the fact
13 that we had talked about trying to have a workshop
14 to really spend time and slow down and understand
15 all the unique aspects of the southern management
16 area's fishery, it's history and development, the
17 unique ways in which the catch was perhaps more
18 constrained and managed differently in the
19 southern management area than it was in the
20 northern management area and the extent to which
21 that might disadvantage fishermen in our region
22 under an allocated model and to try to develop some
23 solutions to that but also consider more broadly
24 what the problems are and potential solutions.

1 So it struck me as a little bit premature
2 if in fact we're going to go down that road. But
3 I'd like to hear from the committee. I mean those
4 were just some initial thoughts when I first
5 learned of it. Laurie.

6 LAURIE NOLAN: Thank you, Mr. Chairman.
7 A bunch of notes I have here including the
8 workshop. First, I'll just back up to the fact
9 that we've got an AP that's extremely engaged in
10 this FMP, members from the North and the South.

11 If we're going to start revamping the
12 list of options, I think they should be included
13 in that discussion. So, if we're going to
14 consider -- you know, tearing this thing apart and
15 taking options out, I think it's very important
16 that we sit down as a committee with our AP and go
17 through the process and decide if that's really
18 what we should do at this point.

19 You mentioned the workshop. I know
20 industries was extremely excited and -- you know,
21 looking to involve themselves in that workshop
22 process. Not only the APs but other industry
23 members would come to the table to flush out what
24 works for them and what doesn't work.

1 We have the sturgeon issue on the table,
2 which has really taken priority over Amendment 6
3 in many of their minds to the point where they want
4 to see the outcome of that before they commit to
5 where they want to go in Amendment 6 anyway. So,
6 if we're going to consider revamping the list of
7 options in Amendment 6, I don't think it would be
8 wise for us as a committee to take action on that
9 today but to engage the AP, the committee as a whole
10 and discuss it there. I just don't feel
11 comfortable at all moving forward like that.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you, Laurie. Peter.

14 PETER HIMCHAK: Yes. Thank you, Mr.
15 Chairman. And on this Monkfish Committee, I mean
16 I've always felt the tension between the northern
17 and southern management areas over the last three
18 years or more.

19 And personally, I don't like the
20 strategy of doing a piecemeal dissection of an
21 amendment. I think we need to make a statement
22 here today that -- I don't care what further action
23 the New England Council takes on this next week,
24 but we should take a statement today I mean not to

1 -- you know, start talking about options coming out
2 of Amendment 6 or whatever, but we should insist
3 that the Joint Monkfish Committee meet with the
4 advisors before we start talking about removing
5 any single issue out of Amendment 6. This fashion
6 I find it very distasteful.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you, Peter. Other comments? Steve.

9 STEVEN SCHAFER: Yeah. Thank you, Mr.
10 Chairman. Having attended all of the scoping
11 hearings throughout the region, it was unanimous
12 amongst those who came that sectors are not an
13 option.

14 And also, there was expressed desire for
15 a very deliberate process, and both of the things
16 that you mentioned in your comments with regards
17 to what's going on in the North circumvent both of
18 those ideas.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Okay. Other comments? I guess is there's not
21 objection, I would suggest that we communicate
22 back to New England the fact that we wouldn't
23 support taking them out now and that we would
24 recommend further dialogue between the Committee

1 and the AP before any other changes are made.

2 And I would also suggest that we
3 continue to work at the staff level to try to
4 coordinate the workshop that we've been talking
5 about now for some time. That had been put off for
6 a while while some analysis was being done I
7 believe by the New England staff. But it seems to
8 me we need to get that back on track. Is there any
9 objection to proceeding in that manner? All
10 right. Seeing none, we'll do that. Thank, you
11 all. And, Jim, thank you for the update.***

12

13 WHEREUPON:

14

15 THE MEETING WAS SUSPENDED AT 5:52 P.M.

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

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

In witness whereof, I have set my hand and Notary Seal this 28th, day of July, 2012.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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Pages: 1-198

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

COUNCIL MEETING

12-13 JUNE 2012

at

Hilton New York
1335 Avenue of the Americas
New York, NY 10019

WEDNESDAY JUNE 13, 2012

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS	
RICHARD ROBINS	3
MACKEREL, SQUID, BUTTERFISH AS A COMMITTEE OF THE WHOLE	
JASON DIDDEN	5
Illix Squid	6
Loligo Squid	8
Motion - Accept Regulatory Changes	
Laurie Nolan	13
Approved by Consent	14
Mackerel	14
Motion - Recommend 1b	
Laurie Nolan	48
Vote - (pass)	55
Motion - 3 Year	
Laurie Nolan	57
Vote - (pass)	57
Butterfish	58
Motion - Option A	
Laurie Nolan	111
Vote - (pass)	114
Motion - Specifications to NMFS	
Laurie Nolan	118
Approved by Consent	119
VISIONING AND STRATEGIC PLANNING	
MARY CLARK	129

1 [8:05 a.m.]

2

3

INTRODUCTIONS AND ANNOUNCEMENTS

4

COUNCIL CHAIRMAN RICHARD

5

ROBINS: Good morning. let's go ahead and take our

6

seats, so we can get started. I'd like to welcome

7

everybody to the Council meeting. Jason, are you ready

8

with the specifications presentation?

9

JASON DIDDEN: Yes.

10

COUNCIL CHAIRMAN RICHARD ROBINS:

11

Okay. Before we get into that, Dr. Moore is

12

going to have a couple of announcements.

13

Today we're going to be running through the

14

butterfish, squid, and mackerel

15

specifications process. We have a good

16

situation there that we haven't had in a long

17

time. The SSC has done a lot of work that

18

benefited from a quite extensive analysis

19

that was done by Dr. Paul Rago and Tim Miller

20

at the Northeast Fishery Science Center, and

21

as a result of that work we're looking at a

22

new set of circumstances on butterfish

23

whereby the ABC has improved significantly

24

over past values. So we have some new

1 something that we've talked about before.
2 One of the things that we found out in our
3 visioning project was that a lot of the folks
4 out there didn't know who their council
5 members were. So one of the ways that we
6 thought we'd approach that is with these name
7 badges. I'm trying to figure out how best to
8 deal with this in the sense that probably if
9 we let you take these home, we won't see them
10 at the next meeting, so what we plan to do is
11 pass them out at the beginning of each meeting
12 and then collect them at the end of the
13 meeting. Okay. That's it. Thank you, Mr.
14 Chairman.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Thank you, Chris. And with that we'll go
17 ahead and turn to Jason Didden to start the
18 specification presentation. Jason.

19 _____
20 MACKEREL, SQUID, BUTTERFISH AS A COMMITTEE
21 OF THE WHOLE

22 JASON DIDDEN: Thank you. My
23 plan was to go through the squids first, illex
24 first. Recall last year you set the illex

1 specifications for three years. But I just
2 wanted to kind of quickly review where we
3 stand.

4 This up on the screen now is the
5 fall illex survey. The 2011 number was down
6 from 2010 but within the range of kind of
7 variation that's been seen. That's number
8 per tow, weight per tow is about even. And
9 catches were up a little bit in 2011 from
10 2010. Again, kind of within the approximate
11 range of the last few years.

12 So, again, the ABCs were set by
13 three years by the SSC subject to positive
14 review. They saw no need to change that this
15 year. They are setting the regs for three
16 years. I just wanted to review that. If one
17 has questions or thinks there are any
18 outstanding issues with illex that need to be
19 addressed, we could do that now, or I'll move
20 on to loligo.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Why
22 don't we go ahead and discuss that now on the illex.
23 So, are there any questions, or is there any desire
24 to take any action on the illex compared to what

1 it was last year? Laurie.

2 LAURIE NOLAN: I have none. I'm just
3 wondering do you need a motion that says we're
4 going to stick with status quo? Jason says no.

5 COUNCIL CHAIRMAN RICHARD ROBINS: The
6 status quo does not require an affirmative action,
7 to the best of my knowledge. Is that correct,
8 Jason?

9 JASON DIDDEN: I think so. We're all
10 set since we're under three-year specs. Right?

11 COUNCIL CHAIRMAN RICHARD ROBINS: So
12 this is our opportunity for review. If there is
13 a desire to make any modifications, I'll look to
14 the Council to recommend those now, and if not,
15 we'll take no action. Does the Council want to
16 take any action? Seeing none, go ahead, Jason.

17 JASON DIDDEN: Okay. On to loligo.
18 So for loligo these are the fall indices. Number
19 per tow and weight per tow down a bit from the
20 previous years, again, not out of kind of the
21 standard variation that's been seen. Spring
22 index numbers again they're up a little bit from
23 2010 to 2011 but nothing overly drastic number per
24 tow.

1 Weight per tow for landings. Landings
2 were up a bit in 2011 compared to 2010 but nothing
3 overly drastic from the previous years. The one
4 thing that I will note that was in the staff memo
5 is that the region -- there are a couple things in
6 the staff memo and then one or two things
7 otherwise.

8 So right now loligo trips have to notify
9 with a 72-hour notice, and that has been reported
10 by fishermen to be burdensome. And specifically,
11 loligo trips are short trips, so they're having to
12 kind of continuously notify that they want to go
13 out because they're not quite sure when they're
14 going to go out, and that also creates kind of a
15 burden on the observer program 'cause they're
16 getting all these notifications in.

17 Observer program has said that they can
18 live with 48 hours, and so that could be one change
19 that could be made would be changing that longfin
20 squid notification from 72 hours to 48 hours.
21 Some other things that the regional staff noted was
22 that right now the butterfish cap closes at 80
23 percent of the Trimester 1 quota. And one
24 possibility is you get to like right at the end of

1 the trimester, you still have a 20 percent buffer,
2 but then you close with a few days or a few weeks
3 left. That really may not make a lot of sense.

4 And the same thing is true on the squid
5 side of things. For Trimester 1 right now it
6 closes at 90 percent, but you could be at the last
7 day of the trimester or the last week and close
8 really unnecessarily; and there are rollovers from
9 trimester to trimester, so even if you went over
10 a little bit, there's no biological issue here.

11 So the region said if you make it to the
12 last two weeks -- essentially, like in Trimester
13 1 that's April 15th or in Trimester 2 August 15th
14 -- it may make sense to bump up that closure buffer
15 threshold from 90 percent to 95 percent to avoid
16 that kind of really unnecessary closure in the last
17 two weeks of a trimester.

18 So those are kind of four regulatory
19 changes that came out of the Monitoring Committee
20 meeting. Again, the NERO staff kind of recognized
21 some stuff that was going on as the specs were being
22 implemented and closures were occurring. I would
23 support them. I think they make sense. They
24 should reduce confusion and kind of unnecessary

1 things happening. So if anyone has questions on
2 those issues, I'll stop now, or if you want to take
3 action.

4 COUNCIL CHAIRMAN RICHARD ROBINS: And I
5 would suggest if we're going to address those, we
6 go ahead and do it now. We did hear quite a bit
7 about the observer notification period.

8 The 72 hours is a significant
9 inconvenience and burden I think on the fleet.
10 So, if we're able to improve that to 48 hours, this
11 is the opportunity to do it. Also, if the Council
12 wants to consider modification of those closure
13 triggers. Laurie.

14 JASON DIDDEN: Excuse me. Just one
15 thing. The name tags do not use with pacemakers.
16 Anyone has a pacemaker would not want to use these.
17 These are very strong magnets.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you.

20 LAURIE NOLAN: I won't wear mine.
21 Okay. Well, I would certainly move that the
22 Council support the four changes listed under
23 longfin squid that Jason just walked us through.
24 The chairman touched on the 48 hours. The closure

1 that occurred just this past April 17th in the end
2 turned out to be unnecessary. This would help
3 alleviate that issue and could do the same for
4 August. And as Jason said, there's rollover
5 provisions, and biologically it doesn't interfere
6 with the status of the stock.

7 And then I just have one other question
8 related to rollovers to perhaps George that I would
9 just like to touch on just because we're on this
10 topic now.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Okay. Do you want to go ahead and take up
13 potential changes, or do you want to ask your
14 question of George?

15 LAURIE NOLAN: Well, with George I'm
16 just wondering right now the industry is hoping for
17 a rollover from what was left in the Trimester 1
18 that would be distributed to Trimester 2 and
19 Trimester 3. They're having a successful squid
20 season, and I'm wondering if that rollover is
21 expected to happen soon?

22 AJA PETERS-MASON: Yeah. We got the
23 final numbers from our monitoring group recently
24 and we're going to send out letters soon announcing

1 that the rollover will occur. So, yeah, that is
2 in the works.

3 LAURIE NOLAN: That is really terrific.
4 The industry will appreciate that tremendously.
5 And then do you need a motion to these four points?

6 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.
7 Do you want to read it into the record, please.

8 LAURIE NOLAN: Move to accept the four
9 regulatory changes discussed on page two of the
10 staff memo.

11 COUNCIL CHAIRMAN RICHARD ROBINS: So
12 those would include modifying the observer
13 notification period to 48 hours and also changing
14 the triggers, the buffer triggers that Jason had
15 identified.

16 LAURIE NOLAN: Yes.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Is there a second to the motion?

19 COUNCIL CHAIRMAN RICHARD ROBINS: Second
20 by Erling Berg. Discussion on the motion?

21 (No response.)

22 COUNCIL CHAIRMAN RICHARD ROBINS: Is
23 there any objection to the motion?

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Seeing none, it's approved by consent. Thank you.
3 Jason.

4 JASON DIDDEN: Again, another thing I
5 just wanted to touch on was that the SSC did review
6 the performance of the butterfish cap on the loligo
7 fishery, but I'll discuss that when we get to
8 butterfish later. Aja, was there anything else
9 for loligo? There's a few butterfish things, but
10 I think we can pick those up in butterfish.

11 Would you like me to move on to mackerel
12 now?

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Yes. Well, Jason, do we need to take any action
15 on loligo beyond that?

16 JASON DIDDEN: There's an issue or two
17 with the cap, but I think maybe we'll pick it up,
18 and I would suggest maybe just addressing it in
19 butterfish.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Okay. Fair enough. Thank you.

22 JASON DIDDEN: So mackerel folks will
23 recall that in 2010 there is basically --in 2011
24 there is basically no mackerel fishery. This year

1 they have caught about 5,000 metric tons of
2 mackerel. So in 2012 they have caught some. I
3 don't have 2012 numbers for mackerel yet. The
4 spring index for 2011 was relatively high, but,
5 again, it's highly variable. Catches last year in
6 2011 were, again, nil, and pretty much no
7 commercial fishery occurred; although, this year,
8 again, there has been some more, about 5,000 metric
9 tons to date. And basically the fishery is over
10 at this point. They come in 20/30,000 pounds a
11 week kind of from here on out usually.

12 So, in the staff memo, there's a couple
13 potential things to consider with mackerel. One
14 issue is that -- let me just get to the mackerel
15 section. One of the big issues year to year that
16 goes on with mackerel is that the Canadian catch
17 has to be deducted from the total ABC, and the SSC
18 reaffirmed the 80,000 metric ton ABC of the
19 previous year.

20 And actually maybe it would make sense
21 at this point if Dr. Boreman wanted to summarize
22 what the SSC found. And I do have a brief
23 presentation from Dr. Boreman on the SSC's ABC
24 findings.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
2 Boreman.

3 JOHN BOREMAN: Jason, do you have the
4 clicker? The SSC did recommend -- we went through
5 the terms of reference that are generic terms of
6 reference that we use for most species that were
7 given to us by the Council. Again, the SSC decided
8 this was a Level 4 species. It did not have an OFL.
9 And the SSC is not in a position to develop an OFL
10 proxy for mackerel. So, based on the 2010 TRAC,
11 which was the last assessment, we said this is
12 still a Level 4 species.

13 As I said, an OFL was not provided, and
14 we were not in a position to develop a proxy for
15 mackerel. We recommended still a catch of 80,000
16 metric tons, which matches our recommendation from
17 last year.

18 Again, this is based on the
19 recommendations that came out of the TRAC that that
20 was a reasonable catch level for mackerel, and it
21 was based on a three-year running average of catch
22 from 2007 to 2009 or somewhere around there.

23 We didn't see any information in front
24 of us this go-around to convince us otherwise.

1 And no one on the SSC had a better alternative than
2 the 80,000 that they were willing to offer.

3 We do want to point out, though, that the
4 survey data that are used for mackerel are
5 inconclusive based on a number of reasons, two main
6 reason: The potential changes in catchability
7 moving from the Albatross to the Bigelow that has
8 yet to be adequately specified; they are working
9 on length-based calibrations now, and we haven't
10 seen that information yet; and concerns remain
11 over to what extent the survey provides a reliable
12 index of abundance given changes in availability.

13 What this means is that we think there
14 may significant abundance of mackerel outside the
15 survey area. We also concluded that the test data
16 may be inconclusive because it may not be reliable
17 index of abundance. The CPUE, again, all went to
18 the concerns related to availability and the short
19 duration of the fishing season.

20 There are other factors, too, affecting
21 effort, mainly high fuel prices; it limits the
22 flexibility or the willingness for the mackerel
23 fleet to go out there and actually search for
24 mackerel; and interactions with the herring

1 fishery; although, the current herring catch caps
2 may have limited the activity of the mackerel
3 fleet.

4 The number of fishing years we
5 recommended a three-year specification to be in
6 place through the 2015 fishing year subject to SSC
7 annual review. We did this. We noted that a new
8 Canadian assessment is forthcoming shortly.
9 Sometime within the next year is our
10 understanding. And the U.S. assessment is
11 tentatively scheduled for 2014. So this
12 three-year specification will hold us until we
13 have the new assessment information in hand, both
14 the Canadian and the U.S.

15 No FLs available for this stock, so we
16 can't provide a quantitative estimate of the
17 probability of overfishing. And we are unable to
18 specify in a qualitative sense the level of risk
19 assumed by the adoption of the recommended ABC.

20 I do want to note that the further we
21 move forward with the 80,000 metric tons, we're
22 moving away from the 2010 TRAC. The further we
23 move away from that the less comfortable the SSC
24 is with this 80,000 metric tons.

1 In other words, it's gaining a lot more
2 uncertainty every year that we continue to
3 recommend it. But, again, not having any other
4 information in hand to convince us that it should
5 be something other than 80,000 metric tons, we're
6 staying with that. That level is the
7 recommendation.

8 To save time you can look in my report.
9 It talks about the most significant sources of
10 scientific uncertainty. There are quite a few
11 here, as you can imagine. Take a look at that.
12 And I'm sure everybody's read the report, so if you
13 have any questions in that, just let me know.

14 We have a new term of reference, and that
15 was put in last year by the Council and that is
16 ecosystem considerations accounted for in the
17 stock assessment and any additional ecosystem
18 considerations that the SSC took into account in
19 selecting the ABC.

20 We do point out the assessment used a
21 variable natural mortality rate at age.
22 Estimates of natural mortality at age averaged
23 among years from the ASAP predation model, and this
24 was used to account for predation, but we also note

1 that this may not account for all the predation.
2 So just a part of it.

3 They didn't look at all the possible
4 predators out there, for example. They didn't
5 look at seabird predation. So you say they did
6 have a factor in there to account for predation
7 related mortality, but we think it's probably not
8 a hundred percent representative. And we also --
9 and this was in the assessment.

10 We also note that the assessment was not
11 accepted, so it is what it is. I believe that's
12 it for the SSC input. Thanks, Jason.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Thank you, Dr. Boreman. And in the presentation
15 you made reference to an anticipated Canadian
16 assessment. That has just been released
17 apparently, and I'll ask Jason to describe that.

18 The SSC hadn't had the benefit of
19 reviewing that on our behalf yet, but the
20 information did just come out. So I'll ask Jason
21 to summarize that in a minute. Questions for Dr.
22 Boreman? Okay. Jason.

23 JASON DIDDEN: So, while the assessment
24 hasn't officially come out, Fred Serchuk found a

1 report on a Canadian scientific advise website
2 that I think is using the assessment information.

3 So the assessment was very pessimistic,
4 and I think the scientists got a little -- were
5 requested by the management folks to draft some
6 different options of catches, and essentially they
7 drafted three options based on the assessment.

8 And so I don't know exactly what the
9 assessment says in terms of what is a spawning
10 stock biomass. And it's based on the Canadian
11 assessment it has kind of gone out of the TRAC
12 model. It's based on some egg surveys that they
13 do and other assessment methodology. And, again,
14 I don't have that assessment in front of me, but
15 it is pessimistic in its findings.

16 And so when they went through and made
17 projections, they found that if -- and right now
18 the Canadian quota is I think around 60,000 metric
19 tons.

20 They said that if you kept the fishing
21 mortality the same as 2011, which would be catches
22 of around 10,500 metric tons, that would continue
23 to reduce the spawning biomass by about 3 percent.

24 If you reduce catches by 25 percent down

1 to 8,200 roughly, you'd expect the biomass to go
2 up a little bit by about 5 percent; and if you
3 increase catches by 50 percent from 2011 to 2012
4 to about 14,500 metric tons, then you'd see a
5 further reduction of about 15 percent in the
6 spawning stock biomass.

7 So this ties into there are specs say
8 that for U.S. specs we start with the overall ABC,
9 and then we deduct the expected Canadian catch.
10 And if we look at the tab -- and I'll blow this up
11 a little bit -- so from last year, if you note, we
12 have the 80,000 metric ton ABC. The expected
13 Canadian catch was based on previous years.
14 Canadian catch was 36,219. That worked out to a
15 U.S. ABC of about 44,000 metric tons. And then you
16 went through your recreational allocation based on
17 Amendment 11, a 10 percent ACT buffer, down, and
18 for recs a 15 percent commercial ACT buffer, and
19 you ended up essentially with a commercial quota
20 of 33,821 metric tons.

21 Theoretically, since Canadian catch was
22 lower, also their assessment advice may well drive
23 their quotas lower. I mean one could come out with
24 a rationale, well, you should be able to increase

1 U.S. catch because expected Canadian catch is
2 lower.

3 On the other hand, since the Canadian
4 catch if it's driven lower, is partially because
5 of their very pessimistic assessment findings.
6 And I could see a rationale for either at least
7 staying status quo.

8 And, again, I just got this Canadian
9 kind of discussion last night and read it this
10 morning. So I just wanted to flag that for the
11 Council. So the SSC also set the mackerel catch
12 for up to three years subject to positive review.
13 The Council could do a similar thing with whatever
14 it sets. And it could still go through the full
15 specs process next year, but if you happen to leave
16 it the same, then it simplifies the regulatory work
17 that occurs downstream from this council meeting.

18 So that's a summary. Obviously, a
19 situation of pretty high uncertainty. And I'll
20 take any questions. Thank you.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Peter.

23 PETER HIMCHAK: Yes. Thank you, Mr.
24 Chairman. And I recall a lively discussion on

1 this issue last year. And I looked through the
2 Omnibus Amendment for sources of management
3 uncertainty on Atlantic mackerel, and, yeah, I can
4 understand that the Canadian catches, the
5 recreational allocation with a 10 percent ACT
6 buffer, would be 10 percent. Considering the
7 quality of some of the MRFS data or the MRIP data,
8 maybe 10 percent isn't enough.

9 And then we also account for commercial
10 discards at 3.11 percent. So we have a commercial
11 buffer of 15 percent dealing with management
12 uncertainty, and I want to know what's left under
13 management uncertainty after you've taken out the
14 three components already. This is over 13 million
15 pounds. What is it? Why did we create that? But
16 why do we still have that buffer in there?

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Jason.

19 JASON DIDDEN: I think a big part of the
20 thing was the uncertainty in the Canadian catch.
21 If you're trying to hold to an 80,000 metric ton
22 overall catch level, you know that Canadian catch
23 is going to be up and down. Some of that was kind
24 of being buffered into that ACT buffer, also the

1 uncertainty in discards.

2 My understanding is if the Council has
3 concerns about the scientific uncertainty in terms
4 of the stuff I addressed in the assessment, it
5 would more come if the Council set a lower ABC than
6 the SSC recommended, and that's where kind of that
7 science concern would go. If it's management
8 uncertainty, it's on that ACT buffer.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Peter.

11 PETER HIMCHAK: So the Council could
12 justify or define why it's retaining uncertainty
13 as a reflection of maybe even the ABC. Maybe we
14 think the ABC could be lower or the preliminary
15 signals coming out on the Canadian stock
16 assessment. Okay. I'm trying to define the 15
17 percent.

18 COUNCIL CHAIRMAN RICHARD ROBINS: I
19 understand. And I think we've discussed this
20 before. The Council can be more conservative in
21 setting a quota than necessarily just the advice
22 that comes out of the SSC.

23 But we should be clear about whether
24 we're assigning any reductions to management

1 uncertainty or scientific uncertainty. I mean
2 sometimes the two can run together, but I think we
3 ought to try to be explicit in our rationale if
4 we're going to do that.

5 Now, the information that Jason shared
6 is preliminary, but I think it had been anticipated
7 that the Canadian advice would be more
8 conservative.

9 So it appears that their catch advice or
10 quota advice when it is finalized would be
11 superseding that old TRAC advice, but it's not yet
12 final.

13 And we would obviously want the SSC to
14 look at all the information next year as we go
15 through a review process. I mean Jason pointed
16 out you could do a multi-year spec here, again,
17 subject to review by the SSC. That might make the
18 regulatory process a little bit easier. But we do
19 have this new Canadian information coming out. In
20 the NRCC meeting we discussed trying to put
21 mackerel on the schedule, and tentatively we
22 penciled that in for 2014. Hopefully, that's
23 enough time for the Science Center to work towards
24 the development of a new benchmark assessment.

1 This is a species that we have a lot of
2 uncertainty and some concern about just looking at
3 the performance of the fishery at least in U.S.
4 waters in recent years. Jason.

5 JASON DIDDEN: In the end since I
6 haven't seen the Canadian assessment, it's tough
7 to kind of fully get my mind around it, but I think
8 they're using their information, so their egg
9 survey, things like that. And their assessment
10 scientists have been raised up.

11 Some of our advice also is what is the
12 connection if any between the U.S. and the Canadian
13 mackerel? I think their advice would be fairly
14 specific to -- you know, what's within their survey
15 area, which is not off U.S. waters.

16 So it's kind of like their advice is
17 specific to their area and their fishery. So I
18 wouldn't say it replaces the TRAC because the TRAC
19 is looking at it may not be the full stock area,
20 but it's a broader area. But it does kind of raise
21 a flag for at least the Canadians' assessment of
22 the condition of the fish in their area. But,
23 again, I haven't seen the assessment yet. It
24 hasn't been posted.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Well, Jason, the area's different, but ultimately
3 that will be the catch advice for their fishery.
4 So I think the implication for management is there
5 for at least for the Canadian fishery. Mary Beth
6 and then Peter.

7 MARY BETH TOOLEY: Yeah. A couple of
8 things. One thing about the Canadian assessment
9 is do you see anything in that information that
10 defines the stock unit?

11 We have been getting some preliminary
12 information a couple years ago in which they were
13 indicating that they didn't necessarily feel that
14 the entire stock was a coastwide stock, so they
15 weren't looking at it the same way.

16 U.S. scientists have looked at as one
17 single stock. So, if the Canadians do an
18 assessment and say the northern stock is not part
19 of a coastwide stock, that's pretty significant.

20 I mean that would need to be reconciled
21 at a benchmark. So can you tell from what you've
22 looked at so far how they define that stock unit?

23 JASON DIDDEN: Yeah. That's what I was
24 trying to say. I don't have a sense of how their

1 work would apply to the overall coastwide number,
2 but I know that talking to assessment scientists
3 they have some real concerns.

4 They think the assumption that it is
5 kind of a uniform coastwide stock that mixes and
6 should be treated as a unit. That assumption may
7 be suspect.

8 But I don't know if their assessment's
9 going to say it should be treated as two or as one,
10 but the information they use is specific to the
11 northern area.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
13 deFur.

14 PETER deFUR: Thank you, Mr. Chairman.
15 That's one of the questions that I was going to ask.
16 Because on the extreme case on that for the rest
17 of the council is the bluefin tuna where it's one
18 breeding population, but they're separated by an
19 ocean.

20 So you could have the northern and
21 southern group, stocks, groups of mackerel that
22 are completely separated for harvest purposes even
23 though they're a single spawning population. But
24 I was going to ask Dr. Boreman what the limitations

1 are on the use of the Canadian assessment because
2 they're focused on their fishery and not
3 necessarily intent on including the population
4 that extends into U.S. waters. Because you've
5 looked at it before and used those numbers before.

6 JOHN BOREMAN: No, we haven't. The
7 assessment was rejected in the TRACs. That's the
8 issue. And I think one of the issues is the
9 Canadians use the egg survey, which represents the
10 spawners in that particular area.

11 That's not the only spot that the
12 mackerel spawn. They may be spawning in other
13 areas too in the U.S. waters where we don't do egg
14 surveys. We do stock biomass surveys. That was
15 one of the points of contention.

16 But the TRAC, which is the Transboundary
17 Resource Assessment Committee, they could not come
18 to an agreement on which underlying model to use
19 for the assessment, stock abundance or egg
20 abundance. So that's the problem.

21 I haven't seen the Canadian assessment
22 either. I have as many questions about it as
23 everybody else around the table. I think we -- I
24 just told Rich that I think we should get it out

1 to the SSC as soon as possible to take a look at.
2 But it's one piece of information, and it has to
3 fit into the bigger puzzle.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
5 Weinberg.

6 JAMES WEINBERG: Just looking at this
7 paper that Jason was mentioning, looking at it for
8 the first time. But it does mention that it
9 specifically addresses mackerel Sub Areas 3 and 4,
10 which would be the southern boundary of that would
11 be Nova Scotia.

12 So it doesn't include any of the Gulf of
13 Maine or anything south of there. And it seems to
14 me that we need to get that assessment before we
15 really discuss it.

16 It seems premature, and it could just be
17 confusing to be conjecturing about what it showed
18 at this stage because we really haven't seen it.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Thank you, Jim. And as Dr. Boreman pointed out,
21 it would be helpful to have the SSC review that
22 information. Frank Blount.

23 FRANK BLOUNT: Yes. Thank you, Mr.
24 Chairman. I understand that the news isn't the

1 best there, and the commercial fishery's been way
2 down. I just did some real quick numbers here.
3 This is probably the first year, and I know there's
4 no Wave 1 data because it's not sampled. Wave 2
5 isn't out yet. The recreational catch this year
6 is the best it's been in 30 years. The boats had
7 mackerel like they haven't had since the early
8 1980s.

9 I just checked. New Jersey in the last
10 six years MRFS had a total of 74 fish landed. New
11 York only had two years worth of landings. So I
12 mean the MRFS data is totally useless. Well, it's
13 MRIP now.

14 But I picked up one day from one boat's
15 report here in March when it was a terrible day of
16 fishing. It was windy, and they said conditions
17 were awful. They averaged 100 to 125 fish a person
18 with 200 fish was the high limit for the day. It
19 was one of the worst days of the week.

20 It's the first time there's been
21 mackerel inshore in years, and they think it's the
22 best they've had in 30 years. So I don't know why
23 they're not showing up anyplace else, why the
24 commercial guys didn't find them this year.

1 But if you talk to any party boat from
2 New Jersey to southern Long Island, they'll say,
3 wow, the mackerel are back. So it's something to
4 keep in mind.

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Thanks, Frank. Other questions or comments on
7 this part of the report? Mary Beth.

8 MARY BETH TOOLEY: Yeah. I just have a
9 question about process, Jason. In your
10 discussion here, you indicate that we have this ABC
11 from the SSC, and it's pretty clear what our
12 limitations are there, but you say it's legally
13 unclear if the U.S. ABC can be increased without
14 the SSC certifying such an increase.

15 And you know, I think of how we do this
16 in herring since we also need to take into account
17 Canadian catch. We get an ABC from the SSC, and
18 then the Council sets the U.S. ACL taking into
19 account Canadian catch and uncertainty associated
20 with that. And we do a running average sort of
21 methodology to get there.

22 And the way you've described it here
23 seems to be quite different, as if we're bound by
24 a U.S. ABC provided by the SSC versus an overall

1 ABC. And I was wondering if you could just clarify
2 that for me.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Jason.

5 JASON DIDDEN: I have a slight comment
6 and then kind of redirect it towards the region.
7 So in the regs it's listed as the U.S. ABC, and the
8 Council's Risk Policy says ABC may not be increased
9 absent a certification from the SSC, which such an
10 increase would not be expected to result in
11 overfishing.

12 And the SSC said you even qualitatively
13 it's difficult for them to make a determination of
14 what might happen. So I guess it came up in the
15 Monitoring Committee discussion.

16 I think it's a gray area. It's unclear.
17 I don't know if the regions have additional
18 thought. Does the Council's Risk Policy not to
19 increase ABC apply only to the overall ABC or also
20 to what's described in the regs as the U.S. ABC?

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Joel.

23 JOEL MACDONALD: My understanding in
24 looking at the regulations is that the ABC is the

1 overall ABC. Because if you look at the equation
2 that would calculate the ACL, it's ABC minus the
3 Canadian catch.

4 So what I glean from that is it has to
5 be an overall ABC if you're taking the Canadian
6 catch from it to derive an ACL for the U.S. folks.
7 That's the way it seems to be set up. I know
8 there's some probable inconsistencies between
9 648.20 and 648.22, but I think what we're looking
10 at here is 648.22, which is the specification
11 process; whereas, 20 deals with the ABC control
12 rule.

13 You know, if we're talking about an
14 overall ABC in the context of 648.22, I would think
15 the control rule would apply to that, as opposed
16 to a domestic ABC. But I didn't write those
17 sections, so I'm not sure what the intent of the
18 draft is of the ABC control rule was.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Is
20 the line of questioning intended to see if we can
21 raise the mackerel quota?

22 MARY BETH TOOLEY: No, it's not. I'm
23 not opposed to status quo. I just noticed that and
24 was curious of how that worked. I think

1 particularly, Mr. Chairman, your comments about
2 trying to be clear about scientific uncertainty,
3 management uncertainty, and making sure those
4 lines are clear.

5 So the way Joel just described it, that
6 would be consistent with how the New England
7 Council considers Canadian catch in the herring
8 fishery in setting the U.S. ABC back to the
9 Canadian catch. It's a management uncertainty,
10 knowing how much the actual catch. So I
11 appreciate the information.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
13 enough. Peter.

14 PETER HIMCHAK: Yes. Thank you, Mr.
15 Chairman. Not to drag this any longer, but that
16 was the sole intent of my question was to -- when
17 we have uncertainty, I'm just looking for what it
18 is defined.

19 I looked at in the Omnibus Amendment,
20 and I saw what was identified as management
21 uncertainty. And then there are issues, such as
22 reporting, under reporting, late reporting,
23 etcetera, etcetera.

24 So I wanted to know what the 15 percent

1 was capturing. So it's actually an additional
2 constraint based on the uncertainty of the
3 Canadian catch and some elements of scientific
4 uncertainty because we see scientific data that
5 are not favorable to mackerel, and we're reluctant
6 to raise a quota. That's the way I would explain
7 it if I was asked.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Well, I think last year there were some fairly
10 broad concerns discussed including the size of the
11 fish, and some of those factors I don't think have
12 been fully incorporated in the analyses. So I
13 think there were some concerns that spilled over
14 perhaps into both areas, and I don't recall all the
15 details of the records from last year's decision.
16 I do remember that the concerns were broad and
17 probably fell some into both areas.

18 Are there any other questions for Jason
19 at this point? Jason, what do you need out of the
20 specification process relating to mackerel ABC,
21 ACL, ACT?

22 JASON DIDDEN: Yes. And also, again,
23 the expected Canadian catch is kind of what drives
24 that off the top. So I mean I could imagine going

1 along the lines of despite the Canadian
2 (inaudible), they don't really know what they're
3 going to end up doing in terms of final regs, if
4 the Council wanted status quo and kind of just go
5 with status quo.

6 Alternatively, if you wanted to
7 maintain the overall U.S. being status quo, you
8 could kind of flip 20,000 metric tons from expected
9 Canadian catch, make that 20,000 metric tons lower
10 and also make the ABC 20,000 metric tons lower.

11 But the problem is if you do that and
12 you're still in a high uncertainty situation, then
13 absent a certification from the SSC, you wouldn't
14 be able to go up from that 60,000 in the future
15 without a certification. Since the ACT is
16 primarily management uncertainty, it almost -- the
17 Council would retain more flexibility if it -- you
18 know, took that 20,000 out of the ACT and left the
19 overall ABC the same. But I don't know if you can
20 do that 'cause you're really addressing the
21 scientific issue here.

22 The most flexibility maybe just to kind
23 of say not quite exactly sure what may happen with
24 Canadian catch despite these preliminary findings

1 and just kind of go overall status quo.

2 Or, again, you could decrease the
3 overall ABC and decrease the Canadian catch to
4 maintain overall status quo. But there is a
5 future impact of that, of not being able to
6 increase that overall ABC absent a certification
7 from the SSC.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Joel, can you give us an specific advice about the
10 flexibility related to what we can incorporate
11 into the ACT?

12 JOEL MACDONALD: Just as a side, the
13 fact that we're considering raising the ABC, I
14 think you've got to state -- well, the statute
15 commands that we stay within the ABC
16 recommendation of the SSC. So I mean that's a
17 limitation. If we're looking at increasing the
18 ABC because of the low catch in Canadian waters
19 this past year, you'd have to go back, and if it
20 exceeds what the SSC has previously recommended
21 for an ABC, we'd have to go back to the SSC. But
22 with respect to the question about what components
23 can be considered in setting the ACT, there's some
24 little guidance in paragraph F of the National

1 Standard Guidelines as to what constitutes
2 management uncertainty.

3 It says: Management uncertainty may
4 include late catch reporting, misreporting, and
5 under reporting of catches and it's affected by
6 fishery ability to control actual catch.

7 What I take from that is that that is not
8 an exclusive list. If the Council can come up with
9 other factors that they believe constitute
10 management uncertainty and can deduce a rationale
11 for why they think that should be part of the
12 management uncertainty calculation, then I think
13 we can go forward with that and reduce the ACL to
14 an ACT if there are factors that warrant that.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Could we also, Joel -- I'm just thinking through
17 the relationship between ACT, ACL and ABC -- could
18 we also reduce the ACL below the ABC to account for
19 additional scientific uncertainty? I'm thinking
20 of the situation that Jason's described whereby we
21 have ABC advice from the SSC, but just for example,
22 if the Council decided that it wanted to maintain
23 status quo for the actual operation of the fishery
24 and the ACT and the measures that govern the

1 fishery, would it be possible to reduce the ACL
2 below the ABC so that we're not in a situation where
3 we've forfeited future flexibility?

4 JOEL MACDONALD: But my understanding,
5 unless I'm missing something, is the ABC is the
6 amount from which you set your ACL, so the ACL is
7 not over the ABC unless something unusual is
8 happening? And that arena takes into account
9 scientific uncertainty, and lower the ACL to get
10 to the ACT is where you factor in management
11 uncertainty.

12 Now, I would think that the two are
13 distinct, that you couldn't consider again in the
14 context of the ACT taking into account an
15 additional measure of scientific uncertainty to
16 get to an ACT. That's my instant impression, that
17 the two are rather distinct.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Right. But I'm asking if we can incorporate
20 additional scientific uncertainty between the ABC
21 and the ACL, not the ACT so that we're not getting
22 into a situation where we've lost the ability to
23 go up in the future.

24 JOEL MACDONALD: I believe you can

1 because the ACL is a discretionary amount of fish
2 based upon what the scientific uncertainty is;
3 although, let me back that bus up a little.

4 I think we're looking more towards
5 specifying an OFL and then getting to the ABC.
6 That may be more the arena where the SSC is looking
7 at scientific uncertainty.

8 Now, when we get that ABC, the issue
9 you're raising is, okay, can we again look at
10 scientific uncertainty to get to a lower ACL. I'm
11 not quite sure. I think you can, but I don't think
12 the National Standard 1 Guidelines really address
13 that. George may have a different impression.

14 GEORGE DARCY: The regulations say that
15 the ACL equals the ABC. So I don't know where the
16 flexibility would be in this specific instance, if
17 that's the case.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you. Jason.

20 JASON DIDDEN: Yeah. I think the regs
21 do state that the ACL equals the ABC. I think the
22 Council could set an ABC -- and these are
23 discussions I've had with the region before -- the
24 Council can set an ABC lower than the ABC

1 recommendation of the SSC to additionally account
2 for scientific uncertainty if it wants. But then
3 again, then you're pegged; you can't increase
4 later. But I think the regs do say that the ACL
5 equals the ABC.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you, Jason. Okay. Other comments or
8 questions at this point? What's the pleasure of
9 the Council in terms of the specifications for
10 mackerel? Laurie.

11 LAURIE NOLAN: My understanding right
12 now is we can't -- do we still have the option of
13 leaving 36,219 in as the expected Canadian catch,
14 or we can't work with that number anymore to reduce
15 the 80,000 to reduce the ABC?

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Jason.

18 JASON DIDDEN: Before yesterday
19 evening, I thought we could, and that would make
20 status quo fairly easy. Since the Canadian
21 assessment isn't final, they haven't make their
22 final things, I mean I think you could say you
23 really don't know what's going to happen with the
24 Canadian catch at this point, so I think NERO or

1 Joel may have an opinion even though we have this
2 preliminary information and still say that could
3 happen. I think it's probably -- again, given
4 that preliminary assessment stuff, it seems kind
5 of unlikely now, but maybe -- I don't know. That
6 kind of throws a monkey wrench into that. But the
7 region may have some additional thoughts on that.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Do
9 you have any comment?

10 GEORGE DARCY: Well, it just seems that
11 without a final assessment, we don't know what it
12 says, we don't know how it's going to be
13 characterized. I don't know how we could make
14 some assumption here and use a number based on
15 something we haven't seen and don't understand. I
16 think that's what John was also saying.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
18 enough. Yes. Joel.

19 JOEL MACDONALD: One caution that I
20 would raise is that regardless of what the
21 assessment says in Canada, if we're looking at a
22 lower number, this may well be an anomaly, and the
23 reg says we take into account the projected
24 Canadian catch for next year. So I think there's

1 somewhat of a danger in saying, okay, this is what
2 the Canadian catch will be, a trend that will carry
3 on into next year. That may not work, and if we
4 bump it up and then significantly have to bump it
5 down, I think it may be unfair to the U.S. industry
6 over time; that it may be better to stick with the
7 status quo in this particular circumstance because
8 of the unknowns here.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you, Joel. Laurie.

11 LAURIE NOLAN: That's good news. So I
12 think for the sake of stability in the fishery and
13 the fact that the Canadians are not really
14 presenting their stock assessment results yet, we
15 should accept Alternative 1B for mackerel. And
16 should I run through the numbers as a motion?

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Please.

19 LAURIE NOLAN: We would support an ABC
20 of 80,000 pounds --

21 JASON DIDDEN: Excuse me. Did you say
22 pounds or metric tons?

23 LAURIE NOLAN: Metric tons. Sorry.
24 Sorry. Okay. I'm thinking tilefish. It's a

1 small quota. Canadian catch of 36,219 metric
2 tons, U.S. ABC of 43,781 metric ton; and ACL of
3 43,781 metric tons; recreational allowance of
4 2,714 metric ton, a commercial allocation of
5 41,067 metric ton; and ACT buffer for the
6 recreational sector of 10 percent, recreational
7 ACT would equal 2,443 metric ton; a commercial ACT
8 buffer of 15 percent, a commercial ACT of 34,907
9 metric ton, a commercial discard set-aside of 3.11
10 percent; a domestic annual harvest of 33,821
11 metric ton; a domestic annual processing DAP of
12 33,821; a joint venture processing zero, and a
13 total allowable level of foreign fishing TAL set
14 at zero.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Was
16 there a second to the motion? Second by Erling.
17 Jason, I believe the commercial ACT needs to be
18 amended. You've got it higher than the ACL. So
19 I think those numbers are just transposed. And
20 DAP. Laurie, is the motion on the board your
21 motion?

22 LAURIE NOLAN: Yes.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Thank you. Discussion on the motion?

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there any public comment on the motion? Jeff.

4 JEFF KAELIN: Thank you, Mr. Chairman.
5 Jeff Kaelin with Lund's Fisheries. I do
6 appreciate the motion, but I really have been
7 thinking about this for a few weeks.

8 When we went to the SSC, we really didn't
9 have a good handle on what the Canadian catches
10 were, so the SSC never really had a chance to
11 consider the fact that Canadian catches were
12 obviously a lot lower than they were projected to
13 be.

14 Whether or not that's going to be the
15 case, of course, is difficult to know, but we do
16 know that those fish weren't harvested, and they
17 were left in the water somehow, if in fact they're
18 the same fish that we share with the Canadians. We
19 don't know that either.

20 We were hoping that we might be able to
21 create a situation today where -- I mean we've got
22 25,000 metric tons set aside for potential catch.

23 When you look at the 15 percent buffer
24 and the reduction in their actual catches in 2011,

1 we're hoping that we might be able to come out of
2 here with a situation where we might be able to
3 trigger that extra amount if we performed well this
4 year. In other words, if the fish were available
5 this winter and we can get sufficient herring
6 allocated to Area 2 so that we could have a mackerel
7 fishery next year and the fish do show up. It's
8 a robust fishery. We'd like to have those
9 Canadian fish back honestly.

10 We'd like to have another opportunity to
11 go for another 10/15,000 metric tons. Those fish
12 haven't been killed. Maybe a trigger sometime in
13 the beginning of March or something that would
14 allow us to take those fish if they perform.
15 That's our thinking.

16 But I think based on where the Council
17 is at the moment, we're going to be very pleased
18 to get out of here with status quo. But on the
19 other hand, if that Canadian harvest was higher,
20 we know we'd be sitting here reducing the U.S. ACT.

21 So I want to be clear with the Council
22 that we compete with the Canadians around the
23 world. We were just in Europe and there's a lot
24 of demand for mackerel. We compete with these

1 guys head to head.

2 Even though the scientific advice is
3 very conservative, we don't know what the
4 management advice is going to be. We do know, of
5 course, that when the 80,000 metric ton ABC came
6 out of the TRAC, the Canadians decided they were
7 going to take 60, not 40 or 30. So anyway I'm
8 speaking in support of the motion, but with some
9 reticence about the fact that this should work both
10 ways. If their catches go up, our ABC would go
11 down or ACT would go down.

12 And we would like to see our ACT go up
13 since their catches went down. But I just wanted
14 to put that on the record I guess today, Mr.
15 Chairman.

16 And I'm not asking for reconsideration.
17 I think Joel said that if we went up on the ACT,
18 we'd have to go back to the SSC, and we certainly
19 don't want to ask for that to happen.

20 What's good for the goose is good for the
21 gander. And we compete with these guys head to
22 head. And I just wanted to put that on the record,
23 and I appreciate the opportunity to do that, Mr.
24 Chairman.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Jeff. Did the mackerel catch in Area
3 2 get limited this year by capping out on herring?
4 You were talking about the herring allocation?

5 JEFF KAELIN: Yeah. Thank you, Mr.
6 Chairman. I think absolutely that it did. I know
7 that the language in the staff draft and I think
8 Dr. Boreman also referred to the fact that herring
9 catch caps may have limited catches. But in the
10 case of our company and the operation that we have
11 with our mid-water trawl vessels, our tank boats,
12 it absolutely did because we don't have the
13 opportunity to sort that herring out of the catches
14 at sea like the freezer boats might have to do, and
15 I don't think either Durson or Flicker elected to
16 stay out and sort. We were faced with a situation
17 where the mixing product of about 30 percent
18 herring reduced Area 2 quota to about 20,000 metric
19 tons, which really only takes care of domestic
20 demand. The Canadian factory still takes 10,000
21 tons, and the bait demand is at least 10,000 tons.
22 So there was fish everywhere in Area 2. I know we
23 asked the Council a few months ago to consider
24 allowing us to take some of that 38,000 on Georges

1 and move it just a few miles to the west to allow
2 us to stay working.

3 We also talked about bringing the fish
4 in mixed and just hoping nobody came down to the
5 shop. But that's not really the way we operate,
6 and we certainly would have an awful lot at risk.
7 So I think it did. I think the fish were small.
8 What we saw were small. You know one benefit of
9 having a fishery, of course, is they get samples
10 to the assessment people in Woods Hole. And we've
11 been working with Kiersten to do that. We don't
12 typically have ripe and running fish during the
13 wintertime, but I know, like Frank was saying,
14 there's a lot of fish up North, and we have been
15 able to get some samples from those fish to
16 Kiersten. So the short answer to your question
17 is, yes, absolutely that reduced quota, and I think
18 excessive concern over Area 1A wintering herring
19 eliminated the potential for a mackerel fishery,
20 certainly in Cape May.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
22 you, Jeff. Other comments on the motion?

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Okay. Seeing none, we'll come back to the
2 Council. Any further discussion on the motion?
3 Jason.

4 JASON DIDDEN: I just wanted to know I
5 had another typo in the rec ACT which I correct to
6 2443 metric tons to be consistent with the status
7 quo.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thank you for that. So the motion is protected.
10 Is the Council ready for the question?

11 {Move to recommend 1b for mackerel:

12 ABC = 80,000 mt Canadian Catch = 36,219 mt;
13 US ABC = 43,781 mt; ACL = 43,781 mt;
14 Recreational = 2,714 mt; Commercial = 41,067
15 mt; ACT Buffer Recreational: 10%; ACT = 2,443
16 mt; Commercial ACT = 34,907; Commercial
17 discards = 3.11%; DAH = 33,821 mt; DAP =
18 33,821 mt; JVP = 0, TALFF = 0}

19 COUNCIL CHAIRMAN RICHARD ROBINS: All
20 those in favor please raise your hand.

21 (Response.)

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Sixteen. Opposed like sign.

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Abstentions like sign.

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: One
5 abstention. The motion carries. Thank you.
6 Jason, is there any other business on mackerel, or
7 are we on to butterfish?

8 JASON DIDDEN: This should do it for
9 mackerel.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Laurie.

12 LAURIE NOLAN: Do we have to make a note
13 of supporting that this is a three-year spec on the
14 mackerel?

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Sorry. I think that is a good point. If the
17 Council wants to do that, I would suggest we either
18 clarify that we want to make this a three-year set
19 of specifications subject to annual review by the
20 SSC if that's the pleasure of the Council.
21 Laurie.

22 LAURIE NELSON: Yes. That would be the
23 pleasure of me anyway, to move this forward as a
24 three-year spec package subject to SSC review each

1 year.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there a second to the motion? Second by Erling
4 Berg. Discussion on the motion?

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: Are
7 there any comments on the motion?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Seeing none, is the Council ready for the question?
11 {Move to set the above (mackerel
12 specifications) as a 3-year package subject to
13 annual SSC review.}

14 COUNCIL CHAIRMAN RICHARD ROBINS: All
15 those in favor please signify by raising your hand.

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Twelve. Opposed like sign.

19 (No response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Abstentions like sign.

22 (No response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: The
24 motion carries. Thank you. Jason, are you ready

1 for butterfish?

2 JASON DIDDEN: Yes.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
4 you.

5 JASON DIDDEN: Okay. So butterfish,
6 the 2011 index was higher than 2010, substantially
7 above the long-term median and the first time for
8 quite a while. Catches last year were also up a
9 bit. They did exceed the landings quota.

10 There was a very early closure of the
11 "directed butterfish fishery" in the middle of the
12 year. The relatively low trip limit between the
13 trip limit for federal waters and also state
14 landings that came in did lead to a quota overage.
15 So that's just a quick summary. And I'll turn to
16 Dr. Boreman for the summary of the SSC's
17 recommendations on butterfish.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thanks, Jason. Dr. Boreman.

20 JOHN BOREMAN: Thanks, Mr. Chair.
21 Butterfish -- again, this is a Tier 4 species.
22 There's no accepted OFL resulting from the stock
23 assessment, no accepted biological reference
24 points resulting from the SAW/SARC.

1 The next term of reference if possible
2 the level of catch associated with the overfishing
3 limit. We do again remind the Council the
4 estimate of OFL was not available from the stock
5 assessment; however, we had new information in
6 front of us that just came out in the recent months.
7 It's the Lenfest Report entitled: Little Fish Big
8 Impact. It was a panel report. A number of
9 people were working for Lenfest.

10 One of the authors of that report sits
11 on the SSC, Dr. Ed Hood. And we had a significant
12 discussion about that report and its implications.

13 For a species like butterfish, which is
14 a very short life span; it's almost like a squid.
15 It only lives up to two years. Very high natural
16 mortality rate.

17 The report recommended that we look a
18 the ration of fishing mortality rate to natural
19 mortality rate and try to keep that ratio less than
20 two-thirds, F being two-thirds of M , the fishing
21 mortality rate being less than or equal to
22 two-third of the natural mortality rate.

23 We also had an advantage. Dr. Tim
24 Miller and Paul Rago from the Northeast Center

1 presented us with an analysis that basically was
2 an empirical analysis of the stock history and
3 fishing mortality history of butterfish and what
4 they called a reasonable bounds summary of what
5 they feel a reasonable bounds for the stock
6 abundance as well as fishing mortality rates. The
7 methodology that they used for this analysis was
8 presented to the SAW/SARC. It was peer reviewed
9 at that time. And, again, the chair of that
10 SAW/SARC sits on our SSC, Dr. Rob Latour from VIMS.

11 So we looked at that analysis and using
12 the tables from that analysis that are on the
13 website. All the accompanying materials and
14 documents that we used we put up on the website
15 including our e-mails from constituents, figures
16 and Powerpoint presentations and so on.

17 We assumed a natural mortality rate of
18 .8 for butterfish which is on the low side. That's
19 what we considered a reasonable lower bound for the
20 natural mortality rate, probably higher than that,
21 more on the order of 1.2 to 1.5.

22 But we used the .8, and that translated
23 if you take that two-thirds of .8 is an F equivalent
24 of .536. So we adopted F equals .536 as the

1 maximum fishing mortality rate threshold.

2 And then using a bootstrap analysis
3 developed by Drs. Rago and Miller, and that table
4 again is on the website, that F of .536 translates
5 to 16,800 metric tons. And we adopted that as an
6 OFL proxy. However, in adopting this proxy, we
7 want to point out the following: that butterfish
8 still remains a Level 4 species. In other words,
9 we don't have a confidence bounds around that OFL,
10 so, therefore, we can't basically use a P star
11 approach.

12 The maximum fishing mortality threshold
13 proxy was derived from a meta-analysis of small
14 pelagic species, and this was the analysis that the
15 Lenfest group cited work by Paterson from 1992.

16 A meta-analysis means that he looked at
17 analyses of the relationship between fishing
18 mortality rate and stock growth for a number of
19 pelagic species around the world, and it's not
20 specific to butterfish; it just deals with small
21 pelagic species in general.

22 We also note that there is considerable
23 variability uncertainty in the biomass
24 trajectories for this species. And the

1 reliability of this proxy is unknown.

2 However, the estimates of catchability
3 and natural mortality used in the Miller and Rago
4 analysis make the transition from the F value proxy
5 to the OFL proxy very conservative. Well, maybe
6 not very conservative. But, again, it's on the
7 conservative side because we assumed a high
8 catchability, higher than it probably is, and a
9 lower natural mortality rate than it probably is.

10 So the ABC then is 8,400 metric tons, and
11 we base this on taking 50 percent of the OFL proxy.
12 Now, if you recall, in previous years, our default
13 for a Level 3 species if we didn't have an estimate
14 of coefficients of variation that we were pleased
15 with, we used 75 percent of the OFL for an ABC.

16 Well, here we chose 50 percent because
17 we wanted to add additional uncertainty, as this
18 is a Level 4 species, not a Level 3 species. So
19 we felt that the 75 percent would serve as an upper
20 bound for a Level 4 species.

21 In this case, we decided to reduce it to
22 50 percent. In addition, the buffering to 50
23 percent was justified based on the short life
24 history, and that gives very limited time for

1 management to respond to adverse patterns.

2 In fact, when these regulations go into
3 effect, the ACL that you set today probably most
4 of the butterfish that are out there now will be
5 gone. They'll be too old -- they'll be out of the
6 population, and we'll be dealing with a whole new
7 generation. Recruitment is highly variable and
8 uncertain. Stock status is unknown.

9 And being a small pelagic with a high
10 natural mortality rate, they are susceptible to
11 environmental and ecosystem variability, in
12 particular interannual variability and natural
13 mortality. Natural mortality is driven to a
14 significant extent by conditions in the ocean.

15 Specify the number of fishing years for
16 which the OFL or ABC specification applies and
17 identify the interim metrics. Well, we were only
18 satisfied with providing you with a single year
19 specification.

20 We note that a new assessment is likely
21 to occur in 2013, and we look forward to that if
22 it does happen; but we were uncomfortable going
23 beyond one year for this species.

24 Probability of overfishing associated

1 with the OFL and ABC, as I said, we could not
2 calculate a confidence distribution of the
3 confidence intervals, so given the availability,
4 the unavailable information we felt even though
5 this was not possible, the probability of
6 overfishing is likely low based on the
7 conservative approach that we felt we took in
8 setting the ABC. And, again, the significant
9 sources of scientific uncertainty: no accepted
10 reference points, the use of F to M ratios as a
11 foundation for the OFL proxy determination -- this
12 is the first time we've done it, even though it was
13 recommended by Lenfest and Paterson in his paper
14 in 1982 -- the use of the Miller and Rago what they
15 call the envelope analysis, which basically
16 envelope saying we're putting some what they
17 consider reasonable bounds on stock size and
18 fishing mortality rate estimates; the model based
19 estimates of biomass and F are generally
20 imprecise, discards remain imprecisely estimated,
21 there's probably a large role for environmental
22 drivers including predation; the survey
23 efficiency is uncertain as well as the stock area
24 coverage, the imprecision of the estimates of

1 natural mortality, probably a low survey
2 catchability for butterfish 'cause it's pelagic
3 fish and the survey is a bottom trawl; and there
4 are still conflicting trends among the various
5 surveys that we looked at.

6 Ecosystem considerations. None were
7 accounted for in the stock assessment, but we did
8 discuss ecosystem considerations in deriving our
9 ABC recommendation. And because of the short life
10 span, stock size is highly variable, but this
11 variability is likely more directly influenced by
12 environmental factors and variation in predation
13 mortality than for longer lived species.

14 And consumptive demand by other species
15 was considered. We did talk about it in a
16 qualitative sense, not a quantitative sense. We
17 learned that ospreys feed on butterfish, by the
18 way.

19 We also were asked in our term of
20 reference to reconsider our 2012 advice, and we
21 did, and we reaffirmed our specification
22 recommendation for fishing year 2012.

23 We note that the most recent biomass
24 indices appear to be without trend and increased

1 for the last year and that the ABC is not expected
2 to result in overfishing.

3 The justification we use for the '13
4 fishing year also supports the conclusion that we
5 reached in 2012 of 3,622 metric tons. And, again
6 we do not expect that to result in overfishing.
7 And that's it. Thank you.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thank you. Questions for Dr. Boreman? Dr.
10 Boreman made reference to the analysis that was
11 done by Dr. Tim Miller and Paul Rago, and I would
12 just point out that that was a very important piece
13 of information. I think it put the committee in
14 a much better position just as a species.

15 We've had a hard time managing it over
16 the last few years since the assessment was broken.
17 We didn't have a peer-reviewed assessment. So
18 this was a very important analysis that I think
19 helped the committee really make a perhaps much
20 more thorough and informed approach to the
21 decision making. But anyway, I just want to thank
22 the Center for that additional work. Jim.

23 JAMES WEINBERG: Thank you. On that
24 analysis, I'd just like to kind of connect it with

1 the previous SARC results very briefly. When the
2 stock assessment was peer reviewed in the SARC, I
3 believe in 2010 roughly, it looked like the stock
4 was declining based on our survey.

5 And that fishing mortality rate was very
6 low, and there was really no explanation for why
7 the biomass continued to decline even though
8 fishing was low. And recruitment seemed to be
9 just getting lower and lower each year. Well,
10 since then there has been a turnaround, and the
11 survey has gone up pretty well for the last four
12 years. And that was what was kind of the driver
13 for doing this additional analysis.

14 So Paul and Tim did this envelope
15 analysis where they were able to -- found what the
16 level of biomass is based on different assumptions
17 about the catchability of the survey dredge and
18 mortality rate.

19 And based on that analysis, they were
20 able to show that they can't say exactly what the
21 stock size is, but they're able to show that it's
22 certainly very likely that it has increased. And
23 that's the information that was provided to the
24 SSC.

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Thank you, Jim. Any questions for Dr. Boreman?
3 Okay. Jason.

4 JASON DIDDEN: So essentially the
5 Council has some flexibility about what it wants
6 to do with butterfish, and what you do and how you
7 do it will affect -- it affects the loligo fishery
8 in terms of the cap. It affects potentially a
9 butterfish fishery. At low scales it does occur.
10 It potentially affects a large scale directed
11 fishery, as occurred in the past. There are a
12 variety of interests who would like to have access
13 to that butterfish. So I laid out a couple
14 different scenarios in the staff paper.

15 Some things if I know what the Council
16 wants to do exactly, I can come back and with a
17 strong staff recommendation and say, okay, I know
18 you want to do this; this will get you there; this
19 is my best guess is what will get you there.

20 Well, here's a lot of allocative
21 decisions and a lot of decisions that may not look
22 like an allocation on the surface but have
23 allocation implications underneath them.

24 So I sent out a spreadsheet a few days

1 ago to try to help you work through what you want
2 to do with this butterfish ABC. The options in the
3 staff memo were A, B, and C.

4 The values that I've filled out on the
5 spreadsheet are kind of in between A and B
6 essentially. And so I think what maybe one way is
7 the spreadsheet kind of starts from the top and
8 then kind of works down.

9 Well, I'll just kind of explain the
10 spreadsheet maybe overall, and then maybe you will
11 kind of go through and decide what you want to set
12 for all the different specifications. But as it's
13 set up right now, there's an 8,400 metric ton ABC.
14 And in 2011 with no ACTs, the ABC there was a 16
15 percent overage. And so that could be used as an
16 ACT buffer.

17 The ACT buffer used last year was 10
18 percent. But there is a lot of management
19 uncertainty with butterfish. There's the
20 discards are variable. You don't know what that
21 estimate's going to come out to be in any given
22 year.

23 There may be more discards if a directed
24 fishery is established. But if the trip limits on

1 some of the other stuff are increased, maybe people
2 retain more butterfish and have less discards.

3 And kind of on the back stop of that is
4 that if there total amount landings plus whatever
5 the discard estimate happens to be in a given year
6 -- and it was pretty good last year; the CV was
7 about .2, but it still means plus or minus 40
8 percent when they run an estimate. So you never
9 know what that's going to be in a given year.

10 But the cap on the butterfish fishery
11 should keep -- even that paper number should be
12 kind of capped. So given -- you know, everything,
13 some increase to that ACT buffer may be reasonable.
14 And so to peg it to something, I pegged it to the
15 overage in 2011. Then that could be an ACT of
16 about 7,000 metric tons.

17 Then the next decision that may help
18 kind of in the process is what do you want to
19 specify the cap on the butterfish fishery. Right
20 now it's 1,811 metric tons.

21 When Framework 6 goes through, it will
22 increase to 2,445 metric tons; however, I will note
23 this is a cap performance right now at the 1,811
24 metric tons level for the year.

1 You can see it's getting close right now
2 in Trimester 2 to the total annual level. The
3 ratio of discard of butterfish catch in Trimester
4 1 was very high. Last year Trimester 2 butterfish
5 catch was low, and it pushed that number down.

6 Every week the ratio is getting pushed
7 down. That hasn't happened yet. Loligo catches
8 in Trimester 2 have been very strong. Even when
9 the quota goes from 1800 to 3600, if that ratio
10 doesn't come down, there could be no Trimester 3
11 loligo fishery essentially. They could chew
12 through that whole quota even the extra 1800 metric
13 tons right around the start of Trimester 3.
14 Hopefully, as is traditionally the case, Trimester
15 2 butterfish incidental catch rate is lower. That
16 ratio comes down. But I think it's tied to this
17 fact that there are more butterfish out there.

18 They've been catching a lot of
19 butterfish, which means they'll hit the cap. And
20 they've been catching a lot of loligo. So you get
21 both things going up. That's kind of what was
22 contemplated in Amendment 10. It's always a
23 possibility. Now, there's no closure in
24 Trimester 2 because it was just a tiny percent of

1 something that I think maybe worth revisiting
2 later. Does the Council want to have a closure
3 threshold in Trimester 2 to make sure that at least
4 in future years -- hopefully it doesn't happen this
5 year -- but in future years that's there's nothing
6 left over for Trimester 3. But we'll kind of get
7 to that.

8 So the big point is what I put on this
9 document here right now is 3,000 metric tons for
10 the cap. If loligo catches are low or -- I keep
11 going back and forth between loligo and longfin.
12 The name changed. It's no longer loligo. It's
13 *Dorytuthis* (Amerigo) *pealeii*. But like some
14 things in your brain are just hard wired. I'll try
15 to stick with longfin.

16 Even at 3,000 metric tons, the
17 butterfish cap for the longfin squid fishery could
18 well result in a longfin squid fishery related to
19 the butterfish cap. That would be more-- you
20 know, than it would be later this year, though.

21 I think as that increases, the incentive
22 for the longfin squid fishery to avoid butterfish
23 will go down. So it may be worth keeping that --
24 you know, at a relatively low level, to keep that

1 incentive for that fishery to avoid butterflyfish.
2 But, again, that's a strong policy choice. And as
3 we saw this year, it has potential implications for
4 the longfin squid fishery. While I'm on the
5 topic, I'll also note that just for information,
6 the longfin squid fishery closed in Trimester 1
7 because there was a data issue from the Observer
8 Program making it in.

9 If that data issue hadn't occurred, the
10 longfin fishery would not have closed. But that's
11 kind of one of the issues of real time management.
12 So I just flag that for folks.

13 Okay. If you set a cap of 3,000 metric
14 tons, some of that's going to be landed, and some
15 of it's going to be discarded. In 2011 about 87
16 percent of what the cap caught was discarded.

17 Now, maybe with the higher trip limits,
18 maybe more is retained. It's really difficult to
19 know. But if you assume still 87 percent was being
20 discarded, that means of that 3,000 if it was
21 caught, about 2600 metric tons of that ends up
22 getting discarded.

23 Hopefully, with the higher trip limits,
24 if you do higher trip limits, more of that would

1 be retained, but that's kind of uncertain. So
2 that cap, that 3,000, is something that would need
3 to be set. The SSC reviewed the performance of the
4 cap, and they said based on what you're trying to
5 do, limit mortality in the loligo fishery, you're
6 basically doing that; however, there's discard
7 mortality occurring in other small mesh fisheries
8 -- whiting, mackerel, illex, etcetera.

9 Now there was about 700 metric tons
10 last year. So you could say we know the butterfish
11 fishery if it starts up as a directed fishery, it
12 may discard some more butterfish. That number on
13 the noncapped discards is pretty uncertain.

14 The CV was around .4, which means plus
15 or minus 80 percent. That could vary a lot. So
16 I'm saying maybe set aside double that amount for
17 discards. And part of my rationale for that is that
18 if you go over the ABC -- you know, the fishery gets
19 whacked the next year.

20 So to try to create some stability while
21 all these things are changing, it may make sense
22 to make some fairly conservative assumptions.
23 You take the noncapped discards of 1400 metric tons
24 and the implied cap discards around 2600 metric

1 tons, and you're essentially saying you're setting
2 aside about 4,000 metric tons for discards. Well,
3 if your ACT back up here was 7,056 metric tons and
4 you're setting aside about 4,010 metric tons for
5 discards, that's setting aside about 57 percent,
6 and that leaves you with about 3,000 metric tons
7 for a directed fishery. And now I think there is
8 some more analysis of how that directed fishery
9 kind of gets handled, but maybe I'll pause at this
10 point to kind of take questions.

11 I think it's to some extent going to
12 experimental. There hasn't been a directed
13 fishery in a long time. It's difficult to know how
14 a lot of these things really change. I think this
15 is probably a fairly reasonable justifiable
16 ballpark to start at. That's what I was trying to
17 kind of give the Council, a starting point in the
18 spreadsheet. Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Thank you. So as complicated as this question is,
21 it's a good one to have in front of us. It's been
22 a while since we've had this type of opportunity
23 to consider allowing a directed fishery.

24 But, as Jason points out, there are a lot

1 of policy questions in here, and how we allocate
2 the resource, to the cap, to discards to directed
3 fishing, etcetera. And then we have technical
4 measures to consider for directed fishing, such as
5 trip limit. So there's a lot in this decision that
6 we need to consider. Questions or comments for
7 Jason? Jeff.

8 JEFFREY KAELIN: Thanks, Mr. Chairman.
9 Jeff Kaelin, Lunds Fisheries. I do have a
10 question for Jason. You got to commend us on how
11 to work in a short period of time, and we tried to
12 digest your spreadsheet, and it took me a couple
13 hours to print it the other day, but I got it
14 printed. But I wondered if you could go through
15 the bottom part of the spreadsheet. Are you going
16 to do that now on all the trigger implications and
17 all the different options and the percentages of
18 the trimester? Are you going to go into that?

19 I don't understand. I really haven't
20 -- it was really helpful to watch you walk through
21 the top part, which I already got, but the latter
22 part with all the triggers and the percentages and
23 the trimester, could you walk through that?
24 'Cause I'm a little confused by that.

1 JASON DIDDEN: They are very dependent
2 on what is set for these, so I would suggest that
3 as the Council works through this, and then maybe
4 it gets very similar, if the Council ends up at a
5 similar point, then all the other stuff follows
6 through. But if these change a lot, maybe even a
7 five minute break, I could then carry those through
8 with some of the other things.

9 JEFFREY KAELIN: That's fair enough.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Laurie.

12 LAURIE NOLAN: Jason, I'm sorry I have
13 to ask you: What would the allowance have been for
14 the cap for the longfin squid guys if the original
15 spec package had gone through; what was that total
16 again?

17 JASON DIDDEN: The proposed was 2,445
18 metric tons -- 2-4-4-5. And that's what it should
19 go to in a month or two when Framework 6 goes final.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Go
21 ahead, Laurie.

22 LAURIE NOLAN: So the spreadsheet would
23 increase that by about 500 metric ton, this example
24 that you have in front of us?

1 JASON DIDDEN: Yes.

2 LAURIE NOLAN: Well, I mean it all
3 sounds nice that the numbers are up, but, in fact,
4 as Jeff was kind of pointing out, to hear that there
5 could be no third trimester loligo fishery is very
6 depressing, and yet you don't want to allow the
7 total increase of a stock to just cover discards;
8 but if we increase the take, the trip limit on
9 butterfish could be increased, which would allow
10 for more landings on the dock, but you're still
11 allocating it strictly to the loligo fleet.

12 So it's really hard to sit here and say,
13 okay, 3,000 metric ton is enough because it could
14 easily not be enough for the loligo fleet to
15 operate, but at the same time, you hate to take it
16 from an opportunity for a directed fleet to start
17 up again. So I don't know. I'm thinking out
18 loud. I'm sorry.

19 COUNCIL CHAIRMAN RICHARD ROBINS: No.
20 I think it's a great point. I think there's a
21 balance to be struck ultimately between the
22 uncertainty that Jason has mentioned about what
23 exactly the loligo fleet might catch. If we say
24 as a matter of policy we don't want to put that

1 fishery into the wall, then we would want to take
2 some of that uncertainty into account. But I
3 think you have to balance that out with the fact
4 that in the administration and development of the
5 cap, the industry has been trying to avoid the
6 fish, and so I don't think you would want to forego
7 some of those steps that they've made to try to
8 avoid them within the loligo fleet. And then
9 you've got also alongside that an opportunity to
10 have some directed fishing. So these are all the
11 things that we have to balance out. It reminds me
12 a lot of the situation the scallop fishery has with
13 yellowtail because in that case we've allocated
14 what the scallop industry is projected to catch as
15 bycatch, and yet that locked in a lot of
16 conservation that had already occurred.

17 In other words, the fleet had already
18 been working to avoid the fish. There's an
19 avoidance project in place. So that conservation
20 in effect was codified in the process. And
21 there's some directed fishing of course. The fish
22 are also important to the groundfish fleet. So,
23 in some ways it's similar to that, but it's a unique
24 case too. I think we have to weigh those different

1 factors and try to balance them out because you do
2 have uncertainty in the projected catch of
3 butterfish in the loligo fishery. Jason pointed
4 that out. So you'd want to take that into account,
5 but by the same token, we have this avoidance-type
6 strategy in place and an opportunity to offer some
7 directed fishing. So I think we have to consider
8 all those factors. Laurie.

9 LAURIE NOLAN: To that I think if we're
10 committing to spreading the discard cap out over
11 the trimesters, I think that will help assure
12 everyone that they'll have an opportunity to go
13 fishing in that particular trimester. So I think
14 at this point based on the news that in fact right
15 now if loligo fishing continues the way it is,
16 there could be no third trimester fishing, I think
17 we absolutely have to address allocating the cap
18 throughout the trimesters. And as abundance
19 increases, this problem is only going to get worse.
20 It's not going to get better.

21 So I think we have to commit to whatever
22 numbers we choose in this first process, in this
23 first step to begin to think about an allocation
24 strategy for the cap through the three trimesters.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Jason.

3 JASON DIDDEN: And there is an
4 allocation of the cap. Trimester 1 cuts off at a
5 certain point. The data had suggested a very
6 small allocation in Trimester 2 because the ratio
7 had been so low, and that was also true in the first
8 year of the cap but has not been true this year.
9 I can imagine like cutting Trimester 2 off when it
10 gets to like -- you know, 2/3rds of the total and
11 then possibly revisiting -- this has kind of just
12 flared up in the last couple of weeks -- and doing
13 some additional analysis as we saw with some of the
14 simple frameworks the Council has done recently.

15 If something was screaming to be done
16 differently, it's possible that you could revisit
17 that issue in time for Trimester 2 next year. But
18 at least put in some kind of buffer in closing
19 Trimester 2 so there's something left over for
20 Trimester 3 I think is worth considering as well
21 this year.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Jud.

23 JUD CRAWFORD: Thanks very much. I
24 just want to make --

1 COUNCIL CHAIRMAN RICHARD ROBINS: Just
2 say your name.

3 JUD CRAWFORD: Oh, I'm sorry. Jud
4 Crawford, PEW Environment Group. I just want to
5 make a couple of very brief comments that are not
6 specific about the way you're going to manage this
7 particular stock.

8 But listening to this discussion, it
9 seems important to just point out that all the
10 stocks that you're talking about -- butterflyfish,
11 the squids, mackerel -- are fish that are at a low
12 tropic level. They're near the bottom of the food
13 web, and I think you all know that. They're forage
14 fish. Many people talk about forage fish. And
15 Dr. Boreman pointed to one of a couple of
16 scientific studies that have come out in the last
17 couple of years on forage fish, and I thank him for
18 that careful presentation from the SSC.

19 But I think it is important to keep in
20 mind that these are stocks for which the management
21 decisions have ramifications not only for these
22 particular populations but for other stocks that
23 you manage and that other people manage that are
24 important in the ecosystem and also just to

1 remember that while we have a nice analysis from
2 the Northeast Science Center on butterfish, it's
3 not a peer reviewed stock assessment; it's -- you
4 know, a good piece of work from a couple of very
5 good scientists, but it hasn't had the benefit of
6 a full peer review, and it isn't a stock
7 assessment, and there continues to be a fair amount
8 of uncertainty about exactly what the status of
9 butterfish is.

10 It's wonderful that they appear to be
11 coming up. I agree with that assessment. But I
12 hope you'll proceed cautiously and remember that
13 you're not basing your decisions on a full blown
14 benchmark stock assessment but some new
15 observations and analysis. Thanks.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Thank you,
17 Jud. Greg.

18 GREGORY DIDOMENICO: Mr. Chairman, are
19 we having the opportunity to provide comments on
20 the overall ABC recommendation or the issue moving
21 forward of how we're going to allocate between a
22 directed fishery and a bycatch cap?

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Yeah. I think there's an allocation inherent in

1 the decisions that are going to be made in terms
2 of what's assigned to the buffer or added to the
3 cap. So, if you have comments on that allocation,
4 I think this would be a good time to have it.

5 Okay. Back to the Council. What's the
6 pleasure of the Council in terms of the scenario
7 that Jason's described? He's laid out one here on
8 the spreadsheet. He had some others in the
9 briefing document.

10 But I think Jason played out one
11 scenario for ABC, ACT and then a cap that has an
12 allocation in it. I'd like to hear a discussion
13 on that and then ultimately a motion. Jason.

14 JASON DIDDEN: And just in reference in
15 terms of the briefing documents, this kind of lies
16 between the A and the B that was in the staff memo.
17 I think there may have been a question in that
18 corner.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Bob
20 O'Reilly.

21 ROBERT O'REILLY: I just wanted to ask
22 --

23 COUNCIL CHAIRMAN RICHARD ROBINS: I'm
24 sorry. Your mic's not on.

1 ROBERT O'REILLY: Just concerning the
2 three options that are laid out in the document,
3 we went over one pretty clearly, and the merits of
4 the other two if they could be discussed a little
5 bit in terms of butterfish but also discards in
6 terms of longfin that might help me a little bit.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Sure. Rob, the scenario that Jason just described
9 is essentially it falls in between a couple of
10 those. But he developed three scenarios that made
11 different allocations. So I'll ask him to go
12 ahead and run through those. If you would, Jason.

13 JASON DIDDEN: Sure. I'm just trying
14 to blow it up on the screen as big as I can. So
15 they're both starting with the assumption that
16 you're going to go with an 8400 metric tons ABC.
17 If the Council decides not to, then everything else
18 changes. And this year was a 10 percent buffer,
19 which is last year's buffer. That's a little
20 different from my spreadsheet that increased that
21 a little bit. And essentially the difference in
22 these three options is how much you're allocating
23 to the cap.

24 And you can see in Option C, it allocates

1 a very small amount to the cap and a very large
2 amount to landings. So that would allow more of
3 a butterfish directed fishery. But a low cap
4 would be -- you know, quite likely especially in
5 a situation of relatively high butterfish
6 abundance to shut down the loligo fishery.

7 And then the B is a middle portion.
8 It's pretty much in between -- sorry. That was C.
9 The first one, which is A, is kind of the reverse.
10 You can see it kind of reserves quite a high amount
11 for discards, and that's tied to setting the
12 butterfish cap quite high, which would be the least
13 likely to impact the longfin squid fishery.

14 But if the goal is not to impact the
15 longfin squid fishery, that means there's going to
16 be probably less available for a directed
17 butterfish fishery. So those are really kind of
18 the two trade-offs inherent in those A, B, and C.
19 Do you have more for directed butterfish fishery
20 or more to kind of allow the longfin squid fishery
21 to operate unfettered. And so that's really the
22 key difference between those.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Rob,
24 do you have any follow-up questions on that?

1 ROBERT O'REILLY: I mean I have a
2 general sense of the economics here to, but haven't
3 heard anything concerning that. There was some
4 information I guess that I did read in terms of the
5 butterfish and the economic profile.

6 But how is that really considered as
7 well? There are going to be discards. How much
8 seems to be the one question here overall. The
9 bottom of Jason's chart they're all very similar
10 in terms of the total catch. But the total
11 discards is that the driving force, and what are
12 the economics of that?

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Well, I guess on top of that there are discards and
15 there's the issue of the uncertainty about those
16 discards that could have implications in
17 subsequent years. I think Jason's made some
18 conservative estimates of projections about that
19 in this in-between scenario that he's laid out.
20 And, Jason, you did identify I believe the
21 economics associated with loligo and butterfish,
22 that is, what a pound equates to, what a pound of
23 butterfish equates to as a constraint on the loligo
24 fishery. Can you elaborate on that?

1 JASON DIDDEN: So in the document you
2 have potentially butterfish landings ranging from
3 about 2500 metric tons to 5,000 metric tons of
4 butterfish landings, and so they have some value
5 as landings.

6 Then on the flip side, there's the
7 loligo fishery. The loligo fishery (a) is a
8 larger quota, over 20,000 metric tons, and per
9 pound in the last say 10 years. Loligo is worth
10 more per pound for butterfish as well.

11 On the flip side, I know some folks on
12 our AP panel would say, well, yeah, that's what's
13 happened so far, but maybe the butterfish fishery
14 if it gets established has the potential to be a
15 very valuable fishery as well from a landings
16 perspective.

17 So it's kind of like what we have right
18 now with loligo and potentially restraining that
19 loligo fishery 20 to 30 million dollars a year
20 depending on landings and price versus the
21 potential for a butterfish fishery. So that's
22 definitely a trade-off as well.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Geir, would you like to comment on the economics?

1 GEIR MUNSON: Yes.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you. I thought you might have something to
4 say.

5 GEIR MUNSON: Thank you. Geir Munson,
6 Sea Freeze. The butterfish bycatch cap in the
7 loligo fishery came about with the belief that
8 butterfish stock was in big trouble.

9 If now we're saying that it isn't in big
10 trouble, and would urge the Council to start
11 immediately to get rid of the butterfish bycatch
12 cap in the loligo fishery. If we have a decent
13 stock of butterfish, there's no need for it
14 anymore.

15 Talking about the value of butterfish
16 versus loligo squid, when we had a directed
17 butterfish fishery, butterfish was worth two to
18 three times as much as loligo squid at that time,
19 and I believe it could come back to those ratios.
20 It won't happen overnight. It will happen over
21 time. Talking about what to allocate to different
22 uses right now, number one, I would hope that with
23 a higher ABC number that the Council try to get rid
24 of discards as much as possible. Discards because

1 of regulations is a horrible waste of resource.
2 Turn those discards into landings with reasonable
3 regulations.

4 Higher trip limits for all categories.
5 And to the extent that you have a directed
6 butterfish fishery, that fishery will be conducted
7 with boats that normally would try to catch loligo
8 squid.

9 So the bigger quota you have for a
10 directed fishery for butterfish you take the
11 equivalent effort away from loligo squid. And
12 keep that in mind when you discuss this.

13 It's butterfish quota in a directed
14 fishery will have a direct impact of how much
15 effort go into loligo squid. So the less boats
16 fishing loligo squid, the less boats the quota for
17 loligo is going to last longer, and the bycatch
18 cap, which they probably are stuck with for the
19 next year, hopefully after that it will go away
20 will be lasting that much longer because of less
21 boats. Thank you.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Thank you, Geir. Jason, did you have any further
24 comments on the economics? Okay. Erling.

1 ERLING BERG: Thank you, Mr. Chairman.
2 I had a question for Geir if you can get him back
3 up here. I know a lot of these vessels are tanked.
4 They just catch one fish, whether it's mackerel or
5 herring they can mix them.

6 And you can't mix butterfish and squid
7 in the same tank. But I'm pretty sure that on
8 these vessels they catch loligo also and just put
9 them on ice in bins.

10 So why can't those vessels bring that
11 butterfish instead of throwing it over the side,
12 why can't they bring it back to the dock and get
13 some economic value from that fish, and that would
14 eliminate some of the discards? Is that doable,
15 that they can bring in both species?

16 GEIR MUNSON: Oh, yeah. Absolutely.
17 They used to. And they could land butterfish. It
18 was always some mix. I think traditionally when
19 they had a directed butterfish fishery, there was
20 only maybe 5 percent of loligo caught, and I know
21 when they fished butterfish as a main specie,
22 loligo was a nuisance bycatch, and 5 percent maybe
23 as high as 10 percent on some occasions, and a
24 majority of the fish was brought in by ice boats

1 and kept separate in the hold. And that's what I
2 was talking about trying to come up with
3 regulations that get rid of discards -- that's to
4 me a sin -- and turn it into landings, and turning
5 it into landings, you'd know exactly what was
6 landed. You won't deal with estimates of discards
7 anymore, and that's the way to manage something.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Joel.

10 JOEL SOHN: Hi. I'm Joel Sohn. I'm at
11 Harvard University. I'm working with Geir and Sea
12 Freeze on trying to understand what goes on with
13 the butterfish. One major truth about butterfish
14 in that there's no truth about butterfish. We
15 have lots of problems. But one problem that I
16 confronted I went on the Relentless a few times.
17 The guys on board were reluctant to put me on deck
18 because I was over educated. But I had spent 30
19 years in the commercial fishing business. But I
20 didn't say anything, so they let me pick from the
21 loligo catch the butterfish. Nice safe duty for
22 the over educated. And it's disheartening. That
23 is, these fish can go ashore. Instead, they put
24 the over educated there, and he wound up flipping

1 over 5 ton, 8 ton, 12 ton of butterfish. It's an
2 enigma, and it's a shame of our fishery. And it's
3 easy enough to pick it. Certainly, if they can
4 give academic that job, I know the fish can come
5 out from the squid fishery and be packaged and used
6 for human consumption. Thank you.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you, Joel. Peter.

9 PETER HIMCHAK: Yes. Question for
10 Jason. And I'm trying to snap at the table, which
11 doesn't help. I just want some assurance -- but
12 in your grid on page six where you have landings
13 metric tons, is that a directed fishery ACT?

14 'Cause I'm trying to come up with
15 landings. I'm thinking landings from the cap,
16 which are minuscule landings after all these other
17 discards are taken out of other fisheries. I'm
18 coming close to those numbers, but they're not
19 coming out the same. I want to see -- you know,
20 very simply what is the ACT with the directed
21 fishery under the three scenarios of Options A, B,
22 and C? Essentially zero.

23 JASON DIDDEN: Sure. Five hundred
24 metric tons is what is allowed for landings. So

1 the ABC is what you set it, and then the ACT is what
2 you set aside for management uncertainty. And I
3 think of ACT target. That's what you're trying to
4 catch. So if you set aside 10 percent for a buffer
5 and you're trying to catch 7,560, then you set --
6 you know, a certain amount for discards, and then
7 that landing is what you're trying to land.

8 Now, some of that will occur maybe in a
9 directed fishery with no trip limits, but then at
10 some point before you get to 2570, you have to go
11 to -- you know, a post closure trip limit 'cause
12 that 2570 some of that may be -- you know, landings
13 under no trip limit, but some of that would be the
14 dribs and drabs that come in throughout the rest
15 of the year after you close. So the 2570 would be
16 essentially like the DAH that your commercial
17 quota that you're trying to stay below. Some of
18 that -- and right now we close at 80 percent. So
19 right now you'd close at 80 percent of 2570 under
20 the current closures. That's what you're trying
21 to hold landings to, which is right now the DAH.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Peter.

24 PETER HIMCHAK: So my question then is:

1 In the promotion of new markets -- and maybe Geir
2 can shed some light on to this because I read his
3 comments on essentially doing this -- what he would
4 need as a level to be an attraction to start
5 developing foreign markets -- so what kind of an
6 ACT -- and I know maybe it's hard to answer -- but
7 based on what you possibly had in the past, what
8 level of directed fishery ACT would be essentially
9 an attraction to developing foreign markets?

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Geir.

12 GEIR MUNSON: The only foreign market
13 that they had in the past for butterfish was Japan.
14 Butterfish was used in a small area of Japan and
15 is used similar to a couple other fish, semi dried
16 like a salted product. Japan is a very strange
17 country. You all heard stories about how Japanese
18 employers guarantee year round employment to their
19 employees. In order to get the foot in the door
20 with a new product again, you will have to assure
21 the buyers that they're going to be able to supply
22 them not only today but next month and next year.
23 So the higher ACT number they have the better it
24 is from a marketing point of view in order to get

1 the foot in the door. That doesn't mean that that
2 number will be caught. What you are faced with
3 right now is we'll have to sell dirt cheap in order
4 to get our foot back in the door. You have to
5 demonstrate that you can deliver. You got to let
6 the buyers make a decent profit, hopefully a very
7 good profit. That's how we convince other buyers
8 to also come in and create a stronger demand. It's
9 absolutely going to be a supply-and-demand type of
10 thing.

11 Our company probably because of our
12 history will go out and produce a few hundred tons,
13 maybe a thousand tons on speculation, but it's a
14 huge risk to take to produce a huge quantity
15 without having sales. But knowing the Japanese
16 market, that's what we have to do. And whatever
17 number you come up with it doesn't mean that you
18 turn a switch, and that's what's going to happen.
19 The market's going to dictate what will happen.
20 And there will be plenty of time for the Council
21 to make adjustments if there are any negative signs
22 that the resource is being overtaxed in the future.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Peter. Thank you, Geir. Go ahead, Peter.

1 PETER HIMCHAK: I'll follow up on that.
2 I mean we're looking at a balancing act here to come
3 up with a high enough number to induce the
4 development of markets while at the same time not
5 jeopardizing the loligo operations. So I mean is
6 2000 metric tons is it under Option A, and is that
7 likely to be an appropriate calling card
8 considering now you have nothing?

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Geir.

11 GEIR MUNSON: I don't know what is an
12 appropriate calling card. I know that the bigger
13 the number the easier it's going to be. And I
14 understand that you're going to balance the needs
15 of the loligo fishery and the need to create the
16 directed butterfish fishery, and certainly you
17 should take both into consideration.

18 Our company is one of the biggest
19 producers of loligo squid also. But they have a
20 strong history with butterfish, and we'd like to
21 get that back. And as I said earlier, the more you
22 allow for butterfish catch the more you take effort
23 away from the loligo fishery. So that is part of
24 the balancing act.

1 And I certainly would like to see 8,400
2 tons for a directed fishery, but I know I'm not
3 going to get that, so 2,000 is better than nothing;
4 3,000 is better than 2,000.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you, Geir. Jason.

7 JASON DIDDEN: And, Geir, if you stay
8 there for a minute. And so I think I'll have to
9 skip ahead a little bit. Part of the thinking in
10 the spreadsheet was that there's some directed
11 fishery, and the directed fishery would like to
12 operate with no trip limits. But then you could
13 imagine what would happen. It approaches a
14 closure threshold, and you go from -- you know,
15 vessels catching two, three, four, five hundred
16 thousand pounds per trip to then now catching five
17 hundred pounds per trip for the rest of the year,
18 which could occur fairly quickly, which means a lot
19 of regulatory discarding; we're back to the
20 situation where butterfish are being thrown over.

21 So kind of down further in the
22 spreadsheet is what Jeff was asking about. You
23 know, I kind of have a dual trigger described where
24 there would be some amount of the quota with no trip

1 limit. We know -- and kind of calculated based on
2 last year's performance the values up there for
3 closures, the different months of the year.

4 You can imagine that the later in the
5 year you close the less you need in the bank to
6 cover the dribs and drabs that come in. Early in
7 the year you need more to not have an overage. And
8 last year the trip limit was 250 pounds, the larger
9 quota, doubling the amount that was caught -- not
10 quite doubling the amount that was caught last year
11 per week. I think that those closure percentages
12 in those months based on again the ACT that's in
13 the spreadsheet would be unlikely to lead to a big
14 landings overage.

15 Now, if you then say, okay, well, let's
16 not go right from -- you know, a trip limit of 500
17 metric tons -- not to a trip limit of nothing --
18 but maybe starting at no trip limit and then going
19 down to say 10,000 pounds and reserving -- you
20 know, 13 to 18 percent of the overall quota for
21 those 10,000 pound trips, then you have a certain
22 amount of metric tonnage that would operate with
23 no trip limit and a certain metric tons that would
24 operate with, say, a 10,000 pound trip limit.

1 I think Geir would probably say he
2 really isn't going to operate in this directed
3 fishery at 10,000 pounds a pop because of the
4 efficiency that he needs to catch at a low cost.

5 So my question for Geir is that under
6 this scenario in the spreadsheet, it leaves at
7 least 1,400 metric tons if you make it to March
8 without a closure, maybe 1600 metric tons of kind
9 of a real open directed fishery with no trip limits
10 for kind of Year 1 of a directed fishery; would that
11 level be enough for you to kind of get your foot
12 in the door?

13 GEIR MUNSON: Any level would help. As
14 I said, the higher the levels the better I would
15 feel about it. If we can catch butterfish at the
16 same ratio as we caught butterfish the last time
17 we directly fished on it in 2001, we could satisfy
18 our company's demand in probably just a few weeks,
19 and the earlier in the year we do it the better off
20 we are because of the fat content of the fish.
21 It's highest in the winter months.

22 After March it's basically not suitable
23 for export to Japan. And after that it will be
24 domestic market and maybe some other real cheap

1 markets on export. But to get into the high-end
2 markets, the winter production is the preferred,
3 December, January, February and sometimes into
4 March.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Laurie.

7 LAURIE NOLAN: Thank you. So there is
8 some directed butterfish fishery that could occur
9 in December. So, if we set the cap for the loligo
10 fishery, which may look like we're being overly
11 generous to them rather than the directed fleet,
12 if they're not using the cap in the third trimester
13 and it looks like there would be an excess of the
14 set-aside for the cap, could we then roll that over
15 back to the directed fishery and give -- just to
16 ease the pain here, to know that there could be some
17 flexibility if we were to choose, say Option A,
18 which looks as if it gives the directed fleet the
19 lowest allocation, but come November if we looked
20 at where we are with the cap allocation and if
21 there's a surplus, roll that over to the directed
22 fleet at that time so that December's fishery could
23 work on the excess of the cap allowance; can we set
24 that up?

1 COUNCIL CHAIRMAN RICHARD ROBINS: So on
2 an in-season basis because it wouldn't roll over
3 to the following year. Jason, is that possible?
4 Can you all comment on the viability of developing
5 a new mechanism for an in-season transfer within
6 Trimester 3 if it appears that the loligo fishery
7 is not projected to take the butterfish cap in that
8 period; could we on an in-season basis reallocate
9 it and make it available to the directed?

10 GEORGE DARCY: I think we could do it.
11 I don't know whether we can do it through
12 specifications or whether we'd have to do that
13 through a framework. I just don't know. It would
14 have to be regulations I think as to how we would
15 do that, what the criteria would be and so forth.
16 But I think theoretically it's possible we could
17 do that.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Joel, do you have any comment on whether we could
20 do that through specifications?

21 JOEL MACDONALD: George is right.
22 It's something we have to look into just to come
23 up with a more informed answer.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Okay. Thank you. Laurie and then Michael.

2 LAURIE NOLAN: Well, then based on this
3 information whether it's a spec action or a
4 framework action, I would feel comfortable today
5 proposing that we accept Option A knowing that
6 we'll get the answer to that question of the
7 rollover provision from the cap allocation to the
8 directed fishery allocation, and need be we could
9 do the framework before certainly get that
10 accomplished before the end of 2013 when this would
11 occur. We could start a framework action allowing
12 us to do this at our next Council meeting if we went
13 down this road and have that framework completed
14 long before this rollover provision would kick
15 into place.

16 COUNCIL CHAIRMAN RICHARD ROBINS: All
17 right. Before we take a motion, let me ask -- I
18 think Mike had a question.

19 MICHAEL LUISI: It's not so much a
20 question but just a comment kind of falling in line
21 with Ms. Nolan. These types of allocation
22 discussions I'm very interested in this kind of
23 stuff. And it's much easier to have the
24 discussion when we have more quota to distribute

1 between -- you know, already established fisheries
2 and the opportunity to expand a once historical
3 fishery.

4 And although I appreciate the questions
5 that have been looking at kind of a bottom-up
6 approach about what do you need as a directed
7 fishery to begin and then everything else would
8 fall into the established cap, the butterfish cap,
9 I think the obligation that we have as a council
10 is to try to figure out with -- you know, the best
11 information that we have how to secure the fishery
12 that's established, the loligo fishery, and the
13 cap, provide for them the opportunity to have a
14 full year's fishery and then whatever were to fall
15 out I guess it's the idea that whatever would roll
16 over would roll into a directed fishery, and then
17 hopefully over the next few years, we'll continue
18 to see these same trends in butterfish, and the
19 opportunity will present itself to begin -- you
20 know, possibly allocating more to a directed
21 fishery that's growing and that's finding markets
22 and expanding. So that was all the comment I had.
23 Thank you.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you. Rob.

2 ROBERT O'REILLY: I was going to say
3 before I heard some information from those in the
4 industry going through the Council staff's Option
5 B that was presented, it seemed that that might
6 offer a chance to incrementally increase some type
7 of a directed fishery; however, in looking over the
8 information on page four, it seems that
9 historically or at least experience wise -- and
10 2001 was mentioned by one gentleman -- the years
11 that there was -- you know, an 8400 metric ton value
12 here, that falls in line with Option A. So Option
13 A is mimicking what went on in those years that are
14 referenced, and in a way the way I would think about
15 it would be that for those who want to either
16 incrementally or however they want to do it in
17 industry to increase the directed landings then
18 the starting point probably is now because it's
19 been a little over 10 years since there was even
20 this amount of an opportunity. So in a way I can
21 see where Option A has merits in terms of the
22 directed landings now, and perhaps what Mike was
23 indicating just a minute ago is going to take a
24 little bit more time. The part about that that

1 doesn't sit well probably with a lot of people is
2 it's still looking the scenario two-thirds of the
3 catches discards, so.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Laurie.

6 LAURIE NOLAN: Thank you. I think when
7 the cap was developed and 75 percent was allocated
8 to the loligo fleet, we were looking at low
9 butterfish quotas at that time.

10 So I think we always left it on the table
11 that there would be discussion of possibly
12 tweaking that allocation based on the butterfish
13 quota, which is kind of where we're at today now
14 with this larger number.

15 But at this point, I would say that I
16 would like to put a motion on the table to support
17 Option A knowing that there will be further
18 discussion about providing a provision in order to
19 roll over excess butterfish cap allowance that
20 we're giving the longfin squid fleet in Option A.

21 We will have a future option through a
22 framework to reallocate some -- to roll over some
23 of the unused butterfish cap allowance back to the
24 directed fishery; and I also hope that we will

1 address -- some of the discards can be converted
2 to landings.

3 COUNCIL CHAIRMAN RICHARD ROBINS: I
4 would suggest we do that in a separate step. So
5 is there a second to the motion?

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Seconded by Peter Himchak. Discussion on the
9 motion?

10 (No response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: Is
12 there any public comment on the motion?

13 (No response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Seeing
15 none, back to the Council. Any further discussion
16 on the motion for Option A? Jason.

17 JASON DIDDEN: So I was kind of
18 transcribing what Laurie was saying there.
19 There's one motion up on the board there. I'd just
20 ask if Laurie wants that, or if you want something
21 else.

22 LAURIE NOLAN: Yeah. I don't know if
23 we should say, With consideration of a rollover of
24 unused allocated butterfish bycatch cap.

1 COUNCIL CHAIRMAN RICHARD ROBINS: So,
2 Laurie, if we approve this or something like it,
3 then I would anticipate that our staff would work
4 with the Regional Office to determine whether we
5 in fact need to initiate a framework to do that,
6 and if we do, then they would go ahead and set that
7 process up. That would have a framework action
8 that would allow for that type of rollover and the
9 details in it.

10 LAURIE NOLAN: Yes.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Jason, do you want to say in there -- or Laurie,
13 as the maker of the motion, do you want to say that
14 the rollover of unused quota would be to the
15 directed fishery? Do you just want to clarify
16 that?

17 LAURIE NOLAN: Yes. And maybe a
18 percentage of the rollover depending on where
19 we're at.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Yeah. Whatever is rolled over is going to be a
22 percentage of the Trimester 3 cap. Right?

23 LAURIE NOLAN: Yeah.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Is

1 there any further discussion on the motion?

2 Peter.

3 PETER HIMCHAK: Yeah. I just wanted to
4 add that I like this approach. It's a great
5 approach because it not only safeguards the
6 current operation that we have with the cap in the
7 loligo fishery, but it gives a minimum ACT to a
8 directed fishery with the prospects of maybe some
9 other additional unused later in the year. So I
10 think we're going to have to place on this.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Any
12 further discussion? Is the Council ready for the
13 question?

14 (Motion as voted.)

15 {Move to recommend option A in the staff memo,
16 with consideration of rollover of unused
17 bycatch cap quota later in the year to the
18 directed fishery to be evaluated as soon as
19 possible.}

20 COUNCIL CHAIRMAN RICHARD ROBINS: All
21 those in favor please raise your hand.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Seventeen. Opposed like sign.

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Abstentions like sign.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: One

6 abstention. The motion carries. Thank you.

7 Jason, you want to go on to the trip limits?

8 JASON DIDDEN: So the trip limits were
9 kind of contingent upon this. And it may make
10 sense to maybe most efficient to revisit the rest
11 of the butterflyfish quota either later today or even
12 tomorrow. It would give me a chance to kind of
13 turn through kind of some of the trip limit stuff
14 and come up with a couple different options for the
15 Council. 'Cause based on this kind of it changes
16 a lot of different things. So in the sake of time,
17 it may be most efficient.

18 COUNCIL CHAIRMAN RICHARD ROBINS: I
19 understand. So this changes everything in your
20 spreadsheet. Right? Okay. Are there any other
21 actions under specifications that we can address?
22 We could come back to that. Would it be okay to
23 do it near the end of the afternoon today?

24 JASON DIDDEN: Sure. Anytime. I'm

1 here for the whole council meeting.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Okay. Why don't we plan to do that. Is there any
4 other business under specifications to be
5 addressed?

6 JASON DIDDEN: Two things. One is if
7 the Council wants to -- the Region has requested
8 that the Council reaffirm the 2012 increase that
9 the SSC did. The Region also wanted that to be
10 reaffirmed -- it was the second item on the agenda
11 -- just so that the Region can go ahead and increase
12 the ABC once Framework 6 goes final.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Okay. And also what about the issue that Laurie
15 discussed earlier? I believe you raised it about
16 the closure threshold in Trimester 2. That is
17 establishing some allocation there so that
18 Trimester 3 is not foreclosed.

19 JASON DIDDEN: Okay. Given that
20 overall allocation may impact the decision, I
21 would suggest maybe wait on that, and I may crank
22 through some different options on that also.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Okay.

24 So we can take that up when we discuss trip limits?

1 JASON DIDDEN: I think so.

2 COUNCIL CHAIRMAN RICHARD ROBINS:
3 Thank you. So the item before us now then is
4 whether to reaffirm the 2012 recommendations, and
5 that's a request from the Region Office. So
6 what's the pleasure of the Council on that?
7 Laurie.

8 LAURIE NOLAN: Certainly, we affirm our
9 position. The SSC -- you know, made note of
10 further supporting the 2012 recommendations. And
11 I would say we reaffirm that position.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Can
13 we have a motion to that effect?

14 LAURIE NOLAN: Okay. I would move that
15 the Council reaffirm the 2012 spec package that was
16 put forward to NMFS and accept that.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Is
18 there a second to the motion?

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Second by Erling Berg. George, does that satisfy
22 the requirements of the Regional Office?

23 GEORGE DARCY: I think this is specific
24 to the proposed butterflyfish specifications. You

1 might want to qualify that because it really only
2 pertains to the butterflyfish.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Laurie, is that perfection accepted?

5 LAURIE NOLAN: Yes.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thank you. Discussion on the motion?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there any comment on the motion?

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Seeing none, is there any objection to the motion?

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Seeing none, it's approved by consent. Thank you.

17 Jason, is there anything else on specifications?

18 JASON DIDDEN: Not for now.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Thank you. I'm told that the coffee is here, so
21 why don't we take a 10-minute break. And when we
22 come back, we'll take up the Visioning Project.
23 Thank you.

24 (Break: 10:24 a.m. to 10:47 a.m.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Let's go ahead and come back to our seats, if you
3 would please, so we can get started. Thank you.
4 Our next agenda item is the Visioning Project and
5 Strategic Planning. Mary is going to be giving us
6 a presentation on the results of the data
7 collection phase of the project.

8 Before we get into that, I just wanted
9 to offer some informal background remarks about
10 the project and talk a little bit about the
11 experience.

12 I did have the benefit of attending most
13 of the small group data collection meetings, and
14 frankly it was a great experienced opportunity.

15 Just stepping back looking at where we
16 were in our history and really the reasoning for
17 the Visioning Project, we were at a very I think
18 important inflection point in our history because
19 we had just finished rebuilding most of the stocks
20 that we're responsible for managing.

21 And that was a long and difficult
22 chapter in our council's history. It was a
23 difficult chapter within the region in terms of how
24 it affected the region's fisheries, the region's

1 fishing communities whether recreational or
2 commercial. The rebuilding process was
3 difficult. Institutionally and socially I think
4 it came at a cost as well in terms of the fact that
5 at this point in time we had fewer people
6 participating in the process than we did in the
7 past.

8 A lot of the people that interacted with
9 the Council and frankly with the Commission in the
10 rebuilding process for those jointly managed
11 species found it to be frustrating because they
12 might have come in and offered advice and went away
13 with the sense that the process was unresponsive
14 to public input.

15 In fact, the process was simply
16 constrained. The Council and Commission had to
17 rebuild the stocks that remained managed and had
18 a lot of hard decisions to make, and there wasn't
19 a lot of flexibility in what those could be.*

20 So the Council was responding to
21 its legal mandates and operating under the
22 scientific advice that was given. So all those
23 decisions were necessary in order to rebuild
24 the stocks.

1 But, again, just underscore the fact
2 that it was a very difficult chapter in our
3 history. So now we're at a point where we've
4 rebuilt most of the stocks. We recognize that
5 public participation was not quite as broad as we
6 would have liked to have had as far as the
7 engagements that we had with either the regulated
8 communities or more broadly with the stakeholders
9 and public, and so we wanted to try to address that
10 head on.

11 We also recognized not only that we had
12 had a difficult history, but there were gaps in
13 confidence in the management process. And those
14 looked different through the different windows of
15 our stakeholders. But there are gaps in
16 confidence, and we recognized that right up front.
17 We wanted to address those head on through this
18 project.

19 So, in terms of what we did, this has
20 been the largest data collection and outreach
21 product in our council's history. We went out
22 with a survey quite broadly to the recreational
23 public to the commercial permit holders, more
24 broadly to the public.

1 We used a lot of different internet
2 methods to get that out as well, and I think we cast
3 it pretty broad net when we reached out. We also
4 had these small group meetings. We met with over
5 200 individuals up and down the coast throughout
6 the region. We went into southern New England as
7 well, in recognition of the importance of some of
8 our managed fisheries to that part of the country.
9 So we had small group meetings in New Bedford and
10 Chatham and Rhode Island, Connecticut, and then of
11 course throughout the Mid-Atlantic region.

12 But the method that we used for doing
13 these local meetings was to use a local co-host.
14 So we would reach out to people in the commercial
15 industry, the recreational industry, and then with
16 the NGOs.

17 We had a local co-host and went to their
18 places of business. We went to homes,
19 restaurants, libraries. Wherever they wanted to
20 meet we went to them. And so it was a comfortable
21 environment as far as the venue.

22 And I think that contributed
23 significantly to the success of it. So we had
24 really quite good participation. A lot of the

1 people that came to these meetings are not at all
2 involved in the council process.

3 So, for example, we had a meeting in
4 Virginia Beach, and we had about 19 or 20 people
5 there, and out of that group, I think only two had
6 been to a council meeting probably in the last 10
7 years. But those guys comprised really the core
8 of the day boat fleet there in Virginia Beach. So
9 these are people that are affected by our
10 regulations. They're active in our fisheries on
11 a day-to-day basis, but they're not active in the
12 process. And so I think on the one hand it was a
13 success in terms of really reaching out and getting
14 that broader input.

15 And what we wanted to do with this was
16 really come out of it with a contemporary
17 understanding of what the problems are in our
18 managed fisheries but also get a sense from the
19 stakeholders what they want to see the future look
20 like in a stakeholder-driven way as opposed to
21 simply doing it from the top down.

22 So we got a lot of information through
23 these small group meetings. We got a lot of
24 information that was highly detailed in the

1 surveys that we sent out. We ended up with about
2 2500 survey responses. Mary's going to run
3 through the data in a minute.

4 And in terms of the vision itself, I
5 think a lot of the elements of the vision are going
6 to be readily apparent in the data. These things
7 rise to the top. I think the concerns become
8 pretty clear.

9 But also in terms of desired outcomes in
10 the future, I think a lot of those will be readily
11 apparent. And on the one hand, there may not be
12 a lot of surprises in them for the group, given the
13 history that you have in the management of these
14 fisheries and familiarity with the constituents in
15 the fisheries alike. But there may be some as
16 well.

17 I mean I think one of the things that I
18 took away from it -- and I was asked when I present
19 it to the Council Coordinating Committee if there
20 were any surprises in the data to me, and just
21 through the course of the small group meetings, I
22 think it was really apparent that there's a great
23 deal of uncertainty facing the economic future of
24 some of our fisheries. And that was really

1 palpable I think in the small group sessions that
2 we had.

3 So I think as you go through this, a lot
4 of the read is familiar to you, and yet there may
5 be a few surprises in it. We did hear a lot about
6 the complexities of management, particularly the
7 complexities of state-by-state management.

8 State-by-state management has worked
9 very well for us in some regards in terms of
10 allowing states to meet the needs of their
11 fisheries, and yet there are consequences to that
12 management system that are probably ripe for
13 review as a result of this discussion. Just one
14 point that comes out of the data, it's clear that
15 not every state has equitably enjoyed the
16 dividends of stock rebuilding. So now we're at a
17 point where, for example, summer flounder is
18 rebuilt, and yet as you look up and down the coast
19 at the measures that we have in place, not every
20 state has seen a significant improvement in access
21 to that resource.

22 So there are issues associated with that
23 that are inherently complicated. They're
24 controversial. They're not easy issues to

1 address, but we've heard a lot of concerns that
2 fall into that category.

3 So I think that among others will be one
4 of the issues that we'll want to address coming out
5 of this. One of the clearest things -- and Mary
6 will detail these out for us -- one of the clearest
7 themes in terms of concerns is around data. The
8 data concerns look different from the different
9 constituents.

10 But we'll go through what those concerns
11 are from a commercial perspective, recreational
12 perspective, from the environmental community as
13 well. But ultimately I think improving that is
14 going to be really a core principal of the vision
15 for the future. But in order to address that, I
16 mean these things are not easily fixed. We all
17 know that. The Council doesn't have complete
18 administrative control over any of these programs,
19 and yet we are integral to the process.

20 We're relying ultimately as decision
21 makers on the data, and I think that's one of the
22 critical points with the constituents. I mean
23 that's where some of the gaps of confidence are.

24 So, if we're going to work to improve

1 that, it's going to take really a sustained and
2 coordinated approach to doing that. We're going
3 to have to work very closely with our management
4 partners really across the states with the ASMFC,
5 with the Agency, with the Science Center.

6 It's going to take a coordinated
7 approach and a sustained commitment to try to
8 really build a better future for the management of
9 our fisheries. And the concerns and the elements
10 that are touched on in this project go well beyond
11 data.

12 They get into economics and the
13 management strategies that we have in place. So
14 they're really quite broad. I think Mary's
15 presentation will lay all of that out for us. So
16 we'll look forward to that and subsequent
17 discussion. We'll also be discussing a
18 presentation of strategic planning. I'm not sure
19 if we'll get to that before lunch. We may have to
20 take that up right afterwards, but we'll see how
21 the time goes here.

22 I just want to make sure we have adequate
23 time for discussion and questions after we go
24 through Mary's presentations. But with that I'll

1 go ahead and turn to Mary.

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VISIONING AND STRATEGIC PLANNING

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MARY CLARK: Thank you for that introduction. And prior to the presentation I want to say thank you because I'm looking around the room and realized that almost every one of you has helped with the project at some point. I've bugged you with a lot of e-mails and questions.

But I know several of you have helped us coordinate meetings and sent a survey around to your networks of people. So it's really been a group effort to get such broad participation, and I appreciate your patience over the last year.

I know this meeting was pretty dense with information, but I hope you've had a chance to at least look over the executive summary in the briefing book. And for anyone who hasn't gotten an e-mail about it, the federal report is available on line, and I encourage you to take a look at it because it's got a lot of information in it. And I think the information is not just relative now, but it's going to be relevant for years to come as particular questions come up about how

1 stakeholders might be impacted by decisions. So
2 I encourage you to look through it and at least see
3 what's in there so that you know how it might be
4 useful.

5 All right. So I've given several
6 presentations on the process before. I don't want
7 to dwell on the details of it too much, but just
8 to give a really broad overview. The purpose of
9 this project which the Council has been discussing
10 for about two years now and began really fully
11 planning over a year ago.

12 The overarching goal is to create a
13 comprehensive stakeholder informed vision for
14 Mid-Atlantic fisheries and to develop a strategic
15 plan to guide us toward that vision.

16 So the project is really looking at
17 where we are now, not meaning we as a council, but
18 we, the fisheries, the council, all stakeholders,
19 the whole environment. And then for the Council
20 to determine what the vision is for the future.
21 And as Rick said, the Council has really been
22 driven by rebuilding goals for a long time, and now
23 that those goals have been accomplished, it's a
24 really ideal time to identify some new goals for

1 some of the Council's managed fisheries.

2 And so the strategic planning part of
3 the process comes when you identify that vision and
4 you figure out how you're going to get there.
5 Easier said than done.

6 So, for this first phase of the project,
7 which was the stakeholder data gathering phase,
8 there are three objectives. And Rick focused a
9 lot on the first two in his introduction, which are
10 engaging stakeholders and building trust and
11 improving relationships.

12 But the third objective was to get input
13 on regulations in the management process. And so
14 this is really about collecting information. And
15 I think it's important to stress that the project
16 wasn't just about engaging stakeholders and making
17 people feel heard, but it's also about recognizing
18 that stakeholders offer valuable information that
19 can actually improve the council process and
20 inform your management decisions.

21 It's going to be a little abstract for
22 a second. This acronym right here is coined by the
23 psychologist Daniel Conoman, and it stands for
24 what you see is all there is. He won a Nobel prize

1 in economics for his work in the field of
2 behavioral economics even though he's never taken
3 an economics course in his life.

4 I promise this will be brief. But he
5 uses this phrase to describe the tendency of a
6 human mind to quickly and automatically construct
7 the best possible story from the information
8 available.

9 But he says that humans aren't good at
10 weighing the quality and quantity of information
11 that we use and we tend to create a coherent story
12 from whatever data we have available. The human
13 mind isn't programmed to look for missing
14 information.

15 He says that we're actually happier --
16 not we as a council -- but humans are happier if
17 we have less information because it makes it easier
18 to make decisions and you feel more confident in
19 your decisions.

20 So I'm not suggesting that the Council
21 makes intuitive decisions and that you don't
22 consider the available data. In fact, the
23 National Standards and the Magnuson-Stevens Act
24 and Reauthorization set up a system where you have

1 a pretty limited ability to do that. You're
2 getting clear guidance on how to interpret data.
3 And so a lot of human errors are avoided.

4 I think the concept is still relevant
5 because as you work to develop the strategic plan,
6 it matters that we think about what information
7 isn't available to us and what questions we should
8 be asking.

9 You're probably all saying we don't know
10 what we don't know. And so one of the purposes of
11 going out to stakeholders is figuring out what
12 interactions are happening with fisheries, what
13 can they tell us that we don't know is happening.

14 So two examples of this. In 2011 in
15 December, the National SSC Workshop convened, and
16 the two topics of it were ecosystems and social
17 science. The two groups met in break-out sessions
18 and developed sets of recommendations for moving
19 forward.

20 Top recommendations from both groups
21 were getting better data in the areas of ecosystems
22 and social science to improve the Council's
23 ability to incorporate these considerations into
24 the management process. So those are two broad

1 types of data. But it's difficult to think about
2 how these interactions are relevant on a
3 decision-by-decision basis and where information
4 is missing. So back to the project and the
5 research we've been doing.

6 What kind of information can you learn
7 from stakeholders? One of the number one things
8 that we've mentioned in this process is that they
9 on-the-water knowledge, not meaning necessarily
10 that they're fishermen, but people who see more
11 directly the way that regulations play out in
12 relation to the fisheries who can give the Council
13 insight that perhaps you as a group can't see.

14 For example, social and economic impact
15 for regulations that might not be evident in the
16 data, ecosystem interactions, fishery trends.
17 And some of this has already been attempted by the
18 Advisory Panel performance reports. But this is
19 one kind of information that can be conveyed
20 through this project.

21 Stakeholders can also help the Council
22 understand how to communicate more effectively.
23 They can give ideas for improving management. And
24 there's the unknown. We don't know what we don't

1 know. So stakeholders might tell us something
2 that we didn't know was even a question that we
3 should be asking. So Rick told you about the data
4 collection method. I won't dwell on this, but
5 there were three really good data collection
6 leaders. One was the survey. We got about 2500
7 responses total to two types of survey.

8 One was general about the council process and
9 fishery management strategies, and then one was a
10 short survey for each of the Council's managed
11 fisheries. We had 20 round table group meetings
12 throughout the region, and then we also gave anyone
13 in the organization an opportunity to submit a
14 position letter.

15 So, in going through the results, we got
16 a huge amount of information, and I've been
17 swimming in it for about the last eight months.
18 It's kind of painful to boil it down to a
19 presentation.

20 But for the sake of your time and
21 attention today, I'm going to briefly run through
22 the participants in the project, what roles they
23 play in the Mid-Atlantic fisheries, geographic
24 distributions throughout the states, and then

1 confusing, but people chose one role as their
2 primary role, and then they can select as many as
3 they wanted for any other roles in Mid-Atlantic
4 fisheries. So some people might be interested
5 public and recreational fishermen, so they would
6 choose one or the other but both are useful sources
7 of information for us. This is the distribution
8 of survey responses by state. New Jersey was by
9 far the most responsive, but we got pretty good
10 numbers from all of the states in the Council's
11 region and beyond.

12 And then this I thought was interesting
13 because the majority of people who participated
14 had never participated in the council process
15 before. 56 percent of people said that they had
16 never participated or participate once every
17 several years.

18 And I think this indicates, one, that
19 the communication strategy that we used to
20 communicate this project were effective and that
21 also there are a great number of people that have
22 an interest in Mid-Atlantic fisheries who haven't
23 been participating.

24 So I think this is a great opportunity

1 for the Council to build on this momentum and try
2 to maintain those relationships that may have been
3 established throughout the course of the project.

4 We divided the themes and
5 recommendations into six categories. They're
6 pretty broad categories, but information and data
7 and management strategies, which that's a pretty
8 broad one, but it's basically how did the Council
9 make management decisions and then how are those
10 decisions or the regulations implemented on the
11 water, economic challenges, communication, and
12 participation, governance and ecosystems.

13 It's kind of funny because when we were
14 planning the project I think Rick was the first
15 person who phrased it this way, but he said, we want
16 to find out what we're doing right and what we could
17 do better on.

18 In the meetings when we asked people
19 what we're doing right and what we're doing wrong,
20 people were a lot more interested in talking about
21 problems than things that the Council's doing
22 right, shockingly.

23 So themes generally refers to issues or
24 problems or concerns that people have, just to be

1 clear. So commonalities among all of the
2 stakeholder group themes there's a lot of
3 information in the next slide, so I'm going to have
4 to be kind of brief. But I'll have time for
5 questions at the end.

6 One is that stakeholders generally
7 lacked confidence in the data that's used to inform
8 management decisions. This related to how it was
9 collected, how it was analyzed, interpreted and
10 then what data wasn't being used to inform
11 management decisions. All of the groups felt that
12 stakeholders were not sufficiently involved in
13 management. There was confusion about
14 jurisdictions, regulations, and authority of
15 fishery management organizations which generally
16 was the Mid-Atlantic Council, New England Council,
17 ASMFC, and the individual states.

18 There's a clear need for better communication
19 and greater transparency in the decision making
20 process. We heard a lot about how stakeholders
21 don't understand how the Council makes decisions,
22 and they don't understand the rationale behind
23 management decisions.

24 Ecosystem and (inaudible) interactions

1 should be given more consideration. This is one
2 where the interpretation of this theme was
3 substantially different among the different
4 stakeholder groups, but they did all feel that the
5 Council should be considering ecosystems more.

6 The Council is not set up to truly
7 represent stakeholder interests. And then
8 concerns about pollution and degrading the health
9 of the fisheries. So these are pretty high level
10 themes. And how I'm going to jump into some more
11 specific details about the data. So among the
12 commercial industry participants, information and
13 data was a hot topic. For one, they thought that
14 the science and data just isn't accurate or precise
15 or detailed enough to really be basing management
16 decisions on.

17 There were a lot of concerns about the
18 trawl survey. There were issues with the
19 methodology of it but then also feel that it's not
20 implemented properly and that commercial
21 fishermen should be more involved in the
22 collection of data including the trawl survey and
23 then elsewhere.

24 We heard a pretty good number of

1 problems with the Observer Program. And keep in
2 mind these are not necessarily things that the
3 Council has any sort of authority over. But it is
4 interesting to know what your constituents are
5 having problems with.

6 So the Observer Program we heard some
7 issues of the protocol not being followed the way
8 that I guess we would assume they are. No. 4
9 there's a timeline between the data collection and
10 management decisions.

11 And so the commercial industry felt that
12 the information that the Council uses is often
13 outdated and not really appropriate for management
14 decisions. The reporting process is redundant
15 and inefficient. There was a lot of paperwork and
16 could be a lot more centralized. And then the
17 research set-aside program has insufficient
18 transparency and industry involvement.

19 I'm sorry. I'm going to have to move
20 faster over these things. I would be happy to
21 address questions about them at the end. But with
22 management strategies, commercial industry was
23 concerned about discards and felt that it could be
24 avoided.

1 State-by-state management reduces
2 efficiency and often forces fishermen to travel
3 far out of their way to land their fish. And
4 you'll see on one of the later slides that fuel
5 costs are already one of the greatest concerns for
6 fishermen, and so this is just kind of adding
7 weight on top of that. It's further reducing
8 their economic viability.

9 They felt that the quota setting process
10 is unfair and that they're getting I guess the
11 short end of the stick. It's difficult to gain
12 access or maintain access to a fishery.

13 And in addition to this, there's concern
14 that the next generation of potential commercial
15 fishermen or industry participants won't be able
16 to gain access to the fisheries easily.
17 Regulations are unpredictable from year to year
18 and that makes it hard to invest for the future,
19 make a business plan, make gear upgrades. And the
20 cumulative way of these regulations is
21 overwhelming. So it feels to them like they're
22 constantly becoming more burdensome.

23 The 2006 reauthorization hinders the
24 Council's flexibility and authority. Keep in

1 mind these are all things from the perspective of
2 the commercial industry, not my opinion. But they
3 mention frequently that the Council's hands are
4 tied and that you're so bound that stakeholder
5 input won't really make a difference.

6 Protected resources are given a
7 disproportionate amount of consideration in the
8 council process. And then the commercial
9 industry noted that they feel unduly persecuted by
10 the Coast Guard in day-to-day interactions.

11 All right. Economic challenges, we
12 heard a number of marketing issues. Management
13 strategies have negative impacts on markets.
14 Council does not sufficiently consider economic
15 impacts in management decisions. Rising fuel
16 costs are becoming an increasing concern for
17 commercial industry members. Communication and
18 participation, commercial fishermen have stopped
19 participating and continues to not participate
20 because they feel like their voices are ignored,
21 which leads to the second one, that council
22 meetings are intimidating and difficult to attend.

23 So those two combined don't really
24 provide any incentive for the commercial industry

1 to get involved in the management process. And
2 then they also mention poor communication, that
3 the Council doesn't communicate the process or the
4 discussion rationale associated with decisions.

5 And so generally there's just a huge
6 communication gap between the Council and the
7 commercial industry. Associated with governance
8 there were concerns about representation on the
9 Council, lack of appropriate industry
10 representation.

11 And then when we were in the northern
12 states where people fish for Mid-Atlantic managed
13 species there were concerns about their region not
14 being represented on the Council.

15 They also mentioned that there is a lot
16 of complexity among the different fishery
17 management organizations and it's difficult to
18 understand the jurisdictions and the I guess
19 differences in authority between the
20 organizations. If they have problems they don't
21 know who to go to address them with or who to ask
22 their questions to. It seems unnecessarily
23 confusing.

24 On the topic of ecosystems, the most

1 common theme that we heard was that predators are
2 over abundant and that the interactions between
3 predators and prey should be more fully considered
4 in the management process.

5 There were also some concerns with
6 environmental degradation, pollution, other
7 anthropogenic causes that are damaging the marine
8 ecosystems and depleting the fisheries.

9 On the topic of ecosystem-based
10 management, the number one question that we got
11 was: Can you define ecosystem-based management?
12 Because I think there's a really vague concept of
13 it. But there's confusion and skepticism about
14 the implementation and potential implications of
15 EBM.

16 On climate change fishermen told us that
17 fish are moving north as the ocean temperatures
18 increase, and a recommendation associated with
19 that was that the Council should consider this more
20 fully when you make management decisions and also
21 when you consider allocation among the states that
22 fish populations might be changing and that
23 management should be adjusted accordingly.

24 All right. That was the commercial

1 industry. Next I will move on to the themes of the
2 recreational community.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Mary, excuse me. Do you mind just pulling the
5 microphone a little bit closer.

6 MARY CLARK: Yeah. I'm sorry.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Thank you.

9 MARY CLARK: Did you guys hear anything
10 I said? Do you want me to start over?
11 Can I pause for a second to ask if anyone has
12 any questions or needs clarification. Not
13 points for debate, but if I can provide
14 clarification that would help, I can do that
15 now.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Are
17 there any right now? Greg.

18 GREGORY DIDOMENICO: Just a question.
19 Were the individual letters, have you summarized
20 those, just the results from the summary.

21 MARY CLARK: I should have spent a
22 moment on this in the methodology. All of this
23 information is a compilation of the surveys, small
24 group meetings and position letters.

1 The way that that was compiled, we have
2 a couple of consultants, Matt and Theresa who are
3 here. They helped us with this huge volume of
4 data. Basically, Matt and Theresa took the
5 quantity of information, tagged the particular
6 concepts, and then quantified that in order to rank
7 the frequency with which these themes were
8 mentioned.

9 So the individual position letters are
10 included in Appendix D I think, which is available
11 on line. But those considerations are in this
12 data.

13 GREGORY DIDOMENICO: And how many were
14 there approximate?

15 MARY CLARK: Twelve approximately.

16 GREGORY DIDOMENICO: Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS: So,
18 Mary, if we want to go through and review those
19 individually, they are available in the appendix?

20 MARY CLARK: Yeah.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Is
22 the appendix on the website now?

23 MARY CLARK: There are four appendices.
24 And usually appendices are not very useful, but

1 these are. There's just a lot of information in
2 them. So it includes a really thorough and
3 detailed analysis of the survey data. So
4 basically every question on the survey is sliced
5 and diced in Appendix A.

6 Appendix B has the round table meeting
7 summaries. And I think that's actually a document
8 that would be really interesting to all of you
9 because these are approximately two-page
10 summaries of each small group meeting that we had.

11 And so that really gets out some of the
12 geographic variations concerns that are specific
13 to individual ports or states. So I would
14 encourage you guys to look at those. Appendix C
15 is position letters and D is just the survey
16 instruments.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Thank you. Warren.

19 WARREN ELLIOTT: Thank you, Mr.
20 Chairman. I'm just curious. And this will help
21 me interpret the rest of the data. At the outset
22 there seemed to be some overall concerns about the
23 operation of the Council, transparency, decision
24 making, who influences decisions here; but yet 56

1 percent of the people had either never attended a
2 meeting or had attended a meeting once over the
3 last few years.

4 Are we able to filter that data to see
5 if those thoughts are less prevalent among those,
6 the fewer segment that actually did attend? Did
7 they have a better feeling about the Council or
8 decision making? Are you able to separate that
9 data and look at it that way?

10 MARY CLARK: That's an interesting
11 question. I don't think we've looked at that
12 angle. If we analyze the data in way that I'd be
13 interested in, you guys would be here for like 12
14 hours today.

15 But I think that's a good question, and
16 it's something that we should look at. And I think
17 as we develop a communications plan moving
18 forward, that it will be interesting to look at how
19 those I guess ratios and ratings change over time
20 and if they do. But -- you know, I think
21 regardless of whether the opinions are fully
22 informed by participation in the management
23 process, they're still opinions. They still
24 matter. Does that answer your question?

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Other questions at this point? Okay, Mary. I'm
3 sorry. George. Did George have a question or
4 Dan? Dan, go ahead, please.

5 DAN MORRIS: Thank you, Mr. Chairman.
6 Just another way to perhaps ask the same question:
7 There was distrust of the quota setting process,
8 and we need to distinguish whether the problem is
9 with the quota setting process itself, or is the
10 problem with perceptions?

11 One is a structural, procedural issue;
12 the other is a communications issue. And that's
13 a really important distinction. And the
14 Northeast Regional Office has been the holder of
15 a management review plan, review report from a
16 while back, and it had similar conclusions, and
17 that's been a difficult thing for us to discern.
18 And perhaps there are two paths for the responses
19 to that. Thank you.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Yeah. I think that's actually true of a lot of
22 these issues. I think this fact does cut across
23 a lot of them, and that is -- where you have the
24 perceptions that are in play that are reflected in

1 the data and the extent to which those are informed
2 with respect to the process, the data, the decision
3 making are variable, but it does highlight the fact
4 that there's a I think tremendous opportunity to
5 address some of these through communication,
6 education outreach.

7 But then underlying that there are some
8 of these that are well informed that reflect
9 actually upon either the process, the data,
10 etcetera. But I'll let Mary elaborate on that.
11 But I think it is an issue that transcends a lot
12 of these different themes.

13 MARY CLARK: Yeah. The communication
14 issues are prevalent throughout pretty much every
15 topic covered in this project, and I would remind
16 you that this data is really meant to be a starting
17 point for thinking about it, and I highly doubt
18 that the Council would revise any quota setting
19 process based on this information.

20 But it's also useful -- going back to
21 what I said earlier about not knowing what the
22 information gaps are, we also probably couldn't
23 have known exactly where the communication gaps
24 are, and so as we develop a communications plan,

1 this will really help us to know how to target that
2 better and to improve the way that we communicate
3 with stakeholders. But just keep that in mind,
4 that a lot of these are communication issues. And
5 we tried not to correct anyone in the meetings and
6 say, well, you just don't understand. If there
7 was a misconception about something, we tried not
8 to correct them, but some of it is perception
9 versus reality.

10 Recreational community. So this is
11 from about 700 surveys and four group meetings.
12 Information and data seems shockingly the number
13 one. Information and data is MERFS. There's a lot
14 of inaccurate -- there's a perception that the data
15 is inaccurate, and the misuse of the information
16 from the MERFS program has negative impacts on the
17 recreational fishing community.

18 The recreational fishermen we heard
19 from felt that the regulations are not aligned with
20 reality and that the Council's management actions
21 aren't consistent with what they're seeing on the
22 water, and it's hard for them to have trust in the
23 management system when it doesn't seem to make
24 sense.

1 They also feel that there isn't
2 sufficient economic data and the analyses that
3 exist aren't sufficiently factored into
4 management decisions. On management strategies,
5 size limit is the number one thing that we heard
6 about largely related to summer flounder.
7 Current regulations result in discard mortality of
8 large or more fertile breeding fish, and they think
9 that the Council could develop a better strategy
10 for managing fisheries, particularly summer
11 flounder in a way that reduces discards and discard
12 mortality.

13 There's a lot of concern about access.
14 They feel that current regulations excessively
15 limit recreational fishing access. Seasonal
16 closures result in transfers of effort into other
17 fisheries, and so there's really acute pressure on
18 one fishery, and then that closes, and it shifts
19 to another.

20 So they recommended that the Council
21 consider ways of keeping more fisheries open in
22 time to reduce those high levels of pressure all
23 at once.

24 Inconsistency in the regulations from

1 year to year was a big issue particularly in the
2 for-hire sector. It's hard for them to make
3 business plans for the year.

4 People make travel arrangements to come
5 for fishing trips, and so sudden changes in
6 regulations and then just the year-to-year
7 fluctuations can be really problematic for them.
8 Regulatory inequality was a topic that was
9 mentioned frequently. They said that regulations
10 favor commercial fishermen over recreational
11 fishermen. And then they pointed out that the
12 Council needs to better accommodate the complexity
13 of the recreational community.

14 And so we talk about recreational
15 fishermen, but there are really different types of
16 recreational fishermen, and regulations need to
17 reflect the complexity of the community.

18 On economic challenges, as I just
19 mentioned, the closures and instability are
20 problematic especially for the for-hire sector.
21 There are a lot of concerns about exceeding quotas
22 and being penalized the next year.

23 So there was a lot of fear that the
24 management strategies will result in exceeding the

1 quotas and that the next year they'll be penalized
2 for it.

3 On communication and participation,
4 most recreational fishermen don't know how to
5 participate in the Council process, and the
6 communications that the Council put out are too
7 complex for the average recreational fisherman to
8 understand.

9 Recreational fishermen feel -- their
10 concerns were pretty similar to the commercial
11 fishermen with the complexity of the different
12 management organizations. It's unclear to them
13 how the authority is divided among the councils and
14 ASMFC and states, and it seems unnecessarily
15 complex to them.

16 They also feel that the recreational
17 interests are not adequately represented in the
18 council process.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Mary.

21 MARY CLARK: Yes.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Excuse me. Can I just jump in and add your last
24 slide had some information about the complexity,

1 about the interjurisdictional complexity.

2 That's something we did hear a lot about
3 in the small group meetings with the recreational
4 public: that it's difficult to fully understand
5 or clearly understand how the delineation of
6 authority occurs between ASMFC, the states, the
7 Council.

8 So there's a fair amount of confusion
9 about that I think that that's something that can
10 be addressed through communication. But another
11 point about that complexity related to just as an
12 example, back to licensing. So, for example, when
13 recreational fishermen go to get a license -- let's
14 say a charter boat operator comes in and wants to
15 operate a charter boat in the Mid-Atlantic Region,
16 they may have to get a state license, a state salt
17 water license for their vessel depending on which
18 state they're in. They have to get federal
19 licenses.

20 They then have to go to the HMS. Let's
21 say they're operating on highly migratory species.
22 They have to go to the HMS program shop on line.
23 When they go to HMS, they're not automatically
24 prompted to get a dolphin wahoo program which is

1 coming out of the southeast office, and you can't
2 get it on the HMS shop.

3 So there's this like bad taste that gets
4 started on the first step of licensing in terms of
5 just the sheer complexity of it. So one of the
6 recommendations that came out of that discussion
7 was the idea of having like a one-stop shop for
8 licensing.

9 So, for example, if you're a hunter and
10 you go to get a license at the state level, you
11 might be able to do everything in one step;
12 whereas, the licensing processes are not as well
13 integrated for fisheries. So we have all these
14 individual places people have to go. This is one
15 example. But I think that it's another layer of
16 complexity that contributes significantly to this
17 perception of just how complicated it is or how
18 complicated at least the system is perceived among
19 southern constituents.

20 Because it starts out with that, and
21 then you go to the management side, and there's
22 some uncertainty about what the delineations are,
23 what the interjurisdictional responsibilities
24 are, etcetera. But that's just one layer in the

1 whole thing. But licensing is another area of
2 complexity. And I think Chris Zeman had a
3 question of your previous slide, too, I think.

4 CHRISTOPHER ZEMAN: Yeah, I did.
5 Scooting back a couple slides, there was basically
6 a description of what were the concerns about the
7 council process. And if you have examples for
8 each one of those kind of getting into what you
9 heard. For example, like regulatory inequality
10 in terms of details of those concerns. Could we
11 hear that?

12 MARY CLARK: Are you asking for this
13 slide in particular or for every point? Okay.
14 The size limits did I cover that sufficiently?

15 CHRISTOPHER ZEMAN: Just the
16 inconsistency, regulatory inequality, and
17 complexity.

18 MARY CLARK: Okay. Inconsistency that
19 was probably a theme that was more stressed by the
20 for-hire sector. But they feel as though the
21 management organizations could do a better job of
22 making regulations farther in advance. They feel
23 like it's at the last minute.

24 In an industry where a lot of people make

1 travel plans and arrangements to come with the
2 expectation of being able to fish for a certain
3 fish it does not build good customer relationships
4 to have surprises. And so they would appreciate
5 more stability from year to year and consistency.

6 Regulatory inequality one example that
7 we heard pretty frequently was the summer flounder
8 size limit. To them it seems unfair and
9 unjustified. Rick, do you have anything that
10 you'd like to add for that one?

11 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
12 I think I already touched on the fact that we heard
13 some of that about the management of the summer
14 flounder fishery, going from state to state.

15 In other words, the benefits of stock
16 rebuilding haven't been shared equitably. Not
17 every state has seen a significant improvement in
18 access to that resource recreationally. So that
19 was one of the themes. But in terms of the
20 inequality, I mean some of the recreational groups
21 focused in on specific regulatory issues that they
22 perceive as unfair, for example, in summer
23 flounder having differential minimum size limits.

24 And given the history of that fishery,

1 most of the fish were caught in trawl nets and so
2 part of the rationale for having a smaller
3 commercial minimum size relates to trying to
4 minimize discards and discard mortality and
5 allowing for retention of the catch operating
6 under a quota.

7 But some of the individuals that pointed
8 that out weren't familiar with that history. But
9 some of them were pointing it out on the management
10 of recreational fisheries because every state has
11 a different suite of regulations for their
12 commercial fishery and state fishery.

13 And some states have the same minimum
14 size limit for hook-and-line commercial gear and
15 recreational gear, whereas, others have different
16 limits. And so in some cases they were zooming in
17 on some of these specific things; otherwise, we did
18 hear from some recreational interests that they
19 felt like the allocations between the commercial
20 and recreational were unfair and needed to be
21 revisited based on more update and modern
22 information.

23 MARY CLARK: Does that clarify?

24 CHRISTOPHER ZEMAN: Yes. Thank you.

1 MARY CLARK: I covered governance.
2 Right? Yes. On ecosystems the recreational
3 participants in this project voiced a lot of
4 concerns about habitat loss and degradation of
5 fish habitat over the last several decades.

6 Specifically, they said that the
7 Council wasn't making enough of an effort to
8 identify areas of habitat loss and do anything
9 about it. They think it should be a higher
10 priority.

11 Environmental degradation was also
12 listed as a big concern for them, particularly
13 because there are so many near-shore fishermen and
14 shore-based fisherman that they see first hand the
15 impacts of pollution and human activities on water
16 quality and felt that it had degraded
17 significantly over time. They also were
18 concerned with pressure on forage species. They
19 felt that this is due to both overfishing and over
20 abundance of predators partly as a result of
21 management of those predators.

22 And finally, climate change was a
23 concern for them. They also said that fish
24 populations have been moving north as ocean

1 temperatures have increased, and they think that
2 it should be given greater consideration in the
3 management process.

4 And then moving on to the third and final
5 stakeholder group, which is environmental
6 nongovernmental organizations. I just want to
7 add that there's a fourth category in the report
8 for interested public, and this includes a number
9 of stakeholder groups, but there wasn't enough
10 information to really draw a theme section for the
11 presentation.

12 On information and data, there were two
13 main themes. One was monitoring. They felt that
14 catch monitoring, at-sea observer coverage was
15 insufficient and lack other information and data
16 concern.

17 This is leading to the Council making
18 decisions that aren't based on good enough data.
19 And secondly, they felt that cooperative research
20 should be made a higher priority because it brings
21 legitimacy to scientific decision making and to
22 the Council's management as a whole. One thing
23 that we heard from them was that the Council should
24 really work to identify alternative sources of

1 data that might be able to feed into the management
2 process and improve their ability to make good
3 management decisions.

4 On management strategies, they felt
5 that the risk policy is not conservative enough and
6 that the current ACL setting system doesn't
7 provide adequate precautionary buffers to prevent
8 overfishing and that you've achieved your
9 rebuilding goals, but this might be a short-lived
10 success and that you should really think about
11 long-term stability and sustainability of the
12 fisheries with a little bit of a more precautionary
13 approach.

14 They also mentioned the forage concerns
15 and that the Council's managed fisheries really
16 depend on having abundant forage fish populations
17 and that forage fish management and conservation
18 should be made a higher priority.

19 Habitat protection and monitoring of
20 habitat aren't emphasized as key elements of
21 sustainable fishery management and they should,
22 and like the last point I made, the rebuilding
23 accomplishments are really going to be dependant
24 on maintaining a healthy ecosystem and habitat and

1 forage base as a whole. And so they Council should
2 look at the whole picture for sustainable
3 fisheries.

4 And then finally, enforcement is
5 inadequate on both the commercial and recreational
6 fisheries and that this is problematic. The ENGO
7 participants felt that communication should be
8 elevated to build trust across all stakeholder
9 groups.

10 And so one point they brought up was that
11 the Council often looks at stakeholder groups as
12 kind of independent and often conflicting
13 interests, that there are areas to build those
14 relationships and increase opportunities for
15 collaboration among the different groups.

16 They said that the Council process is
17 not as accessible and interactive as it should be
18 and that the process should be designed to bring
19 in stakeholder perspectives and incorporate
20 stakeholder input a little more.

21 Their main concern with governance is
22 that there's a lack of coordination among the
23 fishery management organizations. We're seeing a
24 comment theme with this one. They have concerns

1 that there's overlap, redundancy, and
2 inconsistency among the different organizations.

3 The ENGO participants were concerned
4 with the Council's use of single species
5 management. They made the comment that
6 rebuilding accomplishments are really -- they're
7 going to be short lived in the context of single
8 species management and that the way for
9 sustainable fisheries is really to look at an
10 ecosystem approach.

11 And they also were concerned with
12 pollution and climate change, which they thought
13 would alter the ecosystem dynamics in years to come
14 and that like the commercial and recreational
15 fishermen, they felt that pollution and other
16 anthropogenic impacts on the ecosystem other than
17 fishing should also be a factor in management
18 decisions, that the Council should be aware of
19 them. Rick, do you have anything to add to this,
20 or are there questions that I can answer before
21 going into the visions?

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Okay. I would just re-emphasize the fact that the
24 issue of cooperative research is common among all

1 the stakeholders as something that needs to be
2 improved upon and used perhaps more effectively
3 going forward. I think what that underscores is
4 really the relationship and potential role between
5 the stakeholders and the process by which we
6 develop data.

7 And one of the key differences between
8 if you think about the state of the system in terms
9 of the data we have now and how the public relates
10 to that. There are some sources of data in which
11 there's a lack of confidence depending on
12 perspective.

13 So there's a desire to have good data,
14 but going beyond that, it's having good data that
15 are collected in a system that the public can have
16 confidence in.

17 And I think this issue of cooperative
18 research gets right at that issue. So it's a
19 matter of how the stakeholders can relate to the
20 process.

21 We did hear I think on a widespread basis
22 especially with the commercial people that are on
23 the water and the recreational guys they want to
24 play a positive role in contributing to the

1 improvement of data.

2 So, in response to that, I think on the
3 recreational side, there are opportunities to
4 explore how alternative data collection methods
5 could be developed. This council was already
6 sponsoring a workshop on volunteer angler surveys
7 and really trying to understand what the potential
8 of those is.

9 There are some statistical limitations
10 to some of those tools, but it's incumbent on them
11 to really exploring some of those opportunities
12 not just in the commercial fisheries but
13 recreationally as well.

14 But then on the commercial side, you see
15 -- you know, lack of confidence in some of the
16 surveys, and part of that relates to the lack of
17 involvement by the fishing industry to that
18 process either in the execution of the survey work
19 or in terms of how that's conducted.

20 So there are clearly opportunities to
21 address these things. But, again, they're a
22 little bit different from each perspective, but
23 the issue of cooperative research was an important
24 one that cut across all the different sectors. So

1 I would just underscore that point. But are there
2 other question? John.

3 JOHN BOREMAN: I'm just wondering,
4 Mary, if there was a common understanding of what
5 was ment by cooperative research? Did people
6 responding understand that it meant cooperation
7 between the industry and the agency? Did anybody
8 have the wrong idea of what cooperative research
9 is? It could mean a myriad of things.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 John, I think it was probably pretty broad. I'll
12 let Mary add to that. But -- you know, I think if
13 people are coming at it from different
14 perspectives with different levels of
15 information, so I think the notion of cooperative
16 research wasn't formally defined and is broadly
17 understood. Greg. Sorry, Mary. Did you want to
18 elaborate?

19 MARY CLARK: Yeah. I just would say
20 that I wouldn't make any definite assumptions
21 about -- given that the majority of the people we
22 got feedback from were not really very familiar
23 with the council process, I wouldn't make any
24 definite assumptions about what anyone meant by

1 it.

2 I think that on the commercial side when
3 they said more cooperative research is needed, I
4 think they probably were thinking less about the
5 cooperation side of it and more about wanting to
6 be more involved with research.

7 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
8 Karr.

9 WILLIAM KARR: Just to a little to
10 follow-up on John's comment. Of course we have
11 the regional cooperative research program that is
12 administered and run from the Science Center and
13 that does engage many people in the Mid-Atlantic
14 Region. And so I'm keen to get whatever feedback
15 is germane to that. But it is difficult given the
16 sort of draft of interest and the broad meaning of
17 the term cooperative. So it may mean that
18 collectively we need to do some follow-up to better
19 characterize this sort of spectrum on issues
20 there.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Thanks for pointing that out. Greg, do you have
23 a comment or question?

24 GREGORY DIDOMENICO: Question.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Go
2 ahead.

3 GREGORY DIDOMENICO: Mary, were you
4 able to differentiate between the different
5 stakeholders within the recreational community,
6 for-hire sector as opposed to a private angler?

7 MARY CLARK: Yes. And for the sake of
8 this presentation, they're combined, the themes
9 and recommendations. But we have all the
10 information, so people would have identified their
11 primary role and all their roles, and for-hire was
12 one of the options. That's less clear with some
13 of the small group meetings, which is where we got
14 some of the most detailed information because it's
15 generally mixed between among all different types
16 of recreational fishermen.

17 Now, there are a thousand new questions
18 that can come out of this project and areas for
19 follow-up research. So that might be something
20 that we would want to look into more.

21 GREGORY DIDOMENICO: Within the
22 survey, though, you can differentiate their
23 comments and their themes?

24 MARY CLARK: Yes.

1 GREGORY DIDOMENICO: Thank you.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Any
3 further questions? In the back.

4 MATT WILLS: Matt Wills, Research
5 (inaudible) Consulting Group. I helped Mary
6 compile the report. I just wanted to note that
7 there's a lot of detail in the report that we
8 weren't able to cover in the presentation.

9 So I would encourage if you haven't read
10 all the observations, take a couple minutes and
11 just skim through it. There's 123
12 recommendations that stakeholders made. A lot of
13 it's really rich and real interesting. So that
14 was the one comment I wanted to make. Oh, and to
15 Greg's point, we actually do break down for-hire
16 and recreational management objectives. The
17 difference is in the report itself. So that just
18 speaks to the fact there's a lot of detail in the
19 report that we weren't able to present here.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thank you, Matt. Mary.

22 MARY CLARK: If it seems like I'm
23 unfamiliar with the points in the presentation,
24 it's -- I'm trying to restrain myself from spending

1 a half an hour on each one. So I feel like I'm kind
2 of doing a disservice to the information by glazing
3 over it.

4 So just to support what Matt said, I
5 would encourage you not to jump to conclusions from
6 this presentation, but really to use this as
7 motivation to read the report.

8 Okay. So a vision is kind of a vague
9 concept, but it's what do we want the fisheries to
10 look like in the future. For the prompt in the
11 small group meetings, we asked: What do you want
12 fisheries to look like 10 years from now? But
13 really it's just: What are we trying to move
14 toward? Common components of a state quota vision
15 included sustainability of fish populations, not
16 just from this year to next but for the indefinite
17 future, the availability of high quality data, and
18 then the use of this data by the Council in a timely
19 way to make management decisions so there's a clear
20 linkage between what's happening in the water and
21 what the Council's deciding and it's happening in
22 a way that people can understand and is
23 transparent.

24 Fair consideration of all stakeholder

1 interests was something that was communicated by
2 all groups as being important. In theory the
3 Council is designed to represent stakeholder
4 interest, and they would like to see a future where
5 that happens more clearly.

6 Efficient fishing practices primarily
7 with minimal bycatch and discard mortality. Most
8 groups felt that the fisheries could be managed in
9 a more efficient way and that this should be a core
10 component of the vision.

11 And then just broadly speaking, better
12 stakeholder involvement. So more input by
13 stakeholders in the process, and this comes down
14 to better communication and trust in
15 relationships. So I'm going to briefly go through
16 the components of the three groups' individual
17 concepts for a vision, and then we will be
18 approaching the end of this presentation. For the
19 commercial vision, when we said what do you want
20 to see the fisheries look like in 10 years, at every
21 single group meeting, the first thing they said was
22 we just want to still exist.

23 And so, like Rick said in his
24 introduction, this really drove home the

1 uncertainty about the economic future for these
2 communities. And I think this is a concern that
3 it's worth documenting, and it's definitely a
4 point that I think the Council should be aware of.

5 Clear, plain language regulations are a
6 core component of the commercial industry vision
7 along with regulatory stability, fleet diversity,
8 and then also thriving in diverse commercial
9 fishing infrastructure.

10 Entry into the fisheries for young
11 people is feasible and is not excessively
12 expensive. And then fishing is a respectable and
13 desirable profession.

14 I'm not sure this is something I
15 completely communicated in the presentation, but
16 we heard a good bit about how fishermen feel that
17 the public image of them is really negative and
18 that this is exacerbated by media and TV shows and
19 that it's unfair, and it's not necessarily
20 something that the Council can do about, but it's
21 kind of just adding on top of the economic stress
22 and regulatory burden.

23 As part of their vision, stakeholders
24 have equal opportunities to utilize fishery

1 resources, marketing for domestic fisheries is
2 greatly improved, and there are minimal discards.

3 Are there any questions about the
4 commercial vision?

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Chris.

7 CHRISTOPHER ZEMAN: Just one point on
8 marketing for a domestic fishery is greatly
9 improved, elaborate on that?

10 MARY CLARK: Well, we heard some
11 concern that during the rebuilding process markets
12 for Mid-Atlantic fisheries had been lost and that
13 the value for the fish they're fishing for has
14 decreased.

15 And in addition to that, it relates to
16 the instability in year-to-year inconsistency
17 because many suppliers are hesitant to develop
18 relationships with fishermen who have an
19 inconsistent yearly supply of fish. So I think
20 this part of the vision speaks to the Council
21 aiming for greater stability, and then this might
22 also be partly something that the Council doesn't
23 have complete control over.

24 COUNCIL CHAIRMAN RICHARD ROBINS: And

1 I'll just add a little bit. I think some people
2 felt like the regulatory community ought to be
3 playing a positive role in promoting the fact that
4 these fish are sustainably managed, etcetera.

5 I mean some of the states have marketing
6 programs aimed at promoting and developing markets
7 for the fish that are landed in their state. So
8 I think some of them are relating to that.

9 Some of them are also relating and
10 reacting to third-party certifications for
11 sustainability. So there's some interest in how
12 the Council relates to that process with the lack
13 of a federal process or a government process for
14 sustainability certification.

15 So it gets into different elements I
16 think, but those are some general concern that
17 somehow the regulatory community ought to be
18 playing a positive role in that. Bob.

19 ROBERT O'REILLY: Yes. I just
20 wondered if there was any dialogue concerning the
21 items that are in the report and up in your
22 Powerpoint but in heritage, the idea of heritage,
23 the idea of pride in the fishery whether that was
24 discussed in light of the ongoing process of

1 limited entry into ITQs? Were there any
2 conversations about that?

3 COUNCIL CHAIRMAN RICHARD ROBINS: Rob,
4 I think it was. I mean that relates back to this
5 issue of entry, which is this is one of the
6 difficult issues to think about but I think an
7 important one.

8 I mean our history in the region has been
9 one of open access -- you know, that can be
10 characterized as including open subscriptions of
11 the fishery historically. And so, as we went
12 through stock rebuilding, we've had to correct
13 some of that, but access has necessarily been
14 limited because of that.

15 But trying to consider this going
16 forward, I mean if we're ever designing or
17 developing plans for our fisheries, this is
18 something that people want to see taken into
19 consideration. But the reality is some of the
20 fisheries can't simply return to open access
21 because that's what got us into the situation for
22 stock rebuilding on some of the fisheries. So
23 it's one of those issues that instantly sets up
24 some tensions but one that I think we need to be

1 aware of as we consider any of our management plans
2 that going forward there is concern within the
3 commercial fisheries about having access to them
4 for future generations and having some mechanism
5 that will allow for some access and entry into the
6 fishery so that people aren't totally blocked out
7 by the sheer expense of entry.

8 I mean if somebody wanted to go into the
9 scallop fishery today, it would be hard pressed to
10 buy a permit and boat. So this is something that
11 we do hear about. Mary, you want to elaborate on
12 it?

13 MARY CLARK: Well, this is really just
14 kind of my own interpretation. But when the
15 community and culture came out of the
16 conversation, we didn't really hear people say I
17 want the job in 10 years.

18 It was about wanting their community to
19 still exist and certainly people have personal
20 goals. But I think the importance of the
21 historical fishing communities and their cultures
22 as communities is definitely something that
23 shouldn't be overlooked by the Council.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Well, and as Mary pointed out, we did hear in every
2 commercial meeting, in fact, when we asked them
3 what they wanted to see in the future, the first
4 answer was consistently that we're still in
5 business.

6 I think that underscored the economic
7 uncertainty despite the fact that these stocks are
8 rebuilt. It drove home that point pretty clearly
9 for us.

10 Also, this idea that you see fishing as
11 a respectable and desired profession, I think that
12 came up in all the meetings as well, and we heard
13 a lot of concern about the way commercial fishing
14 is portrayed.

15 And it's taken a toll I think
16 emotionally and cumulatively on the commercial
17 fishing community. That was apparent in this
18 conversation as well. Laurie, do you have a
19 question?

20 LAURIE NOLAN: Thank you. Just on the
21 marketing one, back to that, was some of that issue
22 in ports and just the American fleet looking for
23 some protection in the market place?

24 The theory was lower quotas was always

1 going to gain a higher price for the American
2 fishermen for whatever he was catching, but
3 because of the imports that's not always so. And
4 I just wonder if imports didn't come up in that
5 discussion.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Mary.

7 MARY CLARK: Imports did come up.
8 Tilapia came up a few times. But I don't think we
9 had really complex enough conversations about
10 marketing for domestic fisheries in relation to
11 imports. It was certainly mentioned people like
12 part of their marketing challenges is a result of
13 increasing imports and probably increasing
14 American taste for farmed imports.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Okay. Rich.

17 RICHARD SEAGRAVES: Mary, in looking
18 through this list, one of commercial concerns in
19 their vision and throughout your presentation it
20 struck me that kind of missing is some input from
21 all stakeholders, particularly the commercial
22 ones, about the mismatch between what the
23 sustainable level of removables are of our
24 fisheries in a harvest capacity of the permitted

1 fleet.

2 I think one of the underscoring things
3 here the unhappiness and concern from the
4 commercial fishing industry is their economic
5 viability in the long-term results from the fact
6 that we over capitalize. Many of the fisheries we
7 rebuild, many of the stocks, but the reality is
8 that even at the rebuilt levels we can't support
9 the capacity that we currently have in the
10 fisheries.

11 So I just wondered if there was any
12 discussion about that or any recognition of that
13 fact or any kind of opinions expressed by the
14 commercial fishing industry on how to deal with
15 that problem.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Mary, I don't know if it came up much in the small
18 group meetings. It didn't in the ones that I
19 attended.

20 But I think as you look through the data
21 in the actual survey results where there is some
22 rank value made for what issues are seen as
23 important, that is weighted significantly. It's
24 not the top issue, but it's somewhere I think in

1 the top half of issues.

2 So I think there was some recognition in
3 the survey responses about that. But you're
4 right. I mean that's part of the issue because as
5 a result of that, we still have if you look at the
6 regulations in some states, for example, for
7 commercial summer flounder, they have a trip limit
8 as low as 150 pounds. That's an artifact of that,
9 and what's a 90-foot trawl boat going to do with
10 150-pound trip limit? So that's part of the
11 problem. But, Mary, if you want to comment on what
12 other information we got about excess capacity.

13 MARY CLARK: I don't think we heard it
14 very frequently framed as sustainable levels
15 versus harvest levels. But we did hear frequently
16 that fishermen have made the sacrifices necessary
17 for rebuilding and there was always an assumption
18 and some sort of payoff in the end. And I think
19 one of them described it as it's just like a stick
20 with no carrot.

21 I think they want some sort of -- they
22 want the Council to explain what rebuilding, what
23 the payoff might be in the end, or is this it? I
24 think it doesn't add up for them. Rick, would you

1 say that's accurate based on what you heard?

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Yeah. I mean I think that's fair enough. But,
4 again, if we reference back to the full report,
5 look at some of the responses and survey, I think
6 you'll see a little bit more about that issue of
7 capacity, Rich. That is part of the broader
8 discussion about the economic viability. Chris.

9 CHRISTOPHER ZEMAN: I'm interested in
10 finding our more information about, again, this
11 whole problem with like you mentioned going into
12 the fishery and costs involved and also I don't
13 think we have this in our reports yet, but also just
14 a report on the gauge of the commercial fleet, the
15 fishermen.

16 Are we having an issue here where we're
17 not seeing enough new entries to sort of replace
18 the industry? I mean that's kind of like what I
19 hear, but, again, I'm no expert on this. But if
20 that's an issue, then there should be some way we
21 should look at in terms of promoting new entrance
22 into the commercial fishery. I don't know what
23 option we have or what's been done in the past, but
24 I'd like to investigate that.

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Chris, I think the issue relates to future
3 generations. I mean to hear the concern as
4 articulated in the small group meetings, it's a
5 concern that for the next generation what they're
6 facing under the management systems is potentially
7 very expensive entry into the system. And yet, as
8 Rich points out, we still have capacity problems
9 with some of those fisheries, so trying to
10 reconcile those it not a simple question. But the
11 issue of entry and opportunity for it is something
12 that we should be aware of as a significant concern
13 within the commercial community. Mary.

14 MARY CLARK: I do think that's a good
15 attitude to have as the right kind of question to
16 ask about what kinds of information might be out
17 there that we might not have considered before.

18 For the recreational visioning, there
19 is a thriving recreational fishing community with
20 ample opportunity and access for recreational
21 fishermen. And access I think is probably one of
22 the top concerns for recreational fishermen.

23 There's a focus on ecosystem protection
24 especially for forage species which will help the

1 Council's other managed fisheries stay at
2 sustainable levels.

3 Recreational catch data will be
4 accurate, timely, and reflective of fishing
5 effort, and that data will be the basis for the
6 Council's decisions.

7 Fishermen are able to target more
8 species of fish on any given day, which will reduce
9 the acute pressure on individual species
10 throughout the year. There are stable fish
11 populations with consistent regulations and rare
12 closures. The Council has ample economic data
13 particularly related to the recreational
14 fisheries, and that data will be used in the
15 management process.

16 A centralized and efficient
17 recreational licensing program will I guess help
18 with some of the complexities of the different
19 management organizations.

20 Fish habitats will be significantly
21 restored. There will be collaboration
22 consistency and cohesion in the management plans
23 among the fishery management organizations. And
24 bycatch discards and bycatch mortality are

1 minimal. Can I -- are there any questions about
2 this vision? All right.

3 Environmental and geo vision includes
4 sustainable management for both fisheries and
5 ecosystems fisheries as part of the ecosystems. I
6 guess you could say that.

7 Management decisions are based on
8 actual resource availability. Hope that the
9 marine ecosystem is restored. And ecosystem
10 resiliency is a high priority. The Council would
11 encourage innovative monitoring and research
12 approaches for data collection and management
13 strategies. Forage is a high priority for the
14 Council both for having accurate data on forage
15 species and protecting them. There's consistent
16 enforcement of the regulations.

17 The Council has adequate data on the
18 fisheries and ecosystems. And bycatch discards
19 and discard mortality are minimized. And I'm
20 realizing as I'm going through this that I probably
21 could have made a more logical flow to these
22 pieces.

23 But I imagine some of you are seeing
24 trends between the different stakeholder group

1 vision concepts, and all of these things are going
2 to feed into the vision hopefully, which will be
3 the next step of this process.

4 And I'm going to go over the strategic
5 planning and visioning process in a second, a
6 shorter presentation. But I think we're going to
7 break for lunch momentarily.

8 So probably most of you were thinking
9 that these points weren't terribly surprising, but
10 I do think that this is still important information
11 even if it's not surprising because it's data that
12 was collected from stakeholders rather than
13 assumptions that we're making about what
14 stakeholders want. So I would encourage you to
15 really look at the data included in the report and
16 take note of variations even within stakeholders
17 groups and I guess think critically about how this
18 can feed into the management process and as the
19 Council develops a strategic plan, which of these
20 things should be priorities for addressing if any
21 and outside of the box how can the Council improve
22 its performance in the next 10 years. So I'll hand
23 it over for now.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you, Mary. As Mary pointed out, when we come
2 back after lunch, we'll have a second presentation
3 that goes through the strategic planning process
4 and essentially relates some of the next steps on
5 how we can out of this collection phase of the
6 project and put forward the vision and then
7 planning on how to achieve that and elements of
8 that. But why don't we go ahead and have some
9 questions on this section or the whole report if
10 you'd like. Howard.

11 HOWARD KING: Yes. Well, thank you to
12 Mary and the contractors for a well organized
13 report. Were organizations specifically invited
14 to submit position letters, or did they just do
15 that on their own motivation?

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Mary.

18 MARY CLARK: I didn't target any
19 specific organizations. We used broad
20 communication multiple methods: e-mails,
21 newspaper articles, internet posting.

22 The position letters were added about a
23 month into the project as an additional form of I
24 guess participating in the project because people

1 said, well, can we take the survey on behalf of an
2 organization; will that count for more?

3 And it's really not a matter of counting
4 for a certain number of votes or anything, but we
5 wanted to create a method for any organization to
6 submit an official position for the project.

7 And I will add that the letters -- we
8 didn't get a lot of them, but they were really
9 interesting to read, and so we talked about the
10 possibility of sometime in the future focusing on
11 that specifically and trying to make that a regular
12 thing.

13 COUNCIL CHAIRMAN RICHARD ROBINS: John
14 McMurray.

15 JOHN MCMURRAY: Thank you, Mr.
16 Chairman. Just a comment and then a question. I
17 would point out that 700 responses or 700 surveys
18 are probably not a representative sample of
19 recreational fishing community in our region given
20 the knowledge of the participants, but I
21 understand its usefulness as a snapshot. I think
22 there are a lot of things that are probably missing
23 here, and that's worthy of a discussion for a
24 different time.

1 My question is that I'm still a little
2 unclear on how this information that we gathered
3 will be useful or will change the way we manage our
4 fisheries within the constraints of Magnuson.
5 Maybe you could elaborate a little bit about that
6 without jamming up our lunch too much.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Well, I think the question about Magnuson is a good
9 one because we said all along that that is one of
10 the constraints for operating -- our opportunities
11 for management actions are at least circumscribed
12 by the law. That's not going to change.

13 And if you apply that filter to some of
14 the suggestions that you may hear or see in the
15 report, for example, the abundance of predators
16 are high focus level fish. So we heard a lot of
17 concerns about dogfish specifically. We can't as
18 a matter of law overfish dogfish just because
19 there's a concern about their impact on other
20 tropic levels the way the law is written today. So
21 I think it's important to keep that filter in our
22 minds as we look at the data, and yet I think
23 there's a real wealth of opportunities that are
24 identified in here in terms of how we can improve

1 our processes, how we can improve our management
2 of resources. We've seen a lot of concerns in
3 there.

4 I've already highlighted some of those
5 that relate to state-by-state management. Will
6 we have opportunities to act on that data? I think
7 we will. I think coming out of this, we've heard
8 from the public, we've heard a broad range of
9 concerns.

10 And so, again, after lunch we'll be
11 discussing how to move forward in a way that's
12 effective. And it's going to take a conservative
13 approach to make progress on these issues.

14 I mean the Council can't simply waive a
15 magic wand and fix all these things by any means,
16 but I think working effectively and
17 collaboratively with our management partners, we
18 can make progress on a lot of these issues. So,
19 again, there are limits. Given the law, there's
20 also limits in terms of what the Council can do,
21 but working effectively with our management
22 partners and trying to let everyone know our
23 resources, I think we can make progress to achieve
24 some of these things and improve the management of

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In witness whereof, I have set my hand and Notary Seal this 31st, day of July, 2012.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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

COUNCIL MEETING

12-13 JUNE 2012

at

Hilton New York
1335 Avenue of the Americas
New York, NY 10019

THURSDAY JUNE 14, 2012

I N D E X

TOPIC	PAGE
INTRODUCTIONS AND ANNOUNCEMENTS	
RICHARD ROBINS	5
SURFLAM/OCEAN QUAHOG AS A COMMITTEE OF THE WHOLE	
CHRISTOPHER MOORE	8
Motion - Specifications	
Christopher Moore	11
Vote - (pass)	12
MACKEREL, SQUID, BUTTERFISH AS A COMMITTEE OF THE WHOLE (2013 SPECIFICATIONS)	
JASON DIDDEN	14
Motion - 500 ln Post Closure trip Limit	
Laurie Nolan	25
Vote - (pass)	30
Motion - Preliminary Trigger Schedule	
Laurie Nolan	36
Vote - (pass)	38
Motion - Codend Mesh	
Laurie Nolan	42
Vote - (pass)	54
Motion - Status Quo Incidental	
Laurie Nolan	57
Vote - (pass)	61
Motion - 75% Cap	
Laurie Nolan	67
Vote - (pass)	69
HIGHLY MIGRATORY SPECIES (HMS)	
THOMAS WARREN	71
MACKEREL, SQUID, BUTTERFISH AS A COMMITTEE OF THE WHOLE (AMENDMENT 14)	
JASON DIDDEN	83
Motion - Set 1	
Laurie Nolan	86
Vote - (pass)	86

Motion - Set 2
Peter Himchak
Vote - (pass)

88

89

Motion - 3b, 3c, 3d	
Laurie Nolan	90
Vote - (pass)	91
Motion - 3j, 3l	
Steven Schafer	95
Motion To Amend	
Steven Heins	104
Vote - (pass)	104
Motion To Amend	
Howard King	127
Vote - (pass)	131
Vote - (pass)	132
Motion - Annual Specs	
Christopher Zeman	133
Vote - (pass)	135
Motion - 3n, 3o	
Committee	136
Vote - (fail)	155
Motion - Observer Coverage in Specs	
Christopher Zeman	145
Vote - (pass)	148
Motion - 4f	
Laurie Nolan	160
Vote - (pass)	161
Motion - 5b4	
John McMurray	171
Vote - (pass)	172
Motion - % Coverage	
Laurie Nolan	177
Vote - (pass)	180
Motion - 2 Years	
Peter deFur	181
Withdrawn	182
Motion - 5h	
Committee	183
Vote - (pass)	183
Motion - Set 9	
Committee	185
Motion To Substitute	
Peter Himchak	193
Vote - (pass)	213
Vote - (pass)	213
Motion - \$325 Per Day	

Laurie Nolan
Vote - (pass)

223
237

Motion - 6b, 6c, 6f	
Committee	238
Motion to Substitute	
Peter Himchak	244
Vote - (fail)	245
Vote - (pass)	246
Motion - 7a	
Laurie Nolan	247
Vote - (pass)	248
Motion - 8b	
Committee	248
Motion To Substitute	
Christopher Zeman	254
Vote - (pass)	262
Vote - (fail)	265
Motion - 8b	
peter deFur	265
Vote - (pass)	266
Motion - Submit To Secretary	
Steven Schafer	267
Vote - (pass)	268
NATIONAL STANDARD 1 GUIDELINES	
TAMMY MURPHY	271
JAMES LOVGREN	277
Motion - Written Comments	
Erling Berg	283
Vote - (pass)	287

1 [8:14 a.m.]

2

3

INTRODUCTIONS AND ANNOUNCEMENTS

4

COUNCIL CHAIRMAN RICHARD ROBINS:

5

Let's go ahead and get started if we can, please.

6

So live from New York. It's the Mid-Atlantic

7

Fishery Management Council. It wouldn't be a

8

meeting in New York without a Top 10 list.

9

So I quickly compiled the top 10

10

benefits of the meeting at the New York Hilton for

11

your consideration. So No. 10, it beats sleeping

12

in Grand Central Station. No. 9 it feels a lot

13

like camping, but it costs \$309 a night. Eight,

14

there's no shower like a cold shower. Seven, in

15

the interest of transparency the Inspector General

16

will be pleased to know that we did not meet in the

17

dark. No. 6, we confirmed it was easier to convene

18

a quorum in the bar than in the hotel. No. 5, after

19

the Council staff media hounds dominated the six

20

o'clock news, New Yorkers now know where Dover is.

21

No. 4, we have a newfound appreciation for air

22

conditioning. Three, if you sing in the shower,

23

it sounds better in the dark. Two, adversity

24

builds character. And one, that which does not

1 kill us makes us stronger. All right. I
2 appreciate your indulgence. Peter.

3 PETER HIMCHAK: Mr. Chairman, on a
4 serious note, did anybody locate a desk calendar
5 with two bears on the cover or a Mid-Atlantic
6 Council bag that has my materials in it from the
7 meeting room?

8 JASON DIDDEN: I think we've got a bag.
9 I don't know about the calendar, though.

10 PETER HIMCHAK: Okay. Thank you.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 We'll be operating on a modified agenda today
13 essentially focusing on the essential regulatory
14 actions that we have to get done at this meeting.

15 We'll have to postpone the other
16 report-type elements of the agenda until our next
17 meeting. So we'll start out with surfclam
18 specifications. I anticipate that will go
19 quickly.

20 Then Tom Warren from National Marine Fishery
21 Service is going to give a quick presentation on
22 bluefin tuna. We'll then move on to squid,
23 mackerel, butterfish specifications. We still
24 have a couple of items you'll recall that need to

1 be addressed in that.

2 Then we'll review the committee's
3 recommendations for final decisions and
4 recommendations on Amendment 14 to the Squid,
5 Mackerel, Butterfish Plan. So we'll be operating
6 under that time line, and if we can do anything else
7 after that, we might have a quick review of the
8 National Standard I Guidelines. If we don't get
9 to that, then we'll certainly e-mail that
10 presentation to the Council for consideration.

11 At this point that's early on in the
12 process, but we wanted to put that issue in front
13 of the Council in case we wanted to develop any
14 comments early on in the process. So with that
15 I'll turn to Chris Moore for the surfclam
16 specifications.

17

18

19

SURFCLAM/OCEAN QUAHOG AS A COMMITTEE

20

OF THE WHOLE

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CHRISTOPHER MOORE: Thank you, Mr.
Chairman. The material I'm going to reference is
behind Tab 8. If we had done this yesterday, Jose
would have been here to give the Council a

1 presentation. I don't have Powerpoint
2 presentation. This will take about five minutes.

3 So if you take a look at Jose's memo
4 behind Tab 8 to the Surfclam and Ocean Quahog
5 Committee, it discusses what we have to do at this
6 particular meeting.

7 And he basically states that the purpose
8 of the meeting is to review the current data and
9 decide whether any changes are needed for the
10 surfclam ocean quahog or Maine ocean quahog quotas
11 for 2013. No action is needed if the Council
12 wishes to maintain the quotas that they
13 recommended last year; however, the Council does
14 need to make a recommendation to the Regional
15 Administrator to suspend the surfclam minimum size
16 limit if the Council wants to do that.

17 The staff recommends that we maintain
18 last year's quotas. For surfclams 3.4 million
19 bushels, the ocean quahog quota of 5.333 million
20 bushels, and Maine ocean quahog of 100,000 Maine
21 bushels.

22 In addition, the staff also recommend
23 that the Council recommends to the Regional
24 Administrator that the minimum surfclam size limit

1 be suspended. With that, Mr. Chairman, I'd be
2 glad to answer any questions.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
4 you. Questions for Dr. Moore?

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: Are
7 there any public comments or questions on Dr.
8 Moore's presentation before we make a decision on
9 specifications?

10 I know we have members of the clam
11 industry here and others. Are there any public
12 comments on the specifications? Yes, sir, Tom.
13 Come on up to the microphone in the corner next to
14 Jason where there's an open. Thank you.

15 TOM ALSPACH: Just to thank you, Mr.
16 Chairman for your excellent scheduling discretion
17 to put us first on the agenda. Just to report to
18 the Council that the NFI Clam Committee had a
19 meeting by telephone conference on Monday, and
20 unanimously endorsed the staff recommendation for
21 both the specifications for the quotas and the
22 continued suspension of the size limit. So I just
23 wanted to put that on the record. Thank you very
24 much.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Tom. Other comments on the proposed
3 specifications? Jim Weinberg.

4 JAMES WEINBERG: This is just an FYI.
5 The next surfclam stock assessment information
6 that you'll get is tentatively scheduled for this
7 winter coming up probably in February of 2013.

8 And there's a little bit of doubt
9 entering into that scheduling still that we're
10 working out between the two councils. But that
11 will be your next stock assessment information on
12 surfclam. And at the moment, ocean quahogs are
13 not scheduled for a stock assessment.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Further comments on the specifications? Seeing
16 none, we're back to the Council. We're going to
17 need a motion to approve whatever specification
18 package you want and also to suspend if it's the
19 intent of the Council the minimum size
20 requirement. Lee.

21 LEE ANDERSON: I was going to make such
22 a motion. Do we need a motion to --

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Yes.

1 LEE ANDERSON: Okay. Then I will
2 combine them, if that's all right with you, that
3 we accept the specifications and we vote to
4 continue the suspension of minimum size for
5 surfclams.

6 COUNCIL CHAIRMAN RICHARD ROBINS: So
7 you're moving to adopt the staff recommendation
8 for specifications and suspend the minimum size
9 limit for surfclams?

10 LEE ANDERSON: Correct.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Okay. Is there a second to the motion?

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Second by Laurie Nolan. Discussion on the motion?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: Seeing
18 none, is the Council ready for the question?

19 (Motion as voted.)

20 {Move to accept the staff recommendation for
21 specifications and to suspend the minimum size
22 limit.}

23 COUNCIL CHAIRMAN RICHARD ROBINS: All
24 those in favor please raise your hand.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Fourteen. Opposed like sign.

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Abstentions like sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: One
9 abstention. The motion carries. Thank you.
10 Thank you, Dr. Moore. Is there any other business
11 under surfclam specifications? Okay. Peter.

12 PETER HIMCHAK: Yes, Mr. Chairman.
13 I'll make this brief. I have one question. With
14 the decommissioning of the Delaware II and the
15 movement of the survey to commercial vessels with
16 dredges, do you have the same calibration issues
17 that you have with trawls moving from the Albatross
18 to the Bigelow?

19 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
20 Weinberg, can you comment on that?

21 JAMES WEINBERG: There will still be
22 the necessity to have calibration information.
23 But there's quite a long history now of working
24 with the industry using commercial clam boats, so

1 there's really just a ton of data on a number of
2 different clam vessels looking at their capture
3 efficiency relative to the Delaware.

4 And I think that going forward they will
5 have whatever vessel is used for this upcoming
6 survey they'll have done that work. So, I'm not
7 too concerned about that.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thank you, Jim. All right. The next item is
10 going to be squid, mackerel, butterfish
11 specifications.

12 Recall we had several items that were
13 outstanding on that. I believe the trip limits on
14 butterfish is one. There was also some interest
15 in perhaps having another trigger allocation
16 during Trimester 2. So, Jason, I'll look to you
17 to go through those details.

18 _____
19 MACKEREL, SQUID, BUTTERFISH AS A COMMITTEE
20 OF THE WHOLE (2013 SPECIFICATIONS)

21 JASON DIDDEN: Thank you. The
22 computer should pop up here. Okay. There we go.
23 So, if you recall yesterday, you set several
24 specifications for butterfish including an ABC of

1 8400 metric tons, a 10 percent -- and this is
2 related to Option A in the briefing book, a 10
3 percent ACT buffer. Gives you an ACT of 7560.
4 The cap you set at 4500 metric tons. And a DAH of
5 2,570 metric tons. That implies cap discards if
6 it occurred last year around 3915.

7 Because of how you set the DAH, that
8 implies total discards would have to be at 4,990
9 metric tons. That leaves about a thousand metric
10 tons for noncap discards.

11 Last year noncap discards were about 600
12 metric tons. That's a pretty variable estimate.
13 There's no great precision on that, but this is a
14 higher number, so hopefully that covers things.

15 But, again, there's some imprecision on
16 that. Hopefully, it's taken care of in other
17 buffering. But the critical thing after that
18 point is now you have a DAH of 2500 metric tons
19 roughly.

20 And depending on how you set your trip
21 limits will depend on who has access to that trip
22 limit. And the staff recommendation at this point
23 is, first, to have no trip limit initially; that
24 would allow some directed fishery; and then also

1 you will need a back stop trip limit. Last year
2 the back stop trip limit was 250 pounds. It closed
3 in July. At landings of 250 pounds, there was an
4 overage. Now, there's a bigger quota. And the
5 250 pounds definitely creates regulatory
6 discards. So the staff recommendation is to
7 increase the post closure trip limit to 500 pounds;
8 however, leave more of a buffer after it closes.
9 Last year it closed at 80 percent of 500.

10 What staff is recommending is taking --
11 we saw the landings that came in last year at 250
12 pounds. If you're doubling the trip limit, do I
13 really think landings are going to double?

14 No. Because a landing may have been 200
15 pounds last year. It may still be 200 pounds.
16 It's not necessarily because it could have gone to
17 250, but it didn't.

18 So, if you increase the rate at which
19 landings came in last year by 75 percent, so
20 increase the trip limit the landings after the
21 closure are probably going to come in faster.

22 Assume they're going to come in about 75
23 percent faster. Then you need about 19.6 metric
24 tons per week. Every week of a closure, those

1 dribs and drabs they're going to come in faster.
2 75 percent faster is 19.6 metric tons per week. In
3 the briefing book document, I said, well, change
4 that every month. You know, you get one month
5 closer to the end of the year; it's less weeks of
6 a closure; you don't need as much. Well, the
7 region said if we're changing that every month,
8 that's going to be a little too much work for us.
9 So I've kind of dialed it back to every two months.

10 And so essentially what it says if you
11 close in January/February, leave 42 percent, close
12 at 58 percent, leave the rest in the bank to account
13 for those dribs and drabs that occur at the post
14 closure trip limit, and reduce that each week.

15 It's calculating how many weeks are left
16 in the year, how many metric tons per week, and also
17 leaving kind of 2 percent for late reportings.
18 And so as you move through the year all the way,
19 once you get to November/December, then you would
20 close at 91 percent.

21 I think it would be unlikely that this
22 would result in a large overage, but, as described
23 in the briefing book, but also recommend kind of
24 giving the region the discretion half way between

1 So, Jason we would start the year on January 1, and
2 we would start a directed fishery with no trip
3 limit until 58 percent of the quota was caught?

4 JASON DIDDEN: In January and February.
5 And that should be okay even if there was a closure
6 on January 1. So it's kind of precautionary.
7 Theoretically, in February it could be less. You
8 could go maybe to 60 percent, but we're just going
9 to leave it at 58 percent. Not until you get to
10 March would it then kind of go down.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Laurie.

13 LAURIE NOLAN: Okay. So then if the 58
14 percent is not harvested, the no trip limit would
15 stay in place, and we would just continue until we
16 meet the quota level allocation for that two-month
17 period?

18 JASON DIDDEN: Yes. Until whatever
19 combination of month and percentage was reached,
20 it would just stay open.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Go
22 ahead, Laurie.

23 LAURIE NOLAN: Well, I mean I would
24 certainly support this. I think it's important

1 that we give the directed fleet an opportunity to
2 go out and see what's there and see if this is even
3 feasible to happen. Developing the market
4 strategies and things like that are yet to be seen.
5 So it's a way of divvying up the quota, and I think
6 it's a good approach considering the increase in
7 the quota that we're looking at this year.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Peter.

10 PETER deFUR: Thank you, Mr. Chairman.
11 Have you heard any feedback from any of the
12 commercial fisherman either who might be involved
13 in this or who knows if they're planning on
14 entering into this? Because as good as it sounds
15 sitting here around the table, it would be good to
16 hear from somebody who's on the water.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Jason.

19 JASON DIDDEN: I think the Sea Freezer
20 is the primary one that would like to give it a go
21 and see if they can do a directed fishery exports
22 to Japan.

23 The big thing they're concerned about is
24 they'd like to have some amount of quota I think

1 at least in the range of a thousand metric tons
2 available for them to go fish on.

3 They've got huge freezers, and they put
4 it in their freezers, and then they try to sell it
5 -- you know, to who they can sell it to. Later on
6 -- you know, I'll also consider kind of a secondary
7 trigger that reduces the trip limit. Sea
8 Freezer's position I think would be saying that
9 we'd like to keep no trip limit as long as we can
10 so we have as much quota as we can.

11 The main thing with this is that you've
12 already set how much landings there are. In order
13 to make sure you don't go above those landings, you
14 have to have some kind of closure.

15 This is really just to try to make sure
16 you don't go over and there's not also a big
17 underage also. That's really all this is for.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Steve Heins.

20 STEVEN HEINS: Yeah. Thanks. This is
21 the same approach that we used when we managed all
22 of our quota managed species in New York. We have
23 these periods and triggers and trip limits like
24 this. And I like this approach. I mean we use it.

1 I think it works pretty well. I just was just kind
2 of interested in the Service's opinion on this type
3 of approach as far as communication and ability to
4 regulate these, period.

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Laurie. Let me ask George real quick to comment
7 on Steve's question about whether he sees any
8 problem with the administration of this from the
9 Agency's perspective.

10 GEORGE DARCY: Well, it's pretty
11 complicated, and it will take some working
12 through, but it's my understanding from our staff
13 that we can probably do this.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you, George. Laurie.

16 LAURIE NOLAN: Well, maybe it's time
17 for a motion and -- or a few more questions. I
18 don't want to rush.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Okay. Steve.

21 STEVEN SCHAFER: Thank you, Mr.
22 Chairman. My only concern is when I hear language
23 from staff that says I don't think this should
24 result in a large overage, make sure this is not

1 a big overage, or prevent a big quota overage. You
2 know, I'd prefer to air on the side of precaution,
3 and I believe that's my responsibility as a Council
4 member.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jason.

7 JASON DIDDEN: That's why I also
8 recommended the ability for NERO to re-evaluate
9 and that if the fishery occurs like it occurred
10 last year, this shouldn't result in an overage.
11 But it's kind of a brave new world. Just the fact
12 that the quota's going up will get some more people
13 interested, and so it's difficult to predict what
14 will happen because people's mentality changes on
15 butterfish.

16 If you go down to 250 pounds, then you
17 create a lot of regulatory discarding. So I
18 wouldn't suggest going below that even if you're
19 going to get an overage because of state landings
20 that you can't control, things like that. You're
21 just creating more and more regulatory discarding.

22 The landings side of things -- you know,
23 if there's a hundred metric tons, 200 metric tons
24 landings overage, that's a very small percentage

1 of the overall ABC. The real danger of overages
2 lies on the discarded side of things, which the
3 loligo cap should constrain.

4 So, again, I think -- you know, a small
5 overage on landings shouldn't be tied to hardly any
6 overage on the ABC, and the Region would still have
7 the option of if it looks like something is going
8 askew, they could even put the post closure trip
9 limit down lower.

10 STEVEN SCHAFER: Thank you, Jason.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Erling.

13 ERLING BERG: For Jason. This is an
14 open fishery? Anybody can get into it? You've
15 got the boat; then you have the capacity; you can
16 pursue this?

17 JASON DIDDEN: No. It's longfin squid
18 and butterfish is a combination moratorium permit.
19 There's about 375 vessels, 375/380 vessels.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Any
21 further questions? All right. What's the
22 pleasure of the Council? Laurie.

23 LAURIE NOLAN: Okay. I'm going to try
24 it. I would suggest that we move to (1) increase

1 the post closure trip limit to 500 pounds, to start
2 January 1 with no trip limit with a 58 percent
3 allocation of the DAH to January/February. And
4 unfortunately I didn't write all those other
5 percentages down. Okay. Thank you. With 64
6 percent for March and April. These are cumulative
7 triggers, so 64 percent for March and April, 71
8 percent for May and June, 78 percent for July and
9 August, 85 percent for September and October with
10 the Service having their digression --

11 JASON DIDDEN: Two months left there.
12 I'm sorry.

13 LAURIE NOLAN: Okay. 91 percent
14 November and December. Should we mention with the
15 Service having their choice -- well, their
16 discretion of examining the results of this
17 management scheme and making adjustments if
18 necessary.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Between 250 and 750 pounds on zero trip limits.

21 LAURIE NOLAN: To the post closure trip
22 limit.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Between 250 and 750 pounds? Wasn't that what

1 Jason identified?

2 LAURIE NOLAN: Five now. I guess are
3 we going to say the 750? I think to five.

4 COUNCIL CHAIRMAN RICHARD ROBINS: What
5 was your specific recommendation on the
6 discretion?

7 LAURIE NOLAN: In the range.

8 JASON DIDDEN: Mine was 250 to 750 in
9 case landings come in a lot slower than expected.

10 LAURIE NOLAN: Okay. 250 to 750.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Is
12 there a second to the motion?

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Second
15 by Erling. Discussion on the motion? Peter.

16 PETER HIMCHAK: Thank you, Mr.
17 Chairman. Just in thinking about Jason's last
18 response, the 250 to 750 is intended to be
19 indirectly related to the magnitude of the
20 landings. So 250 would be if the landings come in
21 at a higher rate, and 750 would be if the landings
22 come in slower? I don't feel a need to add that
23 language in there, but do we need to? Is that a
24 necessary part, or would that be a valuable part

1 of the motion to add that phrase in there, 250 to
2 750? I guess I'm asking George that.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Okay. George.

5 GEORGE DARCY: I don't think so. We do
6 this kind of thing in groundfish a lot where we look
7 at the trajectory of the landings and then try to
8 either slow it down or speed it up to make sure that
9 -- you know, we can come as close as possible. So
10 depending on what the issues are, we would look at
11 what's happening and with the objective of not
12 letting the fishery go over but using as much as
13 they could. So I don't think we need that.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Peter.

16 PETER HIMCHAK: Just to go back to the
17 concept of where we're taking it. If the
18 butterfish landings in the cap run way behind
19 schedule and we reallocate some of that to the
20 December fishery, I guess this percentage is -- no.
21 This is a percentage of the DAH, not the cap. So
22 just to be aware of that. The December poundage
23 could increase with a reallocation of the cap.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Jason.

2 JASON DIDDEN: Yes. Another thing is
3 that I was going to raise with the cap, if a vessel
4 goes out and catches 500,000 pounds of butterfish
5 and has 2500 pounds of longfin squid on it, it's
6 now a cap trip, and would blow the cap estimate out
7 of the water.

8 So the cap methodology is going to have
9 to be refined, and there would be a technical
10 working group that looks at that and will kind of
11 inform the Council of a proposed solution to that
12 problem.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Thanks
14 for noting that, Jason. Any further discussion?
15 Erling.

16 ERLING BERG: Yeah. I like the
17 scenario that Jason has laid out. I think we need
18 to give these fishermen an opportunity to try their
19 luck with this, and I think in the end I think the
20 market will determine the level of participation.
21 I mean you've got to sell these fish.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Further comments?

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Is
2 there any public comment on the motion for
3 butterflyfish specifications?

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: All
6 right. Seeing none, is the Council ready for the
7 question?

8 (Motion as voted.)

9 {Move to increase post-closure trip limit to
10 500 pounds, to start Jan 1 with no trip limit,
11 closing at: January/February = 58%
12 March/April = 64% May/June = 71% July/August
13 78% September/October = 85%
14 November/December = 91%

15 With the Service having the discretion of
16 examining the results of this management
17 scheme and adjusting the post-closure trip
18 limit between 250 and 750 pounds.}

19 COUNCIL CHAIRMAN RICHARD ROBINS: All
20 those in favor please signify by raising your hand.

21 (Response.)

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Fourteen. Opposed like sign.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: One.
2 Abstentions like sign.

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: One.
5 The motion carries. Thank you. Jason, what's
6 your next item in specification?

7 JASON DIDDEN: So just with that
8 motion, you would be going in the fishery from no
9 trip limit to a trip limit of 500 pounds, and the
10 500 pounds definitely causes regulatory discards.
11 And so what I also recommend -- let me just get the
12 zoom right here so everyone can see it in full.

13 So what staff also recommends is that
14 while that hard back stop still exists to prevent
15 an overall quota overage, that you also reserve a
16 portion of the quota for a lower trip limit.

17 And so the idea is -- you know, there's
18 a good chunk of quota out there. Why all of a
19 sudden go from no trip limit to 500 pounds that
20 definitely causes some regulatory discarding. So
21 what I propose, and I mentioned in the briefing
22 document that I was going to work on it with the
23 regional staff is, yes, the hard back stop still
24 exists, as you just set them, 58 percent down to

1 91 percent, but also in January you reserve 18
2 percent of the quota, January/February,
3 March/April 17 percent, May/June 16, July/August
4 15, September/October 14, November/December 13
5 with a lower trip limit. And here I put in 10,000
6 pounds. And, for example, if the fishery closed
7 not at 58 percent but at 40 percent -- 58 minus 18
8 -- at 40 percent what happens at that point is that
9 if it closes at 40 percent, that leaves a thousand
10 metric tons for the wide open directed fishery.

11 And my understanding is that some of the
12 primary industry folks at a thousand metric tons
13 that would enough incentive for them to try to make
14 a go of it. It would also leave 386 metric tons
15 for this lower trip limit.

16 That is 85. Here I have an example of
17 10,000 pounds per trip. So you could have
18 eighty-five 10,000 pound trips. Now, if that trip
19 limit was lower, say 5,000 pounds, now it could be
20 -- you could have one hundred seventy 5,000 pounds
21 trips.

22 So the advantage of this, there are a
23 couple advantages to this. First, it will slow
24 landings down before you get to that hard back

1 stop. That will help NMFS close it appropriately
2 at the right time.

3 Another thing is it will not shut the
4 fishery down right away and go to this 500 pound
5 trip limit. There would be this 500 pounds. And
6 this would be another motion: if you want to have
7 a mesh tied to this. And this would be kind of for
8 a more directed fishery, add a 3-inch mesh which
9 would be a motion also later. So the idea would
10 be that you kind of slow things down. Allow this
11 smaller scale fishery to occur as well and not go
12 to this very restrictive 500 pound trip limit.

13 It may be needed at some point to avoid
14 a quota overage; however, it creates a lot of
15 regulatory discarding. So this would be a way to
16 try to avoid that to some degree.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Lori.
18 LORI NOLAN: Now we're all really confused. But
19 as confusing as it seems, I think what's trying to
20 occur here is to accommodate a number of different
21 fishing operations. We've heard what Geir needs.
22 Then there's other guys out there that aren't as
23 big as Geir that are the squid guys not hammering
24 like Geir hammers. Then you have the smaller

1 operations going on. And a tremendous
2 availability of butterfish. Whether you're
3 talking to a guy on the dock who's fishing locally
4 to Montauk up in the Bay, off the south side of Long
5 Island, they're seeing more and more butterfish.
6 And what this will allow as confusing as it seems
7 is a variety of options for all the different users
8 in the fleet. And just for
9 the fun of it I'm going to throw out that I think
10 this is a great idea, and I will support this but
11 at the 5,000 pound trigger rather than the 10,000
12 pound trigger. And we're going to see more
13 butterfish landings on the dock. It will address
14 discards. And it will accommodate and help in
15 building markets and everything else that needs to
16 be done with the quota that we have to work with.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
18 you, Laurie. Further discussion and questions?
19 Preston.

20 PRESTON PATE: This is a question for
21 George. As complicated as that first amendment
22 was, can we do the second one on top of that?

23 GEORGE DARCY: I think so. It is
24 complicated. We weren't sure -- you know, ahead

1 of time exactly what was going to come out of it.
2 But talking to staff, they indicated that we
3 probably could. But we'll have to see how we can
4 set it up. We understand the intent, though.

5 COUNCIL CHAIRMAN RICHARD ROBINS: And
6 as complicated as it may be, I think in light of
7 the comments that we heard yesterday expressing
8 concern about butterfish discards, this as a
9 management tool may help convert those into
10 landings and better accommodate the mixed modality
11 of the fishery. So it could be an important tool
12 I think. Other comments or questions? Laurie.

13 LAURIE NOLAN: I just want to say like
14 Jason didn't dream all this up on his own, and he
15 hears from the multiple -- the variety of industry
16 members more than we do at the Council meetings and
17 even at an AP meeting. And his imagination and
18 courage has led to this, and it's just keying off
19 of all of what he's hearing from industry.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Further comments? What's the pleasure of the
22 Council on the minimum trip limit? Laurie.

23 LAURIE NOLAN: I would move to support
24 an allocation for January and February of 40

1 percent with those deductions that Jason put on the
2 sheet, 47 percent March and April, 55 percent May
3 and June, 63 percent July and August, 71 percent
4 September and October, 78 percent for November and
5 December with a 5,000 pound trip limit.

6 COUNCIL CHAIRMAN RICHARD ROBINS: We'll
7 wait a minute to let Jason get this up on the
8 screen. While he's doing that, is there any
9 further discussion on the motion at the Council?
10 Steven.

11 STEVEN SCHAFFER: Thank you. I just
12 have one comment. I'm aware of the fact that we're
13 working within the confines of the ABC, and I
14 applaud the discussion for the efforts to maximize
15 the resource.

16 I just want to make a comment that
17 although my premise for being on this Council is
18 actually to achieve a maximum economic yield, I'm
19 not in favor of creating what is perhaps a
20 speculative and unsustainable market.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Further comments?

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS: Is

1 (58%-18%) = 40% March/April (64%-17%) = 47%
2 May/June (71%-16%) = 55% July/August 78%-15%)
3 = 63% September/October (85%-14%) = 71%
4 November/December (91%-13%) = 78%}

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

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Fourteen. Opposed like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: One.
12 Abstentions like sign.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Two
15 abstentions. The motion carries. Thank you.
16 Jason.

17 JASON DIDDEN: The next part of this,
18 staff would recommend is for these measures and for
19 any landings above 2500 pounds that a 3-inch mesh
20 would be required. I have received indications
21 from industry that they can direct on butterfish
22 with a 3-inch mesh. This would hopefully
23 eliminate discards of small butterfish.

24 Lisa Hendrickson's paper within the

1 last year or two indicated some substantial loss
2 of small butterfish even going from about 2 inches
3 to 2 1/2 inches. So this should further reduce
4 catch of small butterfish and hopefully avoid
5 people discarding unwanted small butterfish.

6 And so, again, it would be: I recommend
7 that for part of that will be and then for less than
8 2500 pounds -- I'm sorry. So for greater than 2500
9 pounds a 3-inch mesh. And for less than 25 -- less
10 than 3 inch mesh there would be a 2500 pound trip
11 limit. So what that does it lets the squid
12 mackerel though -- right now for less than 3 inch
13 mesh they have a 1,000 pound trip limit. So they
14 could -- you know, while they are out squid fishing
15 they now -- with a small mesh they could keep up
16 to a thousand pounds. This would allow them to
17 retain more butterfish at that small mesh; however
18 for these larger landings above 2500 pounds,
19 3-inch mesh would be required.

20 So my recommendation is that for less
21 than 3-inch mesh, there'd be a trip limit of 2500
22 pounds. And if you want to retain under any of
23 these scenarios, more than 2500 pounds, that
24 3-inch mesh be required.

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Jason, will 2500 pounds keep regulatory discards
3 to a minimum or otherwise reduce them with the
4 small mesh below 3 inches?

5 JASON DIDDEN: It will reduce them
6 because your trip limit is going from a thousand
7 to 2500. I'd hoped to have time -- the SSC
8 increased the ABC, so I was kind of scrambling on
9 a lot of things.

10 What I had hoped to do was dig into the
11 discard data and try to figure out -- you know,
12 exactly what is that trigger point. I think going
13 forward it will be an adaptive process, and over
14 the next year I'll have more time to dig into the
15 observer data to say, okay, how many more trips
16 actually -- you know, were having regulatory
17 discards. Even if they're discarding above a
18 thousand, it's still very difficult to know was
19 that regulatory or market. But, again, this
20 should reduce it.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Thanks for that clarification. Comments or
23 questions? Laurie.

24 LAURIE NOLAN: Again, we're converting

1 discards to landings, which makes monitoring all
2 catch an easier task. So I would support Jason's
3 recommendation on the small mesh less than 3 inch,
4 to increase the trip limit to 2500, and also any
5 trip over 2500 can occur with greater than 3-inch
6 mesh. And landings that's what we want.

7 COUNCIL CHAIRMAN RICHARD ROBINS: With
8 3 inch or greater or greater than 3 inches?

9 LAURIE NOLAN: Greater than. Well,
10 no. Three inch.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Jason, 3 inch or greater was your recommendation?

13 JASON DIDDEN: Yeah. Three inches or
14 greater would be required for greater than 2500
15 pounds.

16 COUNCIL CHAIRMAN RICHARD ROBINS: So,
17 Laurie, is that a motion?

18 LAURIE NOLAN: Yes.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Second to the motion? Erling Berg. Discussion
21 on the motion?

22 KEVIN SAUNDERS: Kevin Saunders, U. S.
23 Coast Guard. Thank you, Mr. Chairman. I would
24 personally like to leave the mesh size out of it

1 for enforcement purposes.

2 For the trip limit of 2500 pounds,
3 primarily that's going to be enforced at the dock
4 where the gear is stowed. So it's not going to be
5 frequently that we get the combination of gear and
6 catch limits together to ensure that there is
7 compliance.

8 Depending on how these fish are arranged
9 in the hold, it's probably not an easy estimate to
10 determine 2500 pounds of butterfish. So I'd just
11 like to propose that for your thoughts. Thanks.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Jason, what would the implications of that be?

14 JASON DIDDEN: Again, the way this is
15 set up is similar to the current set-up right now.
16 It's a thousand pounds. Then they could -- you
17 know, put 3-inch mesh on and fill out their trip
18 up to 5,000 pounds. So from an enforcement point
19 of view, it's difficult, but it's roughly the
20 status quo from an enforcement perspective;
21 although, it is an enforcement issue.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Thank you. Further comments or questions? Rob.

24 ROBERT O'REILLY: Just trying to

1 reconcile the change to 2500. In the document it
2 talks about the 2011 that the catch was about 2100
3 pounds of butterfish, which was mostly discarded.
4 So was that different mesh sizes? What was going
5 on there?

6 COUNCIL CHAIRMAN RICHARD ROBINS: Jason.

7 JASON DIDDEN: Most of the discards are
8 in small mesh gear, and it's a combination of
9 longfin squid trips and then other fisheries.

10 So to the extent that those discards
11 were market driven, they still may occur, but some
12 of them are regulatory driven. I don't know the
13 exact quantity, but some of them are regulatory
14 driven. So it should help lessen that, but the
15 degree is difficult to predict because market
16 forces are a big part of it as well.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Rob.

18 ROBERT O'REILLY: What was the timing
19 of that information that you have there? Was that
20 early in the year of 2011 most of the discards?

21 JASON DIDDEN: You'd have to look at the
22 cap report, but I think it occurs throughout the
23 year because different fisheries encounter
24 butterfish in different places at different times

1 of the year.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Further discussion on the motion? Laurie.

4 LAURIE NOLAN: You don't feel
5 comfortable moving forward against the will of
6 enforcement, but if this basically mimics status
7 quo, then it's already occurring. So I would
8 support this motion.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you. Is there any public comment on the
11 motion?

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Seeing none, is the Council ready for the question?
15 Frank.

16 FRANK BLOUNT: Yeah. I have a
17 question. So it's legal right now to use the
18 smaller mesh, catch up to the trip limit, and if
19 your last tow you go way over the trip limit, just
20 change your mesh and continue fishing on until you
21 catch the 5,000?

22 JASON DIDDEN: Well, theoretically
23 they should discard what they caught at the small
24 mesh. In practice who knows what occurs. But

1 maybe the region can
2 confirm -- it's basic. It's pretty standard in these
3 kind of situations where you can stow -- at some
4 point if the trip limit for butterfish now is a
5 thousand pounds as a small mesh, if they stow their
6 gear, it's not available for use, they put on large
7 mesh, then they can go up to whatever their trip
8 limit is for large mesh.

9 FRANK BLOUNT: I think that's the case,
10 yes.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Chris.

13 CHRISTOPHER MOORE: Thank you, Mr.
14 Chairman. I want to continue the discussion that
15 Kevin started related to that 3-inch mesh, Jason,
16 because the answer that you've provided suggests
17 that we really don't need to have that in that
18 particular motion.

19 So I need to hear you articulate exactly
20 why it's important to continue to have a motion
21 that says: For mesh less than 3 inches relating
22 that 2500 pound trip limit.

23 JASON DIDDEN: I think the main
24 advantage of this is that when the directed fishery

1 is out and landing -- you know, 50,000 pounds a tow,
2 whatever, when they're using 3-inch mesh, so they
3 shouldn't catch as many small butterfish, that
4 they'd be more likely to discard.

5 So hopefully, having the mesh size limit
6 for the larger landings reduces discarding of
7 small butterfish 'cause they -- you know, won't be
8 caught in the first place. That's the main intent
9 behind having the 3-inch mesh.

10 COUNCIL CHAIRMAN RICHARD ROBINS: So the
11 size composition of the catch is going to be
12 different in the directed fishery if we go with
13 this motion?

14 JASON DIDDEN: The recent literature
15 and experiments suggest that that would be the
16 case.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Geir, comment at this point? There's a microphone
19 right there, I believe, next to Frank.

20 GEIR MUNSON: Geir Munson, Sea Freeze.
21 I think it is important to note that there is really
22 no such thing as 3-inch mesh. It doesn't exist.
23 There's no webbing made in the United States with
24 the U.S. measurements. The webbing that is

1 available in the trade is made in Europe or Asia,
2 and it's classified as 80 millimeter, and that is
3 measured center of the knot to the center of the
4 knot, not inside the mesh. It's approximately
5 equivalent to 3 inch inside the mesh.

6 But from an enforcement point of view,
7 I think 80 millimeter is a more correct description
8 than 3 inch because the 80 millimeter might not be
9 exactly 3 inch. Just a technical thing. Thank
10 you.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Geir, just to follow up, is the use of 80 millimeter
13 mesh widespread within the industry? Is that the
14 common currency for boats operating in that size
15 range of that?

16 GEIR MUNSON: Yeah. That's the only
17 thing that is available. There is nothing
18 available saying that it's 3 inch. It's all
19 webbing that is pre-made at some factory
20 someplace, and every country besides the United
21 States have a metric measuring system, and it
22 doesn't correlate exactly to 3 inch.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Thank you. Jason, can you comment on that?

1 JASON DIDDEN: So 3-inch mesh the 80
2 millimeters is equivalent to 3.15 inches, and as
3 you said middle of knot to middle of knot. And 3
4 inch is the current one. If it's 80 millimeters
5 and that's what you're buying at, the nets can
6 shrink a little bit, and you're going knot to know.
7 The idea here is that 3 inches if I do convert 3
8 inches to millimeters, that's 76 millimeters.

9 So, if he's buying it at 80, there's a
10 little bit of leeway there so -- you know, someone
11 just doesn't get stung on an enforcement
12 measurement issue. I mean they've got the size
13 mesh, the larger mesh. It's the general intent.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Thanks for clarifying that. Kevin.

16 KEVIN SAUNDERS: Thank you. None of
17 our current measuring tools are in metric, and most
18 of them right now are within a quarter of an inch
19 tolerance of what we look at. So from an
20 enforcement point of view, we wouldn't be able to
21 write a decent case with the buyers that we're
22 talking about right now, but I would recommend in
23 order to avoid us having to re-tool everything we
24 have or carry additional gear on board which we

1 carry a lot already, that we leave it at 3 inches.
2 If we're going to do this, I recommend we don't have
3 this 3-inch rule. But if we're going to do it, I
4 recommend we keep it non metric.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jason.

7 JASON DIDDEN: So, Geir, my
8 understanding is that your 80 millimeter mesh
9 should measure at 3 inches or greater on the Coast
10 Guard's inside stretch measure. And so that's
11 really what the design's goal here was.

12 GEIR MUNSON: I think it does, but I'm
13 still getting back to the rest of the world
14 measures stuff in millimeters and (inaudible)
15 meters and that's what the stuff is bought as. It
16 should be specified I think that it is 80
17 millimeter mesh, approximately equivalent to
18 3-inch inside mesh.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Thank you, Geir. Steven.

21 STEVEN SCHAFFER: Just a comment. I
22 believe that the application enforcement of this
23 motion as written is perhaps vague, and it sets a
24 dangerous stage for a dubious few.

1 COUNCIL CHAIRMAN RICHARD ROBINS: I'm
2 sorry, Steve, I had trouble hearing. You said it
3 set the stage for what?

4 STEVEN SCHAFER: It may set the stage
5 for a dubious few.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Further comments on the motion?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there any additional public comment? Jim
11 Lovgren, come on up. There's a microphone in the
12 corner there where Geir was. Yes, sir.

13 JAMES LOVGREN: Thanks. Regarding the
14 3-inch mesh, it's 2 1/2 and 3 inches, very similar
15 to what's used in the silver hake fishery up in New
16 England.

17 Geir's correct with the 80 millimeter
18 issue there, but we do consider it 3 inch. So I
19 mean I don't think that anybody's going to bother
20 about fractions when it gets to the 3-inch fishery.

21 There is a substantial reduction in
22 catch rate going from 2 1/2 to 3 inch, so I think
23 -- and we've done this. What I'm saying is this
24 is very good.

1 What I think you need to change here,
2 though, is 2500 pounds for codend mesh less than
3 3 inch. Specify the codend. Many nets whether
4 it's a high rise or specifically a whiting mesh,
5 small mesh whiting net, the body of a whiting net
6 a lot of times it's built out of 2 3/4 inch twine.
7 The high rise net because we use these for squid,
8 too, might have 2-inch extensions. So I would
9 specify that the codend mesh would be three inches.
10 That would be my only comment on that. So when
11 that issue a matter of people got to change all back
12 ends of their nets and so forth. Or in one case
13 not be able to use the small mesh net. Thank you.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you, Jim. Jason, would that have any
16 additional consequences or implications relative
17 to the intent of the motion?

18 JASON DIDDEN: I think the intent of the
19 motion is really the effective mesh size, which is
20 the codend. It would also include a liner. So I
21 think changing this for effective codend mesh
22 would be a good clarification. Then it applies to
23 a liner as well, which are used sometimes in these
24 fisheries.

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Thank you for clarifying that. Laurie, do you
3 care to perfect your motion?

4 LAURIE NOLAN: Yes. To insert
5 effective codend mesh less than 3 inch and require
6 again greater codend mesh, 3 inch or greater codend
7 mesh.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Okay. Is there a second to the motion as
10 perfected?

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Erling Berg. Any further discussion on the
14 motion?

15 (No Response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: Is
17 the Council ready for the question?

18 (Motion as voted.)

19 {Move to set a trip limit of 2,500 pounds for
20 effective codend mesh less then 3" and require
21 3" or great mesh for trips over 2,500 pounds.}

22 COUNCIL CHAIRMAN RICHARD ROBINS: All
23 those in favor please raise your hand.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thirteen. Opposed like sign.

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Two.

5 Abstentions like sign.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: One

8 abstention. The motion carries. Thank you.

9 Jason.

10 JASON DIDDEN: I think the final thing
11 is right now all this is for the moratorium
12 permits. And right now for the incidental permit
13 they start the year with a 600 pound trip limit,
14 and if the directed fishery goes down to a 250 pound
15 trip limit, then they follow suit. So, again,
16 didn't have the analysis to figure out how much
17 discarding of butterfish is occurring on all these
18 incidental permits. I propose -- you know, again
19 to kind of spread out -- the quota is increasing
20 -- to kind of spread the results of that to all
21 participants and hopefully to, again, decrease
22 some regulatory discarding; although, certainly
23 there may some of these incidental permits that
24 start directing at a thousand pounds, to increase

1 the incidental trip limit to a thousand pounds, and
2 then they would just follow suit with the directed
3 fishery if it went to 500 pounds.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Okay. Laurie.

6 LAURIE NOLAN: I'm wondering if on this
7 one -- I mean I don't like to make a jump like that
8 in the incidental category because, as Jason said,
9 one man's incidental take is another man's
10 directed take.

11 And while you're regulating the
12 directed fleet and the loligo fleet and everybody
13 else with this specific specie, I think the
14 justification for upping it, nearly doubling it,
15 we should give Jason maybe a chance to take a look
16 at how many trips are bumping up against 600 pounds
17 now; and maybe just give him the discretion of
18 making this decision after looking at that data
19 rather than just making a jump to a thousand. I
20 just feel uncomfortable raising incidental trip
21 limits without a justification of the current trip
22 limit is creating discards.

23 COUNCIL CHAIRMAN RICHARD ROBINS: I

24 think that we're at a point that we have to render

1 a recommendation on this issue. Jason, can you
2 clarify that?

3 JASON DIDDEN: Yeah. I think the
4 region would also say there needs to be a decision
5 by the Council on what to do. The Council could
6 always framework a change later or something, but
7 it's the Council's prerogative.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thank you. Laurie.

10 LAURIE NOLAN: On this one I would move
11 status quo, 600 pounds.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 there a second to the motion?

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Second by Peter deFur. Jason, can you describe in
17 a little more detail what the relationship would
18 be between raising the incidental and discards? I
19 assume it would reduce them to some extent.

20 JASON DIDDEN: That would certainly be
21 the theoretical. I'm sure there's going to be at
22 least a few trips out there where that would reduce
23 some discards. And, again, even if I had had time
24 to really dig through the observer coverage, how

1 well of that gives an indication of what's actually
2 happening in all the different fisheries at the
3 incidental level. It would be difficult. So,
4 yeah, theoretically yes. In practice it's
5 difficult to say.

6 I would also say that -- I would ask:
7 Would you want the incidental to go to 500 pounds
8 if the moratorium permits go to 500 pounds later
9 in the year? Because now you have that hard back
10 stop, if they get to that percentage, then the
11 moratorium permits go to 500 pounds.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Laurie.

14 LAURIE NOLAN: We're not allocating a
15 specific allowance to the incidental category, are
16 we?

17 JASON DIDDEN: No. And you
18 technically haven't allocated a specific
19 percentage to the moratorium category either.
20 Again, at some point in the year if it closes, the
21 moratorium permits will go to 500 pounds if it had
22 set that hard back stop threshold that you set
23 initially. At one point it will go to 5,000
24 pounds. Then if it gets even further closer to the

1 overall landings quota, they'll drop to 500.

2 Hopefully, that may not even happen
3 since you have that buffer in there where they go
4 to 5,000. That should slow landings down. Maybe
5 that will never happen.

6 But in the current situation, if right
7 now -- so, in the current situation how you have
8 it set up with just this, it's possible the
9 moratorium permits could go to 500, but the
10 incidentals are still at 600. It may not be that
11 big of a deal.

12 And for regulatory simplicity it seems
13 a little funny for the moratorium permits to have
14 a lower trip limit, but then the incidentals -- I
15 mean it's nice if their trip limit never changes,
16 the Service saves all that communication and
17 confusion. So just an issue to raise there.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Laurie.

20 LAURIE NOLAN: I would say let's leave
21 them alone at 600 pounds.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Rob.

23 ROBERT O'REILLY: Yeah. I would
24 support status quo if the observer data couldn't

1 be untangled right now to give any good advice to
2 us. Then with this increase overall to the ABC,
3 it's trickling down, it may give time to get better
4 information. But I would also just wonder about
5 the observer coverage. Is that going to be to a
6 greater extent than it has been?

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Jason.

9 JASON DIDDEN: The observer coverage of
10 the longfin squid fishery was maybe three times
11 higher last year, a related funding thing. The
12 Service was able to direct some more coverage to
13 it.

14 The cap was implemented, so there was a
15 lot of incentive to get better estimates. For all
16 the other incidental permits, they are across a
17 wide range of fisheries.

18 I'm not quite sure what the observer
19 coverage levels are going to be across all the
20 different fisheries. And with budget issues, I
21 don't know that the Service would know that either
22 at this point.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Further discussion on the motion?

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there any public comment on the motion?

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Seeing none is the Council ready for the question?

7 (Motion as voted.)

8 {Move to keep the incidental trip limit at the
9 status quo of 600 pounds.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: All
11 those in favor please raise your hand.

12 (Response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Fifteen. Opposed like sign.

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Abstentions like sign.

18 (Response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS: Two
20 abstentions. The motion carries. Thank you.
21 Jason.

22 JASON DIDDEN: That's all I have;
23 although, I would like to communicate this to my
24 regional counterpart and just maybe communicate

1 with you later in case there's any missing things,
2 but I think that's good.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Okay. There was one other issue that you have
5 brought up during the discussion of the loligo cap,
6 and I think that related to making sure that we
7 don't foreclose the third period.

8 JASON DIDDEN: Yes. So right now
9 related to Amendment 10, the cap is on the longfin
10 squid fishery, and it closes at a certain
11 percentage of a trimester quota in one. And the
12 analysis suggested discards in the butterfish much
13 lower in Trimester 2, and so there were no closures
14 in Trimester 2. The allocation would be so small
15 that it was really impossible to track a Trimester
16 2 closure. And last year it worked fine. This
17 year butterfish catch rates overall have been much
18 higher. Also, last year during Trimester 2,
19 because they had lower butterfish catch rates,
20 they continued to press the cap downward actually
21 as occurred this year. They continued to catch
22 high butterfish in Trimester 2. They've also been
23 catching very good longfin squid fisheries in
24 Trimester 2. And even with the increase related

1 to Framework 6 -- 2,445 metric tons for the cap --
2 it's possible if Trimester 2 keeps catching high
3 rates of butterfish, that there could be no
4 Trimester 3 squid fishery because all of the cap
5 would have been used up between Trimesters 1 and
6 2. So
7 this has kind of just been flagged in the last
8 couple of weeks by the Region as they've seen the
9 cap quota going up. I think it could reasonable
10 to -- you know, have some closure in Trimester 2.
11 It's away from now. You could set maybe a
12 preliminary one of at least -- again -- you know,
13 I don't think you can monitor Trimester 2 by itself
14 because if it's really infeasible given the low
15 loligo quota, given the expected butterfish catch
16 rates. And really what the Region does right now
17 is they start tracking the overall quota once they
18 get to Trimester 2. So it could be -- and, again,
19 there's a lot of volatility year to year, and we've
20 only had two years as a cap. But I could see it
21 making sense to saying, okay, in Trimester 2 the
22 Region starts tracking the annual quota and
23 closing at some percentage of the annual quota, so
24 at least Trimester 3 doesn't get totally shut out.

1 And -- you know, the current
2 allocation of the cap is about two-thirds to
3 Trimester 1 and one-third to Trimester 3, and
4 there's really just a small sliver that was thought
5 would occur in Trimester 2. So it may be warranted
6 to shut Trimester 2 down if, say, 75 percent of the
7 annual cap is reached. That would at least leave
8 something for Trimester 3 in these cases. And
9 then also I think over the next few weeks we'll see
10 exactly what happens in Trimester 2, and the
11 Council may want to consider -- you know, a small
12 little framework to adjust the Trimester 2, but at
13 least this would be something in the specs. That
14 is a back stop so Trimester 3 doesn't get totally
15 shut out if kind of the unexpected happens again
16 next year.

17 Again, I will be working with the
18 regional staff once we see what actually happens
19 in Trimester 2. Alternatively, you could just
20 wait for that analysis and consider a framework
21 action later based on what actually happens this
22 year.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Do we
24 have plenty of time to consider a framework action?

1 Let me ask the Regional Office as well for their
2 thoughts on that. George.

3 GEORGE DARCY: I'm sorry. What was
4 your question?

5 COUNCIL CHAIRMAN RICHARD ROBINS: I was
6 asking if we have plenty of time to consider a
7 framework action to address that issue, or would
8 it be more expedient to take care of it in this
9 step?

10 GEORGE DARCY: Well, you wouldn't have
11 any effect this year, obviously. But for next
12 year. You talked about initiating another
13 framework already for the potential transfer of
14 butterfish from one component of the fishery to the
15 other, so you could do it in that framework. But
16 that probably wouldn't be in effect for 2013.

17 COUNCIL CHAIRMAN RICHARD ROBINS: It
18 would not be in effect for '13?

19 GEORGE DARCY: Well, I guess it could
20 be. I guess it could be. If you initiated that
21 essentially next council meeting and kept it real
22 simple, we probably have it in place.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Okay. Jason, would you benefit from any

1 additional time to do analyses on this question,
2 or are we just as well to make the decision today?

3 JASON DIDDEN: Given that it's a
4 Trimester 2 issue next year and given the
5 experience with some of our recent rapid
6 frameworks, I think it would probably benefit.
7 And I raise it as an issue 'cause it is potentially
8 a major issue. It just popped up.

9 I think there would be enough time to
10 address it in a framework. And obviously, I think
11 everyone would benefit from actually looking at
12 what happened and maybe have the data before you're
13 making the decision. So I think that probably
14 makes sense.

15 COUNCIL CHAIRMAN RICHARD ROBINS: It
16 may be beneficial to take action now as a
17 placeholder and then follow up with the framework
18 so that we do have something in place in case the
19 framework's slowed down just so that we have a back
20 stop on that. What's the pleasure of the Council?
21 Laurie.

22 LAURIE NOLAN: Okay. Then I would move
23 to place a 75 percent cap during the Trimester 2
24 longfin squid fishery, a 75 percent butterflyfish cap

1 of the total -- wow, this is bad. Move to place
2 a 75 percent cap of the annual cap when Trimester
3 2 would close.

4 COUNCIL CHAIRMAN RICHARD ROBINS: You
5 want to just identify that as the butterfish cap
6 in the loligo fishery. Laurie, I think I would
7 suggest that we also include this issue in the
8 proposed framework to this FMP so that if we learn
9 additional information going forward, we can
10 incorporate that. In other words, this would be
11 a placeholder. If additional information suggest
12 that number ought to be any different, we could
13 tweak it in the framework. So I would just suggest
14 adding that we would also add this item to the
15 upcoming SMB framework.

16 LAURIE NOLAN: Okay. This item will be
17 added to the upcoming framework to the SMB FMP.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you. Is there a second to the motion?

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Second by Erling Berg. George.

23 GEORGE DARCY: I just have a question to
24 make sure I understand what this says. This is

1 saying that you would want to close the second
2 trimester when 75 percent of the total annual
3 butterflyfish cap is reached. Is that the same as
4 what you've got up there? Okay. Thank you.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jason, does that give you what you need?

7 JASON DIDDEN: I think it's a
8 placeholder that's probably reasonable given the
9 available information; although, I think the
10 framework will look at it in a lot more detail.

11 COUNCIL CHAIRMAN RICHARD ROBINS: That
12 sounds good. Okay. Any discussion on the
13 motion?

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 there any public comment on the motion?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Seeing
19 none is the Council ready for the question?

20 (Motion as voted.)

21 {Move to place a cap of 75% of the annual
22 butterflyfish cap on the Longfin squid fishery
23 when Trimester 11 would close and add this item
24 to the upcoming MSN FMP framework action.}

1 COUNCIL CHAIRMAN RICHARD ROBINS: All
2 in favor please raise your hand.

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Fifteen. Opposed like sign.

6 (No response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Abstentions like sign.

9 (Response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: Two
11 abstentions. The motion carries. Thank you.
12 Jason, is there anything else under
13 specifications?

14 JASON DIDDEN: I think we're good.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Thank you, all, for that. Next we go ahead and
17 take Tom Warren's presentation on bluefin tuna.
18 And that will be a brief presentation on the
19 scoping action. We'll then take a 10-minute break
20 and come back and take up Amendment 14. Tom
21 whenever you are ready.

22

23 HIGHLY MIGRATORY SPECIES (HMS)

24 THOMAS WARREN: Thank you. My name is

1 Tom Warren with the Highly Migratory Species
2 Management Division in Gloucester. I appreciate
3 you providing me time on your compressed agenda
4 here. I will do my best to keep this brief.

5 This presentation is a synthesis of a
6 scoping document that you're being provided and is
7 an abbreviated version of your scoping
8 presentation we're providing to the public in the
9 larger public meeting scoping.

10 We're at the first stage of the
11 amendment process to amend the Atlantic highly
12 migratory species fishery management plan. This
13 would be Amendment 7 to the FMP with the focus on
14 bluefin tuna.

15 The scoping information essentially
16 contains a list of some of the concerns and
17 objectives, some potential management measures,
18 and a draft timeline. A general question at this
19 stage we're asking is: Are the current management
20 measures the best way to achieve the objectives of
21 the bluefin tuna fishery and provide flexibility
22 to address changes in the future?

23 With respect to the objectives of the
24 bluefin tuna fishery, the overall objectives can

1 be readily agreed upon, and those most common to
2 most FMPs: reduce and eliminate overfishing,
3 rebuild the stocks, reduce discards to the extent
4 possible, maximize benefits to the nation, and
5 minimize negative social and economic benefits.

6 But as a short-term practical question,
7 the objective essentially comes down to how do you
8 keep landings and discards from exceeding the
9 quota. And so that's the focal point.

10 Well, why are we considering changing
11 the fishery management plan? Essentially, the
12 bluefin tuna fishery is a changing fishery.

13 The overall trend, landings have been
14 increasing; whereas in contrast, quota has been
15 declining, and dead discards must be counted.
16 Under the international agreement, ICCAT, all dead
17 discards must be accounted for if they're included
18 in the total allowable catch, and the amount of
19 carryover from one year to the next has also been
20 decreasing in recent years in terms of what's
21 allowable.

22 This slide encapsulates well the
23 situation we're facing. The blue bars show
24 increasing landings over the past six years. In

1 contrast the beige bars which is the base quota and
2 the adjusted quota including carryover have been
3 declining. So essentially the proportion of
4 quota being caught has been increasing.

5 In years past, specifically prior to
6 2007, there was a separate dead discard
7 allocation, so the math for accounting for dead
8 discards was taken care of by a separate discreet
9 allocation, as indicated by this small pie on the
10 right.

11 In contrast the larger pie on the left
12 just is to provide you indication of how the quota
13 is currently divided up among the various quota
14 categories.

15 Now, however, in contrast to the past,
16 the dead discards are accounted for from the
17 overall quota; however, there's not a rule that
18 each category is responsible for its own dead
19 discards. And there lies both the flexibility
20 which we've currently enjoyed and the potential
21 future problem in where are the dead discards going
22 to be accounted for from one particular category
23 to another. The dead discard circle here is
24 indicated in the purse sein category in this case

1 because in recent years the purse sein category has
2 not fished and has provided basically buffer
3 enough in the overall quota to account for the
4 estimate of dead discards.

5 So now looking at this a little bit
6 further in terms of representing the problem in pie
7 charts, now I'm going to start representing the
8 overall catch in bars.

9 So the bar on the right is meant to
10 indicate the total catch in the fishery with dead
11 discards and landings. This is 2011 data showing
12 you overall total base quota on the left, the
13 adjusted quota on the middle, which includes the
14 carryover from 2010, and the total catch which, of
15 course, is dead discards and landings. And these
16 dead discards are from the pelagic longline
17 fishery.

18 The longline fishery is the only fishery
19 for which we do have an estimate of dead discards.
20 So things worked out in 2011; however,
21 hypothetically, it may not have worked out so well
22 if all the quota categories had caught their
23 subquotas. We would have exceeded the overall
24 adjusted quota. So therein lies one of the

1 problems. So, based on this scenario of declining
2 quota and increase in catch and less wiggle room,
3 as well as public input from our Advisory Panel and
4 the public over the past three years, these are
5 some potential objectives for the amendment:
6 optimize fishing opportunity and account for dead
7 discards, enhance reporting, reduce bluefin tuna
8 dead discards, and other changes to the FMP as
9 necessary.

10 Before I give you a brief synopsis of the
11 management measures, it's useful to go into a
12 little bit of detail what we mean by discards,
13 because there's several aspects, and it can be
14 confusing.

15 Accounting for discards is one
16 principal aspect. Ensuring landings plus
17 discards are counted. But in addition to this
18 accounting problem that I described, we do want to
19 remember that we're trying to optimize landings
20 and provide opportunities for all quota
21 categories, and we're trying to stay within the
22 quota.

23 Clearly, a great way to make the math
24 work in a quota fishery is to reduce dead discards,

1 but it's also important to remember that reducing
2 dead discards in a vacuum doesn't really solve the
3 accounting problem unless there's actual
4 reporting of these dead discards on paper or some
5 other means and then monitoring the dead discards
6 by NMFS.

7 So, as I mentioned before, there's
8 currently not a rule that says each quota category
9 is accountable for their own dead discards, so the
10 question becomes: Who's responsibility is it;
11 who's problem is it -- the fishery as a whole or
12 an individual quota category?

13 And folks, of course, tend to point
14 their fingers at each other in this case. And the
15 problem is made more complex by the fact that each
16 quota category has different reporting
17 requirements, and there's different amounts of
18 information available.

19 And as I said before, only one quota
20 category has an amount of dead discards that are
21 estimated annually. So, in terms of how we
22 propose to go about reducing discards -- or again
23 these aren't proposals at this stage; it's just
24 scoping.

1 I'll run through these very briefly and
2 just highlight a couple. Implement pelagic
3 longline bluefin tuna catch cap. The longline
4 fishery directs on swordfish and yellow fin tuna
5 principally. They have a quota for bluefin tuna,
6 but when this quota is reached, they can still
7 continue to fish for their target species.

8 And when they reach their overall quota,
9 then bluefin tuna discarding starts, but they can
10 continue to fish. This would implement a cap
11 whereby they would be required to stop fishing with
12 pelagic longline once the bluefin cap was
13 attained.

14 Similarly, a related measure would be to
15 eliminate the target catch requirements. The
16 longline category currently is allowed bluefin
17 tuna in relation to the amount of target catch,
18 this causes discard if there's insufficient target
19 catch, etcetera, or excessive bluefin tuna. So in
20 conjunction with the catch cap, this would reduce
21 discards.

22 Also, ideas being discussed are:
23 implementing new closure areas for pelagic
24 longline gear, gear solutions, transitioning to

1 other types of gear with less bluefin tuna catch,
2 and requiring retention of all legal size bluefin
3 tuna by longline vessels.

4 And going further down the list:
5 reduce bluefin tuna minimum sizes would reduce
6 bycatch, modify tolerance rules for purse sein
7 harpoon categories, specify a minimum bluefin tuna
8 catch limit, and facilitate a process for fishing
9 industry communication of hot spots analogous to
10 what the scallop fishery is currently using for
11 yellowtail flounder.

12 We are considering shoring up the
13 reporting requirements. We'd consider changes to
14 each quota category because of the very different
15 nature of these fisheries.

16 We would be looking at it on a
17 category-by-category basis to try to determine
18 whether the reporting and monitoring is sufficient
19 for this full quota accountability and trying to
20 increase equity among quota categories in this
21 nature.

22 Other options on the table are: deduct
23 bluefin tuna dead discards from each quota
24 category that would ensure a different level of

1 accountability rather than on the fishery as a
2 whole, revise quota allocations.

3 There's some folks that think that
4 because there's relative inactivity in some quota
5 categories, you should just switch quota around,
6 and that would resolve the problem.

7 And then also being discussed are
8 modification of subquota rules, for example, the
9 general category fishery is divided up seasonally.
10 And so some folks are concerned that you could
11 optimize this better by reshuffling around those
12 seasons. So that's it in a nutshell. The next
13 steps, the scoping comment period ends July 15th.

14 We welcome comments submitted
15 electronically, by fax, or by mail. We've held
16 multiple scoping hearings in the Atlantic and the
17 Gulf, and we'll be holding one more next week in
18 Portland, and we're also consulting with other
19 councils.

20 We'll be developing a proposed rule and
21 an environmental impact statement followed by
22 another comment period and hope to implement
23 approximately 2014. So I again appreciate the
24 time you've provided me.

1 COUNCIL CHAIRMAN RICHARD ROBINS: Tom,
2 thank you for the presentation. Are there
3 questions of Tom on the presentation? John.

4 JOHN MCMURRAY: Thank you, Mr.
5 Chairman. A couple of very brief questions and
6 then a comment. Did I hear you mention that the
7 purse sein boats were not fishing the last couple
8 of years, and that's where the buffer came from?

9 TOM WARREN: Correct. Approximately
10 for the last four years there's been essentially
11 no landings. They are active in the extent that
12 they send up spotter pilots every year and prepare
13 a vessel to fish, but the size composition hasn't
14 been appropriate for them to economically pursue
15 the fishery.

16 JOHN MCMURRAY: Thank you. My second
17 question is: How is the dead discard rate
18 determined?

19 TOM WARREN: It's using a combination
20 of logbook and observer data on the pelagic
21 longline fishery.

22 JOHN MCMURRAY: All right. And
23 lastly, I just want to recommend that our council
24 through it's HMS Committee go ahead and submit a

1 set of comments, and I'll work with Steve and the
2 Committee to put that together.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Thank you, John. And I think that would be an
5 appropriate course of action. We can work through
6 the Committee and develop those comments and
7 submit them prior to the deadline.

8 Are there any other questions for Tom at
9 this point in time? Are there any public comments
10 on the scoping issue? Okay. Tom, thank you very
11 much for doing that today.

12 THOMAS WARREN: Thank you. You're
13 welcome.

14 COUNCIL CHAIRMAN RICHARD ROBINS: With
15 that we're going to take a 10-minute break. We'll
16 come back and take up Amendment 14. So please be
17 back at -- well, let's come back at quarter 'til.
18 Thank you.

19 (Break: 9:33 a.m. to 9:53 a.m.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 We're going to take final action today on Amendment
22 14 of the Squid, Mackerel, Butterfish Plan. The
23 Committee met and went through a number of issues
24 related to that amendment, and they've offered

1 recommendations to the Council for consideration.

2 In the interest of time, I'm going to ask
3 Jason if he would read the approved motions into
4 the record on behalf of the Committee. Those
5 motions will not require a second for
6 consideration by the Council since they're
7 committee motions.

8 We can have additional discussion on the
9 motions. I'll allow some public comments, but we
10 just ask all speakers in light of the fact that
11 we've already had extensive comment on this action
12 to be very concise with their remarks.

13 And with that I'll go ahead and turn to
14 Jason. We have a number of issues, at least a
15 couple, I think that require some additional
16 clarification of council intent on some of the
17 specific motions, so we can address that as we go
18 through them. But, Jason, if you would go ahead
19 and introduce the first motion. And I'll ask
20 Jason if he would just give a brief description of
21 what it is because some of these motions will say
22 approve Option 1A, for example. And just so that
23 everybody's familiar with what that means, I'll
24 ask Jason just to describe it briefly. Jason.

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MACKEREL, SQUID, BUTTERFISH AS A COMMITTEE

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OF THE WHOLE (AMENDMENT 14)

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COUNCIL CHAIRMAN RICHARD ROBINS:

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Thank you. So the motion is moved that Options 1C, 1D(48), 1E Mack, 1E Long, 1F Mack, 1F Long, and 1G Mack be put forward as preferred. So we would be actually approving that as our final recommendation on Amendment 14. Is there any

1 discussion by the Council on the motion? Jason.

2 JASON DIDDEN: Just a procedural
3 question. Are these all for committee in terms of
4 actually who's making the motion to the Council
5 just date verify?

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 These are committee motions. Since we are
8 recommending them to the Service, I think they'll
9 need to be perfected to reflect final Council
10 intent since these are recommendations.

11 So I would ask for a motion to perfect
12 those to reflect that on each of these. So, in
13 other words, at the end of the motion instead of
14 saying they'll be recommended to the Council, that
15 would be the Council's recommendation to the
16 Secretary. Laurie.

17 JASON DIDDEN: Sorry. But in terms of
18 it not needing a second, does it need to be for
19 committee to start things off?

20 COUNCIL CHAIRMAN RICHARD ROBINS: They
21 don't need a second to start things off, but I think
22 we need a follow-up motion to perfect them for a
23 final submission. Laurie.

24 LAURIE NOLAN: Okay. Well, all these

1 alternatives are regarding additional vessel
2 reporting requirements, and they're all good
3 moves. We're trying to get a handle on what's
4 going on, who's doing it and where. So I support
5 all the alternatives in the motion, and I would
6 move that the Council accept these options, Option
7 1C, Option 1D(48), 1E Mack, 1E Long, 1F Mack, 1F
8 Long, and 1G Mack as the preferred alternatives in
9 Amendment 14.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Is
11 there a second to the motion?

12 (Response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Second by Erling Berg. Discussion on the motion?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: Is
17 there any public comment on the motion?

18 (No response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Seeing none, we're back to the Council. Is the
21 Council ready for the question?

22 (Motion as voted.)

23 {Move that options 1c, 1d48, 1eMack, 1eLong,
24 1fMack, 1fLong, and 1gMack, be put forward as

1 the preferred alternatives in Amendment 14.}

2 COUNCIL CHAIRMAN RICHARD ROBINS: All
3 those in favor please raise your hand.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Seventeen. Opposed like sign.

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Abstentions like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: One
12 abstention. The motion carries. Thank you.
13 Jason.

14 JASON DIDDEN: The next passed motion
15 was: Move that the Committee recommend to the
16 Council Alternatives 2D. 2D is requiring that
17 federally permitted SMB dealers weigh all landings
18 related to mackerel transactions over 20,000
19 pounds.

20 If they do not sort by species, they
21 would need to document with each transaction how
22 they estimated the relative composition of a mixed
23 catch.

24 2F, which is requiring that SMB dealers

1 do the same thing for longfin squid; and 2G is
2 allowing volume to weight conversions if they
3 cannot weigh landings.

4 So this largely maintains the status
5 quo, except does require documenting at the
6 transaction level how they figured out
7 compositions and mixed catches since that
8 volumetric exception is in there.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you, Jason. As with the last motion, if this
11 ultimately reflects Council intent, we'd need a
12 motion to make this our final recommendation to the
13 Secretary in Amendment 14. Peter.

14 PETER HIMCHAK: I would move that the
15 Council recommend to the Service, National Marine
16 Fishery Service, preferred alternative Options
17 2D, 2F, and 2G.

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is
19 there a second to the motion? Second by Laurie.
20 Discussion on the motion?

21 (No response.)

22 COUNCIL CHAIRMAN RICHARD ROBINS: Is
23 there any public comment on the motion?

24 (No response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Seeing
2 none, back to the Council. Is the Council ready
3 for the question?

4 (Motion as voted.)

5 {Move to recommend to NMFS the preferred
6 options be 2d, 2f, and 2g in Amendment 14.}

7 COUNCIL CHAIRMAN RICHARD ROBINS: All
8 those in favor please raise your hand.

9 (Response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Sixteen. Opposed like sign.

12 (No response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Abstentions like sign.

15 (Response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: One
17 abstention. The motion carries. Thank you.
18 Jason.

19 JASON DIDDEN: Okay. Next one is:
20 Move to recommend 3B, 3C, and 3D. 3B is requiring
21 that reasonable assistance measures be provided.
22 3C is just notification of pumping or haul back.

23 And 3D is when observers are being
24 deployed on trips with more than one vessel, like

1 a paired operation, that NMFS place them whenever
2 and wherever possible on both vessels.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Thank you, Jason. What's the pleasure of the
5 Council? Laurie.

6 LAURIE NOLAN: I would move
7 Alternatives 3B, 3C and 3D forward as the preferred
8 alternatives.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there a second to the motion?

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Second by Erling Berg. Discussion on the motion?

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 there any public comment on the motion?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Seeing none, back to the Council. Is the Council
20 ready for the question?

21 (Motion as voted.)

22 {Move to recommend 3b, 3c, and 3d as the
23 preferred alternatives in Amendment 14.}

24 COUNCIL CHAIRMAN RICHARD ROBINS: All

1 in favor please raise your hand.

2 (Response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Sixteen. Opposed like sign.

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Abstentions like sign.

8 (Response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: One
10 abstention. The motion carries. Thank you.
11 Jason.

12 JASON DIDDEN: Next was: Move to
13 recommend 3J and 3L, modify that the only slippages
14 account against the cap specified in 3L are non
15 emergency events, i.e., the Exceptions 1, 2, 3;
16 those are: safety issues, mechanical failures,
17 or spiny dogfish clogging a pump; and 3J would not
18 count against the slippage cap specified in 3L,
19 which states that after 10 slippage events, and
20 that would be adjustable via specifications, occur
21 in a year for mackerel vessels; and then once set
22 cap is reached, subsequent slippage events on
23 subsequent trips would require a termination of
24 that trip at that point when the slippage occurred.

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Thank you, Jason. The Committee motion before the
3 Council. Laurie.

4 LAURIE NOLAN: In the discussion at the
5 committee meeting, it was pointed out that in New
6 England this slippage area is addressed, but the
7 different users each get an allowance of 10, rather
8 than just 10 the different areas; the different
9 users are all receiving 10.

10 And I'm wondering that we shouldn't
11 incorporate 10 for the mid-water trawl, 10 for the
12 small mesh, rather than just saying 10 across the
13 board. I would like to amend the motion to include
14 an option of 10 for the mid-water trawl and 10 for
15 the small mesh before a trigger is reached.

16 CHRISTOPHER ZEMAN: Point of order. I
17 would just recommend that I would --

18 COUNCIL CHAIRMAN RICHARD ROBINS: State
19 the point.

20 CHRISTOPHER ZEMAN: Just that we
21 basically put this motion up for discussion as a
22 motion that the Council approves as part of
23 Amendment 14, and then we would go into that
24 discussion.

1 COUNCIL CHAIRMAN RICHARD ROBINS: It's
2 already before the Council for discussion.
3 Laurie's making the motion to amend it, so the
4 motion to amend is in order. We can discuss both
5 motions, both the motion to amend up or down.
6 Laurie, can you clarify? You said small mesh. Is
7 that small mesh bottom trawl?

8 LAURIE NOLAN: Yes.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 George had a point.

11 GEORGE DARCY: Two I guess. One, you
12 said to add as an option. Do you mean that would
13 be the preferred alternative if the Council
14 chooses that? Is that what you mean?

15 LAURIE NOLAN: Yes. To amend.

16 GEORGE DARCY: And the other thing just
17 for information, the action that the New England
18 Council has taken so far was the Committee
19 recommendations. The full council won't take
20 action until next week. Just so people understand
21 where they are in the process.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Laurie, did you have a follow-up comment?

24 LAURIE NOLAN: I believe that

1 this is a better approach. The users I think
2 should be identified and each be given an
3 allowance rather than assuming one allowance is
4 going to cover everyone.

5 And the timing of the fishing you could
6 reach your slippage trigger, and then the next
7 fleet has no opportunity for any slippage events
8 to occur.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Jason. Let me get a second to the motion first.
11 Is there a second to the motion?

12 JASON DIDDEN: I wasn't quite sure who
13 the maker of the original committee motion was.
14 Or is this a totally new motion?

15 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
16 the original motion was a committee motion, so it
17 doesn't require a second. This is an amendment.
18 I would suggest that you also incorporate in the
19 amendment that that would be identified as a
20 preferred alternative or that these as amended
21 would be the preferred alternative submitted to
22 the Agency.

23 LAURIE NOLAN: I would add to the motion
24 on the board the issue of the slippage events would

1 be changed and forwarded to NMFS as the preferred
2 alternative.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is
4 there a second to the motion?

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: Is
7 there a second to the motion?

8 (No response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Seeing none, it dies for lack of a second. We're
11 back to the main committee motion. The main
12 committee motion would also need to be perfected
13 to read that it would be the preferred alternative
14 recommended to the Agency. Steven.

15 STEVEN SCHAFER: I so move.

16 JASON DIDDEN: Are you asking for a
17 motion, Mr. Chairman?

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Yeah.

20 STEVEN SCHAFER: Yeah. I would move
21 that the Council recommend to the Service as stated
22 up on the board.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Is
24 there a second to the motion?

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Second by Chris Zeman. Thank you.

4 GEORGE DARCY: Yeah. I'll just repeat
5 the comments we made at the Committee. That
6 please provide as much justification for why you
7 chose, for example, 10 slippage events, if you do
8 ultimately choose this alternative.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you. And I believe there was some record
11 discussion of that in the committee meeting.
12 Jason, I don't know if you can elaborate on that.
13 But we did have some discussion about what level
14 to set it at.

15 JASON DIDDEN: I think the
16 justification discussed at the Committee was that
17 setting some cap to try to avoid having a lot of
18 slippage events that cause believability problems
19 with the observer data was warranted and that this
20 would be kind of a starting point, and they're
21 adjustable via specifications.

22 There would be ongoing analysis to
23 determine -- you know, how many slippages did this
24 -- if it never hits the cap, then nothing was

1 limited, but there would be a more official
2 structure put in place to get a sense of how many
3 of these are occurring. Then the Council could
4 further reduce from there or increase from there
5 once it sees kind of what's going on.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thank you. Jason, is there further discussion on
8 that justification? Members care to add anything
9 to the conversation about the rationale for that
10 level? John McMurray.

11 JOHN MCMURRAY: Thank you, Mr.
12 Chairman. I was also under the understanding that
13 10 was an appropriate incentive to discourage
14 slippage, and that's kind of where we were going
15 with that.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Thank you, John. Peter deFur.

18 PETER deFUR: Thank you, Mr. Chairman.
19 Yeah. Additional material that was presented in
20 the package of technical documents indicated the
21 number of slippage events, and we discussed the
22 point that increasing number of slippage events
23 increased the uncertainty. And so our intent was
24 to reduce uncertainty in the observer data; and,

1 therefore, we needed to reduce the number of
2 slippage events.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thank you. Chris Zeman.

5 CHRISTOPHER ZEMAN: I was just going to
6 add that in the best case it's an emergency event
7 and we're trying to address that exception in this
8 measure. In the worst case based on the observer
9 reports I have seen, the slippage amounts have
10 virtually high grading.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Thank you. Further discussion on the motion?
13 Peter Himchak.

14 PETER HIMCHAK: I just want to make it
15 understood in this motion is that the captain is
16 the sole determiner of what an emergency slippage
17 event is.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Jason, can you clarify if there's a description of
20 that exemption either in this action or in the
21 herring action that we could draw upon?

22 JASON DIDDEN: My understanding is that
23 an affidavit form would be drafted. It would have
24 four boxes to check, the three exemptions and then

1 an other.

2 So if they check 1, 2, or 3, then it
3 doesn't count against the cap. If they check
4 other, then it would count against the cap. But
5 it's still their determination, but it's, again,
6 they just check the box, and then the cap proceeds
7 accordingly.

8 Or there would be maybe in the rules
9 would require them to establish if it was in their
10 affidavit that maybe they just create if it's
11 Exemption 1, 2, 3. My understanding is the same.
12 I think another point that the region raised with
13 this issue is that 3J is slightly unclear if this
14 only applies to like a large slippage event; or is
15 it if a single fish doesn't come up on board, is
16 that a slippage event.

17 In the alternative it says slippage, and
18 slippage doesn't include operational discards.
19 But then later in the alternative, it says it's
20 prohibited from releasing any fish before the
21 observer gets a chance to sample it.

22 So I think it would be good to clarify
23 that if it's a Council intent that this is a
24 slippage cap and doesn't include operational

1 discards or does include operational discards.

2 COUNCIL CHAIRMAN RICHARD ROBINS: And,
3 Jason, I would think that if it includes
4 operational discards, that's going to inject a
5 certain amount of subjectivity and discretion into
6 the measure. Right? I mean as opposed to saying
7 a slippage event including operational discards.
8 At that point it's nondiscretionary. Is that
9 accurate?

10 JASON DIDDEN: Yes. If operational
11 discards are not included, then some subjectivity
12 comes into play. And I had some discussions with
13 the region on that but no resolution.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 George, do you care to elaborate on that
16 distinction?

17 GEORGE DARCY: Well, we did check with
18 the Observer Program, and they do distinguish
19 between operational discards and slippage. The
20 operational discards are defined as fish that are
21 left in the net after a successful tow that cannot
22 be suctioned or pumped out of the net.

23 And there's a specific disposition code
24 for those discards, and they're marked as not

1 brought on board, not enough fish to pump. True
2 slippage events the release of a large haul where
3 fish that cannot be brought on board or released
4 from the net are documented in the discard log with
5 other codes. So there is a distinguishment now in
6 the Observer Program.

7 COUNCIL CHAIRMAN RICHARD ROBINS: So is
8 there a threshold for those events, or are there
9 criteria or guidelines that the Observer Program
10 uses to distinguish between the two where it's
11 simply left to the discretion of the observer?

12 GEORGE DARCY: That I don't know. I
13 don't have that detail in the response I got.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Peter.

16 PETER HIMCHAK: Yeah. I can't support
17 any of these slippage caps in fisheries.
18 Essentially, you could have a nonemergency spiny
19 dogfish catch. That's a slippage event. The
20 intent is to minimize slippage events thinking
21 that they include river herring, but that's not
22 necessarily true. And I can't support any of
23 these cap issues.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Additional discussion on the cap? I think we do
2 need to clarify, as Jason points out, the intent
3 of the motion with respect to distinguishing
4 between operational discards versus slippage
5 events, do we want it to be limited to what's being
6 characterized by the Observer Program as a
7 slippage event, or do you want to include
8 operational discards? Chris.

9 CHRISTOPHER ZEMAN: Yeah. I think
10 part of the discussion yesterday I think it was
11 just a slippage event, and operational discards,
12 for example, like dogfish clogging a pump or not
13 enough fish in the bag, it's worth pumping would
14 be something outside of slippage. It's not
15 considered slippage. That's my understanding of
16 this. And overall I would always leave it to the
17 observer's discretion. I think the observer will
18 know what a slippage event is and will mark it
19 accordingly on their reporting logs.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Well, either way if we're going to include
22 operational discards in this consideration of
23 slippage events or make it exclusive of
24 operational discards, then that should be

1 clarified in the motion. So I would suggest that
2 if you want to clarify that, we go ahead and do that
3 through a motion. Steve.

4 STEVEN HEINS: I guess I would move to
5 amend that after the Exceptions 1, 2, and 3 and 3J
6 and operational discards would not count against
7 the slippage cap.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Is
9 there a second to the motion?

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Second by Peter deFur. Discussion on the motion
13 to amend?

14 JASON DIDDEN: Who was the maker on the
15 second, please, again?

16 COUNCIL CHAIRMAN RICHARD ROBINS: The
17 maker was Steve Heins and second by Peter deFur.
18 Is the Council ready for the question to amend?

19 (Motion as voted.)

20 {Move that operational discards would also not
21 count against cap.}

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 All those in favor please raise your hand.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thirteen. Opposed like sign.

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Three. Abstentions like sign.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: One
8 abstention. The motion to amend carries. We now
9 have an amended motion. Jason, can you read the
10 amended motion into the record, please.

11 JASON DIDDEN: It would be move to
12 recommend 3J and 3L to NMFS modified that the only
13 slippages that count against 3L are nonemergency
14 events, i.e., the Exceptions 1, 2 and 3 and 3J,
15 would not count against the cap nor would
16 operational discards.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Thank you. Further discussion on the motion as
19 amended?

20 (No response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: Is
22 there any public comment on the motion as amended?
23 Patrick.

24 PATRICK PARQUETTE: Thank you, Mr.

1 Chairman. Patrick Parquette, Recreational
2 Fishing Advocate for Massachusetts. I just
3 wanted to make sure that the Council is aware that
4 this is in my opinion a significant departure from
5 what I would describe as the pilot program or what
6 is on the water now and appears to be working at
7 least according to the data.

8 The Closed Area 1 Rule that this is
9 pretty much basically a similar -- I wouldn't exact
10 copy -- I believe that the reason that you get the
11 10 slippage events is to account for those things
12 like dogs and a safety concern by the captain,
13 etcetera, etcetera.

14 Where this is a self-declared reason by
15 a captain, to not have any kind of a limit on things
16 like dogfish why even have the program? It's sort
17 of like to me it's too big a loophole to exempt
18 dogfish.

19 'Cause it's never going to be a clean tow
20 of dogs. You're not talking about a bag that's
21 going to be just dogfish. So at what point in time
22 is the mix of dogfish to whatever other species is
23 in the bag -- in other words, you're opening up a
24 loophole that's not in the New England plan at all.

1 These exceptions, these things count. In the
2 on-the-water version and in the version that the
3 Herring Committee passed last week this is a
4 departure and removes some of that control. So I
5 just want the Council to really understand that
6 you're sort of opening it up. It's sort of like
7 so what does count?

8 To me I think you just addressed the one
9 issue was where is that line. But these
10 exceptions to me shouldn't be in this motion. To
11 me it opens up why too wide a loophole.

12 And I think that we have an on-the-water
13 program that in effect the data showed that I
14 believe there has been not one declaration for
15 safety by a captain, not one.

16 So, when you're allowing 10 and you're
17 allowing 10 in the fishery, so just to me this is
18 opening up a big giant loophole. And then to
19 couple that with where just the captain making the
20 declaration I think it's just too much, and I think
21 it almost renders the program useless.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Thank you, Patrick. Jason, can you clarify how
24 this relates back to Amendment 5 or the other

1 areas.

2 JASON DIDDEN: Amendment 5 the
3 committee motion had the only one that didn't count
4 against the cap is the dogfish, that a safety issue
5 or a mechanical failure did count against the cap.
6 The dogfish was the only one that didn't count
7 against the cap. So that's what the New England
8 committee on Amendment 5 put forward.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
10 you for that clarification. Greg.

11 GREGORY DIDOMENICO: Thank you, Mr.
12 Chairman. Just a quick question for staff, if
13 possible. Jason, the additional exceptions in
14 this motion could they be addressed in a framework
15 or specs at a later date, if in fact we didn't see
16 a diminished number of slippage events under the
17 implementation of this Amendment 14?

18 In other words, two years after the
19 implementation of Amendment 14 if slippage
20 continues to be a problem, could we then adjust the
21 exceptions?

22 JASON DIDDEN: The alternative -- and
23 it's kind of a Joel question. The alternative
24 specifically contemplates that the slippage

1 number could be adjusted via specs, but I think the
2 exceptions would probably need to be done via a
3 framework.

4 JOEL MACDONALD: That's my take on it,
5 Jason.

6 GREGORY DIDOMENICO: Well, would an
7 issue of this magnitude both operationally and
8 both as far as the conservation technique and a way
9 to get a better handle on discards -- this is an
10 issue that's going to continue for some time.

11 I'm assuming there are other issues that
12 are going to have to be readdressed through
13 framework. It would think at that time after two
14 years or one year if the implementation of this
15 does not seem to reduce slippage events, then I
16 would think that would be a good time to adjust it
17 and at this point provide enough exemptions for the
18 captain to remain efficient and safe. So thank
19 you.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thank you. Chris.

22 CHRISTOPHER ZEMAN: I think further
23 clarification from Joel as to whether or not we can
24 make that change in a specification and/or a

1 framework; and if we can't do it in a
2 specification, why not.

3 JOEL MACDONALD: Are you talking about
4 changing the exceptions during a specification
5 process?

6 CHRISTOPHER ZEMAN: Yes. Yeah.
7 Exactly.

8 JOEL MACDONALD: I think you have to
9 articulate that that is a possibility within the
10 specification setting process that you're
11 outlining in this amendment.

12 I think if you look at the current
13 regulation that's on the book with respect to what
14 you can do under specifications, this wouldn't
15 fall under it.

16 So, if that's what your desire is, I
17 would say make it clear in the amendment that you
18 want to be able to adjust this through the
19 specification process. Then you write the reg
20 that implements that.

21 And then you can go ahead and once that's
22 in place, use that to change the contours, if you
23 will, of this exception. My personal observation
24 with respect to this whole program is I just don't

1 see how it's going to work effectively.

2 I don't see that there will be a whole
3 lot of self reporting. At least historically I
4 haven't seen a lot of that in the fishery, and I'm
5 concerned even though we got a program on the books
6 that we open it up again through the rule making
7 process that it could be subject to challenge. I
8 mean a lot of it is, as we've noted around the
9 table, very subjective. What's an emergency?
10 What's an operational discard? All these things
11 are undefined, and how you go forward -- let's look
12 at the arena of prosecution. How would you
13 prosecute somebody on a prohibition that's
14 really ill defined?

15 I'm just raising this as a concern. I'm
16 not saying it's patently illegal. I mean we've
17 already approved it at least a different type of
18 program in the context of the herring fishery.

19 So I don't know what's going to happen
20 with this. Just to raise that to the attention of
21 the Council. Thank you.

22 COUNCIL CHAIRMAN RICHARD ROBINS: And I
23 would suggest that if you want to make it something
24 that could be modified through specifications,

1 you'd do that in a follow-up motion. I mean we can
2 address that easily enough.

3 I think part of the issue is the fact
4 that we want to provide the strongest disincentive
5 we can to large slippage events. I mean some
6 events, according to the presentation we heard
7 from staff could be in excess of 100,000 pounds.
8 You can have a very large tow in some of these
9 fisheries, and the possibility exists for that
10 type of event, and that practice and type of
11 release ought to be discouraged. But I recognize
12 the programmatic difficulties that Joel points
13 out.

14 But if we have 100 percent coverage in
15 some of these parts of the fishery, it wouldn't
16 simply be self reporting. I mean you'd have an
17 increase in the observer data.

18 So, hopefully, it's something that we
19 can get a better handle on, and if elements of the
20 program need to be enhanced in the future, this
21 provides us with some starting point, and we can
22 build upon it from there. Back to the Council for
23 discussion. Pam, do you have a comment on that?

24 PAMELA LYONS: Pam Lyons, National

1 Coalition for Marine Conservation. Thank you,
2 Mr. Chairman, members of the Council. I have a
3 question for clarification. When you referenced
4 3J I know that's referencing the Closed Area 1
5 Rules, but when I read that alternative, it's not
6 clear to me that operational discards should be
7 brought on board for sampling, and that is part of
8 the Closed Area 1 regulations. Can we clarify
9 that that is what is intended, since they are
10 exempt from a slippage event? I still think it's
11 very important to see what's left in the net.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you, Pam. Jason, the way this is written
14 right now that's exempted, is it not? In other
15 words, the operational discards are not included
16 in the slippage count.

17 JASON DIDDEN: They're not included
18 against the slippage count, but I guess it would
19 be the Council's discretion whether it still
20 wanted to say that they should be brought aboard.

21 I mean if you're saying they have to be
22 brought aboard, and then they're not, the vessel
23 is in some kind of violation when they do that, and
24 the observer is going to be noting that in their

1 logs, and the vessel would be subject to presumably
2 some kind of follow-up enforcement if enforcement
3 kind of mines the observer data, which I'm not sure
4 if they do or not.

5 So my understanding was that the
6 amendment here could disclude operational
7 discards means that operational discards can
8 occur. But it would be good to clarify. It may
9 be worth a further clarification of the Council's
10 intent.

11 COUNCIL CHAIRMAN RICHARD ROBINS: So in
12 Amendment 5 are they going to be required to be
13 brought aboard or not at this point in time?

14 JASON DIDDEN: I'm not positive, but
15 Laurie Steele is listening in and will text me
16 soon.

17 COUNCIL CHAIRMAN RICHARD ROBINS: All
18 right. Peter.

19 PETER HIMCHAK: Yes. Jason, did I
20 understand you correctly that emergency slippage
21 events count against a cap in Amendment 5?

22 JASON DIDDEN: Yes.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Howard.

1 HOWARD KING: But, Peter, that has not
2 passed the Council at this point.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 What's the pleasure of the Council with respect to
5 the clarification about operational discards in
6 terms of whether or not they would be required to
7 be brought aboard for sampling?

8 I think to the extent that they're
9 identified here as an exemption relative to the
10 slippage event or to the slippage cap we ought to
11 clarify that. John.

12 JOHN MCMURRAY: Thank you, Mr.
13 Chairman. I'm wondering if we could hear from
14 somebody preferably in the industry about how
15 significant operational discards are. I mean
16 intuitively it just seems hard for me to believe
17 that a significant amount of fish are being left
18 in the net to require those as a slippage. It just
19 doesn't make sense to me.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thank you, John. Does anybody care to comment on
22 that from the public? Greg.

23 GREGORY DIDOMENICO: John, can you just
24 specify your question a little bit more.

1 JOHN MCMURRAY: Yeah. I'm just
2 wondering what the volume of operational discards
3 would be. What's left in the net that we would
4 need to account for? I haven't been on these
5 boats, so I honestly don't know.

6 GREGORY DIDOMENICO: I still don't
7 understand what you're asking. Is the volume --

8 JOHN MCMURRAY: I'm asking how
9 significant this is. How significant are
10 operational discards? Are we talking about a lot
11 of fish?

12 GREGORY DIDOMENICO: Usually when an
13 event occurs especially with dogfish, it's a large
14 amount. It's a large event. If the operational
15 discards are anything like we see in the lolligo
16 fishery, and I believe they are, most of the
17 slippage events are due to dogfish, and they're
18 just not manageable. They don't float. They
19 sink.

20 JOHN MCMURRAY: Okay. Now I'm
21 thoroughly confused. Can we get a definition of
22 what exactly operational discards are.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Jason, can you elaborate on those because this is

1 fish remaining in the net. This is not a dogfish
2 slippage event. This is when the net is at the end
3 of the haul, and there are fish that have been
4 pumped and there's some left in the net. So if you
5 could articulate that, Jason, or give us whatever
6 figures you have available.

7 JASON DIDDEN: George, did the
8 definition you read earlier speak to operational
9 discards and what they were? I thought there was
10 a definition of operational discards in what you
11 read earlier.

12 GEORGE DARCY: I sent it to you
13 actually. I don't think there were criteria
14 identified there. There are definitions.
15 According to the Observer Program, they do
16 distinguish that the observers do distinguish
17 between operational discards and slippage.
18 Operational discards are defined as fish that are
19 left in the net after a successful tow that cannot
20 be suctioned or pumped out of the net. There's a
21 specific disposition code for operational
22 discards, and they are marked in the observer log
23 as not brought on board, not enough fish to pump.

24 True slippage events were fish that

1 could have been brought aboard or released from the
2 net are documented in the discard log with other
3 codes. That's the extent of the information I
4 have now. There may be specifics in the observer
5 protocols that further define how they distinguish
6 them, but I don't know what they are.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Jason, do you have anything to add to that in terms
9 of any available information you have?

10 JASON DIDDEN: My understanding has
11 always been that operational discards are small
12 quantities of fish left in the net after pumping,
13 and that a slippage event is, again, there's either
14 dogfish have clogged the net or other undesirable
15 species or maybe a mechanical malfunction where
16 they release a large quantity of fish. And the
17 operational discards are -- you know, they're
18 pumping and at some point the net has largely
19 collapsed, and there's -- you know, there's still
20 going to be a few fish in there, but you can't get
21 every fish out. And then maybe they just set
22 another tow, maybe they open it up to clean out the
23 net before they set another tow, then that is
24 "operational discards."

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Patrick, do you have a brief comment on this?

3 PATRICK PARQUETTE: Thank you, Rick.

4 And to sort of answer I think what John's question
5 was, it's when at the end of operations when they
6 pump there's a bell where the actual pump is on the
7 end of the hose, okay, and the hose is between 24
8 and 36 inches.

9 The bell has a set of tools on that
10 actually industry refers to it -- I'm not being
11 sarcastic -- as a seal guard. That's what it's
12 called. It's called seal guard. And so through
13 that you couldn't get, say, a dolphin, which have
14 been observed by the Observer Program as bycatch
15 in the fishery or a tuna fish.

16 So, in the current on-the-water Closed
17 Area 1 Rule, they have to show the observer the
18 codend, which is what's left. A lot of times it's
19 a couple hundred pounds of whatever it is.
20 There's bycatch in every fishery including my own.
21 If the observer can't see it no matter how much it
22 is, that's a slippage event. If they don't bring
23 it up and show it to the observer, it's a slippage
24 event. If they bring it up and the observer looks

1 in because you don't want to miss if there's a
2 turtle or a pilot whale, a mammal or something
3 important that needs to be seen as bycatch in the
4 fishery, and I think this is where having a cap in
5 the number of slippage events including those we
6 say, oh, jeez, the pump don't work no more so we're
7 going to slip whatever's in there.

8 Well, high end electronics can tell you
9 that if you see a 300 pound animal or a dense mass
10 in the bottom of your net. You can see that with
11 good electronics. We've actually gone through a
12 lot of this.

13 So I think that's why operational
14 discards not seen by the observer are extremely
15 important not to miss because you don't know what
16 that small amount is.

17 It could be something that really we all
18 just accept as part of being in operation, but it
19 also could be something really important that's
20 protected under the Marine Mammal Protection Act
21 or the Endangered Species Act. So that's what
22 makes it important. And it was the same thing to
23 answer Mr. Himchak's question. Is that on the
24 water, yes, the emergencies because you have to at

1 Chairman. The words that George said that keep
2 resonating in my ears are: too few fish to pump.
3 And if an observer is going to use that as the
4 definition to describe a slippage versus an
5 operational discard, if you have more fish than you
6 can handle in your hold or if there is a tuna in
7 the net, there are going to be more fish than you
8 can pump. And to me that would be a slippage
9 event.

10 Too few fish to pump means whatever is
11 remaining in the bag at the end of the day after
12 you've had a successful tow and discharge of the
13 net. And so -- you know, based on that sentence
14 in that definition, I would be supportive of this
15 amended motion. Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Further discussion? Steve.

18 STEVEN SCHAFER: Thank you, Mr.
19 Chairman. You know the purpose of the discussion
20 is to address the low level of catch monitoring of
21 river herring and shad, and based on that and to
22 prevent observer data bias, I think that that
23 incidental catch should be brought on board.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 John.

2 JOHN MCMURRAY: Thank you, Mr.
3 Chairman. Does the observer have discretion to
4 determine whether or not it's a slippage or an
5 operational discard?

6 COUNCIL CHAIRMAN RICHARD ROBINS: It
7 sounds like they're operating from their existing
8 definitions, and it may come down to somewhat of
9 a judgement call. But it sounds like they're in
10 the practice of doing that. George, is that
11 accurate?

12 GEORGE DARCY: Well, again, all I have
13 is what I got this morning in an e-mail that I have
14 read to you. So there may be things in the
15 protocol and in the training -- and I assume there
16 probably are, but I can't answer the question with
17 certainty -- that would help the observers know how
18 to make that call, but it's probably somewhat a
19 gray area and somewhat subjective. In some cases
20 probably not at all.

21 In some cases it's probably obvious that
22 they are just a few fish hanging in the net, and
23 it's not a problem. Other cases they've got a
24 large haul. Then clearly it would be a slippage

1 rather than an operational.

2 There's probably an area in between that
3 might be a judgement call. It might be somewhat
4 dependant on the weather as to how well they could
5 see into the water to see what might be remaining
6 in the net. I don't know if Bill has anything to
7 add, but that's my take on it.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
9 Karr.

10 WILLIAM KARR: Without having the
11 training manual available, it is hard to be more
12 specific, but I'm quite sure that the training
13 provides explicit definitions. But I think it's
14 also true, as George says, that there's a fine line
15 here between the end of one definition and the
16 beginning of another, and it's bound to involve --
17 you know, judgement in some cases.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you. Jason.

20 JASON DIDDEN: Having some discussion
21 with Laurie Steele, in Amendment 5 it addresses the
22 issue by requiring visual access to the codends to
23 the observer following it's contents and its
24 codends following a pumping measure.

1 And asked is that visual as in looking
2 down in the water or visual on the boat? It says
3 it's up to the observer based on their protocols
4 for sampling operational discards. They feel
5 they have a good handle on it. Not slippage if
6 they can record it as operational discards and that
7 the observers support the measure for visual
8 access to the codend and its contents for improving
9 the sampling of operational discards.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Thanks for that clarification. So they're asking
12 for visual inspection. Howard.

13 HOWARD KING: I would like to amend the
14 motion.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Go
16 ahead.

17 HOWARD KING: And I would like to amend
18 the motion by including the word observed prior to
19 operational discards.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Would your intent then be to just follow on what
22 Jason offered as a clarification of what is in
23 Amendment 5 be to also add the requirement that the
24 codend be made visually available to the observer?

1 HOWARD KING: Yes, with the
2 understanding that it could be in the water or on
3 board, either.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Jason, can you reflect that in the amended
6 language? Is there a second to the amendment?

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Second by Mike Luisi. Thank you. Further
10 discussion? Rob.

11 ROBERT O'REILLY: Well, I just wanted
12 to follow up that the operational discards seem to
13 have some conformity from the various information
14 we've received, but is that something in deed that
15 the observers will have at hand, or is that
16 something the amendment will speak of in terms of
17 definitions, or is that something that's going to
18 have to be modified in time?

19 COUNCIL CHAIRMAN RICHARD ROBINS: It
20 sounds like right now the definition exists within
21 the Observer Program. I don't know that they
22 exist within the regulations themselves. George,
23 where do the definitions reside?

24 GEORGE DARCY: I don't know. I don't

1 know if they're in the regulations now, but they
2 should be in the regulations if you go forward with
3 this. So we work with the observer program to come
4 up with a standard that works for them and that
5 would work in our regulations and prohibitions.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Thanks for the clarification. I'm going to go
8 back to Jason. Jason.

9 JASON DIDDEN: Laurie Steele has
10 indicated she thinks she has something to add to
11 the conversation. Would you like me to see if I
12 can bring her in if there's no delay on that?

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Please.

15 JASON DIDDEN: Laurie, can you hear us?
16 Laurie, I have you unmuted, if you can unmute
17 yourself, you'll be able to talk. Okay. Go.

18 LAURIE STEELE: I don't have the
19 mackerel amendment measures in front of me, and I'm
20 wondering do you have -- I can't recall if it's in
21 your measures to optimize observer coverage or
22 enhancing if there is a measure that would require
23 vessel operators to provide the observer with
24 visual access to the codend and it's contents.

1 JASON DIDDEN: Yeah. I think that's
2 what the Council's considering right now. If they
3 did that, would they align Amendment 14 with
4 Amendment 5?

5 LAURIE STEELE: That is one of the
6 measures in Amendment 5 to maximize sampling. We
7 have somewhat addressed measures to maximize
8 sampling and the observer's ability to document
9 operational discards as well as catch in a section
10 separate from measures
11 to address net slippage. And this was specifically
12 defined in Amendment 5, and I believe in Amendment
13 14 as well to not include operational discards
14 because it's (inaudible) through the
15 implementation on a discard log and some other new
16 protocols have improved their ability to document
17 operational discards. And I believe in the last
18 PDT FMAT report that we provided --

19 JASON DIDDEN: Okay, Laurie, we're
20 losing you there. But I think that it sounds like
21 the visual access would comport Amendment 14 to
22 Amendment 5.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Thanks, Jason. I think these are aligned through

1 this amendment. Further discussion on the motion
2 to amend?

3 JASON DIDDEN: There was Howard. Was
4 there a second?

5 COUNCIL CHAIRMAN RICHARD ROBINS: I'll
6 ask. Second was Mike Luisi. Right? Yeah.
7 Thank you. Further discussion on the motion?
8 Chris Zeman, did you have a comment?

9 CHRISTOPHER ZEMAN: I just recommend we
10 call the question.

11 COUNCIL CHAIRMAN RICHARD ROBINS: Is
12 the Council ready for the question?

13 (Motion as voted)

14 {Move to include "observe prior to operational
15 discarding, i.e., requiring visual access to
16 the codend by the observer.}

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 All those in favor please raise your hand.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Thirteen. Opposed like sign.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: Three.
24 Abstentions like sign.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: One
3 abstention. The motion to amend carries. We now
4 have an amended motion. Jason, can you read the
5 amended motion into the record, please.

6 JASON DIDDEN: The amended motion would
7 be: Move to recommend 3J and 3L to NMFS modified
8 that only slippages account against 3L are
9 nonemergency events, i.e., the exceptions 1, 2,
10 and 3 and 3J would not count against a slippage
11 event, nor would operational discards that are
12 observed with visual access prior to discarding.

13 HOWARD KING: Include codend in that,
14 Jason.

15 COUNCIL CHAIRMAN RICHARD ROBINS: Any
16 further discussion on the main motion as amended?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is
19 the Council ready for the question?

20 (Motion as voted.)

21 {Move to recommend 3j and 3l to NMFS modified
22 that the only slippages that count against 3l
23 are nonemergency events, i.e., the exceptions
24 1, 2 and 3 in 3j would not count against the

1 slippage cap nor would operational discards
2 that are observed (codend) with visual access
3 prior to discarding.}

4 COUNCIL CHAIRMAN RICHARD ROBINS: All
5 those in favor please indicate by raising your
6 hand.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thirteen. Opposed like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Three. Abstentions like sign.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: One
15 abstention. The motion carries. Thank you.
16 Jason.

17 JASON DIDDEN: Was the Council going to
18 entertain a follow-up motion related to the
19 amendability of the exceptions related to specs?

20 COUNCIL CHAIRMAN RICHARD ROBINS: What's
21 the pleasure of the Council? Chris.

22 CHRISTOPHER ZEMAN: I would move that
23 the Council passes a motion that states that these
24 measures can be -- I'm sorry -- that the exemptions

1 can be modified through annual specifications.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there a second to the motion?

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Second by Lee Anderson. Discussion on the motion
7 to amend. This would essentially allow for these
8 exemptions to be modified through specifications.
9 Howard.

10 HOWARD KING: Does this mean that the
11 exemptions themselves cannot be modified? So
12 this means then that we can change the exemptions
13 through annual specifications?

14 COUNCIL CHAIRMAN RICHARD ROBINS: The
15 motion to amend would give the Council the ability
16 through the specification process to modify the
17 exemptions. Jason.

18 JASON DIDDEN: Joel, the DEIS did not
19 contemplate allowing this modification through
20 specs. Is this is a minor enough change that it
21 wouldn't require re-going out for public comment?

22 JOEL MACDONALD: Right. I believe it
23 is fairly minor and would not trigger the need for
24 further public input, particularly -- you know,

1 the fact that we are discussing this in a public
2 forum right now.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Thank you, Joel. Further discussion on the motion
5 to amend or the motion to allow for these
6 exemptions to be modified through specifications?

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Seeing none, is the Council ready for the question?

10 (Motion as voted.)

11 {Move that the Council indicate that the
12 exemptions can be modified through annual
13 specifications.}

14 COUNCIL CHAIRMAN RICHARD ROBINS: All
15 those in favor please raise your hand.

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Sixteen. Opposed like sign.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS: One
21 opposed. Abstentions like sign.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: One
24 abstention. The motion carries. Thank you.

1 Jason.

2 JASON DIDDEN: So the next from the
3 Committee was to move to recommend 3N and 3O. And
4 3N is: once a cap of 10 slippage events in any given
5 trimester for the longfin squid fishery was
6 reached that subsequent slippages would then
7 require trip terminations. And 3O states that if
8 a trip was terminated, the next time that vessel
9 went out on a trip it would have to carry an
10 observer. And that was put in, just for
11 background, that theoretically a trip could go out
12 and slip and then have a trip termination and then
13 kind of go back in -- you know, six hours later and
14 go back out with an observer. So that's why that
15 3O was crafted in the DEIS.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Thank
17 you, Jason. That's the Committee motion.
18 Discussion on the motion by the Council? Mike.

19 MICHAEL LUISI: Yes. Thank you, Mr.
20 Chairman. I would appreciate just a little
21 further discussion and hearing some thoughts by
22 the Council based on -- well, I'll put it this way:
23 After the Committee meeting the other day, I kind
24 of put together a schematic, kind of a matrix of

1 actions that were taken regarding the different
2 fisheries, and there was no action taken for
3 pre-landing notification for the longfin squid
4 fishery; there was no action which changed any
5 observer coverage at all for the fishery; there was
6 no action as to implementing any type of mortality
7 cap for the fishery; but then the only one I had
8 on my list was the slippage and the consequences
9 of slipping. So I guess I have a couple questions
10 and just would appreciate some additional
11 discussion on that. Why is it just the slippage
12 that the Council's concerned about? It seems to
13 me that by not taking action on the other sets,
14 alternative sets, that this is kind of a minor --
15 the interactions of river herring and shad in this
16 fishery is minor.

17 So, first, I guess I'm trying to say why
18 slippage. And then if observer coverage isn't
19 increased in this fishery, do we really believe
20 that slippage is going to be self reported, and is
21 this going to have any impact at all? So just my
22 thoughts. Thank you.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
24 questions. And, Jason, I don't know if you want

1 to elaborate on some of the Committee record.

2 JASON DIDDEN: I'm interpreting a
3 little bit here, but my sense was the Committee
4 kind of took a look, thought that overall the catch
5 of river herring, shad, and lolligo was maybe a
6 different scale than mackerel; however, if you're
7 having slippage, it degrades your ability to
8 confirm that and continue to believe that.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 George.

11 GEORGE DARCY: I have a question I
12 guess. What if there is no observer available and
13 the vessel wants to go back out? It can't go back
14 out? It would get a waiver? How would that be
15 handled? What's the intent?

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Jason, would it be possible to have a programmatic
18 waiver like that?

19 JASON DIDDEN: I think it would be
20 possible; although, that's not how the alternative
21 is crafted currently, so it would need to be
22 amended.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
24 Karr.

1 WILLIAM KARR: Thank you, Mr. Chairman.
2 I think this is an issue of what the Council's
3 intent might be here because if the Council's
4 intent is that subsequent fishing operations be
5 observed and there is not an observer available and
6 the Observer Program issues a waiver because an
7 observer is not available, is that meeting the
8 Council's intent?

9 COUNCIL CHAIRMAN RICHARD ROBINS: It's
10 a fair question. Other comments or responses?
11 Chris.

12 CHRISTOPHER ZEMAN: My thoughts about
13 not including these options in the Committee
14 discussion was that, again, I don't have as much
15 information about those characteristics of
16 slippage in that fishery as I did for the mackerel
17 fishery. That seemed to be highlighted.
18 However, I think what we should do is -- I mean I
19 definitely agree that we should be addressing
20 slippage in all fisheries if it's significant and
21 if it's negatively affecting our managed species.

22 Is there a way that we can get maybe if
23 NOAA or the Observer Program can provide an annual
24 report to us prior to the spec process where we sort

1 of go over the characteristics of slippage events,
2 observer coverage, levels, and basically we get
3 this information prior to our specs decision, and
4 then at the specs decision we can then decide to
5 add or remove some of these options, these
6 Alternative 3 options in response to that
7 information we get annually from the Observer
8 Program?

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Jason, what information would you expect to have
11 during the specification process going forward?

12 JASON DIDDEN: The amount of
13 information related to slippage has been
14 increasing. The observer has their discard logs
15 for the slippage events. I think that could
16 probably be incorporated in specs, but in terms of
17 timeline and Science Center burden, I'm not
18 exactly sure. But it seems like it could be
19 something -- you know, that would be incorporated
20 to the extent the data's available.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Thank you. Chris.

23 CHRISTOPHER ZEMAN: Would that require
24 a motion? I'm ready to make one if I need to.

1 COUNCIL CHAIRMAN RICHARD ROBINS: I
2 think it would if you wanted to make some of these
3 things such that they could be addressed through
4 the specification process.

5 CHRISTOPHER ZEMAN: Sure.

6 COUNCIL CHAIRMAN RICHARD ROBINS: And
7 I'll ask Joel if that's something that could be
8 modified through specs. Joel. Chris, can you
9 state the question? Again, we're trying to
10 determine if this is something that could be
11 modified through specifications.

12 CHRISTOPHER ZEMAN: My first question
13 was: Can NOAA or the Observer Program report to
14 us or give us a report as to characteristics of the
15 Observer Program observations in this fishery
16 prior to our June Council meeting? And my second
17 question was: Can we then add, modify, or -- you
18 know, eliminate Alternative 3 options during the
19 spec process based on that observer report from
20 NOAA?

21 JOEL MACDONALD: So you would like to be
22 able to delete some of these provisions during the
23 specification process?

24 CHRISTOPHER ZEMAN: I'm sorry. I

1 didn't understand. Delegate did you say?

2 JOEL MACDONALD: Delete. Like some of
3 these exceptions, whatever you're referring to.

4 CHRISTOPHER ZEMAN: Yes. Similar to
5 the changes we just made possible through specs in
6 the prior motion.

7 JOEL MACDONALD: You can craft your
8 specification process to deal with -- you know, a
9 fairly wide range of activities. I mean if you
10 look at the scup GRAs they were established through
11 the specification process.

12 But you can't open up your entire FMP or
13 an amendment to an amendment through the
14 specification process. And it takes some level of
15 judgement as to where the boundaries are for what
16 you can put in your specification process.

17 I believe that you can modify or maybe
18 remove some exceptions or the actual provision
19 itself if you give yourselves that authority
20 through the specification process. I think
21 that's generally within the bounds of what you can
22 do in a specification process. With respect to
23 having the Center or NOAA report to the Council
24 before the June meeting, I mean you can change sort

1 of the introductory paragraph in that section to
2 say you will make modifications based upon X, Y,
3 and let's say a report from the Observer Program
4 with respect to whatever you want reported,
5 slippages, their characteristics, etcetera.

6 You can set that up so that's one of the
7 bases for making your recommendations in the
8 specification process. But it's really up to NOAA
9 and the Center -- well, the Center's part of NOAA
10 -- but whether they're able to do that practically
11 speaking.

12 The Council really can't force the
13 Agency to do something. I mean that's not the way
14 the act is set up, as you all recognize. So I mean
15 that's my advice.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Dr.
17 Karr.

18 WILLIAM KARR: Thank you, Mr. Chairman.
19 Just to follow up, it seems to me that the best
20 mechanism would be for us to receive a request from
21 the Council in a timely manner to be able to bring
22 this information forward by date certain to
23 support the process. And we would certainly do
24 the best that we could to do that.

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Chris, do you want to make a motion that these would
3 be measures that could be modified through
4 specifications? I mean obviously we can follow up
5 and ask for whatever information's available out
6 of the Observer Program ahead of the specification
7 process.

8 And I would anticipate that staff is
9 going to be doing that anyway because they'll be
10 compiling all the available data and reviewing it
11 prior to making recommendations to the Council.

12 CHRISTOPHER ZEMAN: Yes. I would like
13 to make that motion that the Council intends to
14 allow for modifications of at-sea observation
15 measures through the annual specification
16 process.

17 COUNCIL CHAIRMAN RICHARD ROBINS: You
18 said modification of at-sea observation measures?
19 Aren't you being more specific here to options in
20 Section 3?

21 CHRISTOPHER ZEMAN: Specifically
22 Alternative Section 3. From the document I'm
23 reading it's called at-sea observation measures.
24 It's Alternative 3 options are characterized as

1 at-sea observation measures.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there a second to the motion?

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: Second
6 by John McMurray. Discussion on the motion?
7 Howard.

8 HOWARD KING: By adopting the same
9 exceptions as in the mackerel fishery, would we
10 include then the observed operational discards as
11 well? I mean do we want them to go lockstep with
12 mackerel?

13 COUNCIL CHAIRMAN RICHARD ROBINS: I
14 think so, but I'm going to ask Jason. Jason, would
15 that same language be applicable to this section?

16 JASON DIDDEN: I think it's good
17 probably to make them consistent. And I can
18 imagine an alternative that said make this
19 consistent with the mackerel provisions also per
20 the operational discard issue. So -- you know, it
21 could just be generally comport to the provisions
22 already passed for mackerel.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Okay. I'll tell you what: Before this gets too

1 messy, why don't we go ahead and consider Chris's
2 motion to make these measures such that they can
3 be modified through the specification process, and
4 then we can try to make the measures similar to what
5 we have in the mackerel section. So is there any
6 further discussion on Chris's motion? Laurie.

7 LAURIE NOLAN: Well, are we combining
8 Chris's motion with the main motion now basically?

9 COUNCIL CHAIRMAN RICHARD ROBINS: I was
10 going to go ahead and take Chris's motion if we can.

11 LAURIE NOLAN: As a separate motion?

12 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.
13 So that would make it so it could be modified
14 through specs.

15 LAURIE NOLAN: And then we'll talk
16 about the slippage for lolligo coverage after that
17 again?

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 That's fine. Rob.

20 ROBERT O'REILLY: I guess that was
21 along my line of questioning in that N and O may
22 need more discussion depending on how this motion
23 goes.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Okay. Is the Council ready for the question?

2 (Motion as voted.)

3 {Move that the Council intends to allow for
4 notification of at-sea observation measures
5 through the specification process,
6 particularly those alternatives described in
7 alternative set 3 of Amendment 14.}

8 COUNCIL CHAIRMAN RICHARD ROBINS: All
9 those in favor please indicate by raising your
10 hand.

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Fourteen. Opposed like sign.

14 (No response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Abstentions like sign.

17 (Response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: One
19 abstention. The motion carries. Thank you. So
20 we're back to the original Committee motion now on
21 3N and 3O. George.

22 GEORGE DARCY: I think we still need to
23 have a discussion about the Council's intent about
24 what happens if there's not an observer available

1 under 30. I don't think we got an answer to that.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Okay. And we can seek to resolve that as well
4 through this. But there's some interest I think
5 in trying to align the language here with the
6 language in mackerel. Laurie.

7 LAURIE NOLAN: Well, just this issue in
8 general we're talking about the lolligo fishery
9 where there's minimal herring interaction to begin
10 with. As Mike pointed out, we're not expecting a
11 hundred percent coverage in the lolligo fishery,
12 but what we do have is the monitoring of a
13 butterfish cap in the squid fishery.

14 So I would think maybe we could step back
15 from this right now and allow at least that
16 coverage in monitoring the cap. Also make
17 slippage observations to determine whether or not
18 we have a slippage issue in the lolligo fleet.

19 Again, choosing 10, choosing any
20 numbers this is extremely arbitrary. We don't
21 have a lot of data in front of us indicating what
22 the level of slippage is right now in the lolligo
23 fishery, but we do have some coverage. I think we
24 should hold off on this motion -- on this issue.

1 I think we should let a year run where
2 we take the observations from the butterflyfish cap
3 monitoring that's occurring and perhaps an
4 increase in monitoring that may occur if money is
5 available and put this one on the back burner.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Other discussion? Steve.

8 STEVEN HEINS: I got a little confused
9 here. I think I might be clearing this up. I kind
10 of thought that the intent of Chris's motion was
11 that we could not take action on 3N and O or vote
12 them down at this point and then put them back in
13 through specifications. Did I miss it?

14 COUNCIL CHAIRMAN RICHARD ROBINS: I'll
15 ask Chris to elaborate, but as I understood it, it
16 would allow us to modify those requirements
17 through specifications. Chris.

18 CHRISTOPHER ZEMAN: That is correct.
19 But I didn't want to undermine the maker's motion
20 from Maryland, and I understand his intent in this.
21 And I'd like to hear from the maker of the motion
22 in terms of his feeling as to should we go with this
23 motion, or are you satisfied with getting more
24 information and --

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Chris, just so the record's clear, he did not make
3 a motion. This is a committee motion. He had a
4 comment on the motion. Rob.

5 ROBERT O'REILLY: Yeah. I had the same
6 thought that Steve Heins just expressed, that with
7 Chris's motion that that would relate directly to
8 N and O because the comments Mike Luisi I think are
9 ones that I share in terms of maybe there's some
10 self policing, but really this is about observer
11 coverage. And Laurie's just indicated that
12 there's coverage, but I sense there could be more
13 coverage, and that's really the issue.

14 And a lot of this seems to be about the
15 issue of observer coverage. And I'm not sure that
16 passing N and O do more than take the pressure off
17 getting more observer coverage if you consider
18 that there's a voluntary system going on.

19 So, if that's something that Chris
20 Zeman's motion takes care of now or later. I guess
21 that would be my question. Is this for later when
22 we make these type of changes to specifications?

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Yeah. The modifications would come in through the

1 specification process. I mean Chris's motion
2 just preserves the ability to change them in the
3 future, but the original committee motion would
4 have put them in as preferred alternatives now.

5 And with respect to observer coverage,
6 I mean so far the Committee's recommendations are
7 no action alternatives related to loligo
8 monitoring. So I don't know that we would
9 anticipate an increase in monitoring. Jason.

10 JASON DIDDEN: Yeah. I think that's my
11 understanding as well. The document noted that
12 over 2006 to 2010 about 9 percent or 383 of about
13 4,000 or 77 hauls per year unobserved longfin trips
14 had some amount of unobserved catch.

15 It hasn't had this kind of very detailed
16 observer log that they've had with the midwater
17 trawl. So was it just the observer was off
18 station? You know, it may have been a slippage.

19 There's a bunch of reasons, and we don't
20 have as clear information with monitoring.
21 There's definitely unobserved catch going on, so
22 I just wanted to flag that.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Thank you. Further discussion of the committee

1 motion by the Council? Laurie.

2 LAURIE NOLAN: So, if the Council chose
3 not to deal with this now and Chris Zeman's motion
4 gets passed, this could be something that gets
5 dealt with through spec setting in the future. Is
6 that correct?

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Well, I'll ask Joel. But I think so. Joel.

9 JOEL MACDONALD: That's my
10 understanding, Laurie.

11 LAURIE NOLAN: Thank you. I will not
12 support the motion for all the discussed reasons
13 we've just had.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Any
15 further discussion on the motion? Greg.

16 GREGORY DIDOMENICO: Greg DiDomenico,
17 Garden State Seafood Association. I too do not
18 support this motion. And quite frankly, this is
19 a burden on the lolligo fishery that really is I
20 think is not justified.

21 We're in our second year of the bycatch
22 cap. It performed very well in 2011, the first
23 year of its implementation, and the fishermen have
24 done to my determination an honest and good faith

1 effort to cut down on butterfish discards.

2 We're also involved in research. That's
3 cooperative research with the Agency and some of
4 the academic institutions that are even taking
5 that to further extent to cut down on incidental
6 catch of butterfish.

7 I know this is not about butterfish, but
8 the burden already between the 72-hour, even the
9 48-hour call in, quite frankly the angst that good
10 fishermen are under on a lolligo trip to avoid
11 butterfish bycatch caps so the whole fleet is not
12 penalized and so we can catch the lolligo quota.
13 They're doing their best, and I don't think they
14 need an additional burden that's not going to yield
15 much results. Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS: All
17 right. The motion's on the board. Any further
18 discussion on the motion? Is the Council ready
19 for the question?

20 (Motion as voted)

21 {Move to recommend 3n and 3o with the same
22 exceptions as would apply to mackerel (safety,
23 mechanical, dogfish-caused slippages would not
24 count against the cap).}

1 COUNCIL CHAIRMAN RICHARD ROBINS: All
2 those in favor please raise your hand.

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: One.
5 Opposed like sign.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Fifteen. Abstentions like sign.

9 (Response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: One.
11 The motion fails. Jason. I'm sorry. We still
12 have -- well, there is still the question I suppose
13 if this is implemented in the future, do we need
14 to take any action now to clarify the intent as to
15 whether if there is no observer available and this
16 is implemented in the future that the trip would
17 be able to go forward, or do they have to wait until
18 an observer is available? Or is that a mute point
19 now since it would be implemented through a future
20 specification?

21 JOEL MACDONALD: Well, typically, what
22 we do if there is not an observer available, we
23 waive the observer requirement because it's really
24 an obligation on the part of the Agency to have an

1 observer available.

2 If we do go down this road and there's
3 discussion amongst the Council and they decide
4 that -- you know, the vessel can't sail without an
5 observer, I think that's a substantive change that
6 would probably have to go back out to public
7 hearing or at least for public comment.

8 I don't want to rely upon the outcome in
9 the Alaska Factory Trawler's Case to point the
10 direction in which court would take this.

11 That was a case involving allegations
12 that the Council, the North Pacific Council in
13 particular, was making deals in the hospitality
14 room that were rubber-stamped in the plenary
15 session the following day.

16 And the court found that even if that
17 were happening, that it was a procedural error that
18 was cured by the subsequent proposed final rule
19 making that the Agency undertakes to implement the
20 plan. I'm not sure whether this would fall under
21 that finding or not. I get a little nervous
22 without going back out to public hearing on that
23 because it would have a major impact. I mean how
24 long can't they sail -- until an observer is ready?

1 It could be a real nightmare.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
3 enough. I think we can bypass that then. Jason.

4 JASON DIDDEN: As far as squid goes, it
5 seems mute. And so these two were combined. But
6 that requirement for taking an observer regardless
7 was in the DEIS, so that was in the document.

8 So I think it's mute related to squid,
9 but since you put it forward for mackerel, it's at
10 the Council's discretion I would think. It's a
11 specific alternative in the DEIS.

12 COUNCIL CHAIRMAN RICHARD ROBINS: So
13 one of the alternatives in the DEIS did not include
14 the waiver?

15 JASON DIDDEN: The DEIS just says if the
16 Council selected O, then if there is a vessel that
17 had a trip terminated on it's next trip it would
18 have to take an observer. That's how it was worded
19 in the DEIS.

20 JOEL MACDONALD: But it doesn't speak
21 to the intent of the Council with respect to the
22 unavailability of an observer. That's the issue.

23 JASON DIDDEN: Okay.

24 JOEL MACDONALD: It was never even

1 considered, so.

2 COUNCIL CHAIRMAN RICHARD ROBINS:
3 Jason, was there any record discussion about that
4 or public comment to that point?

5 JASON DIDDEN: So this motion failed.
6 So the Council wanted to contemplate O it would
7 need a motion to that, O related to -- so the motion
8 failed, so maybe that's it. Maybe that's just it.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Well, on squid. But you're relating it back to
11 mackerel.

12 JASON DIDDEN: Well, again, it was
13 tricky because it was combined with the squid one
14 here. So I don't know if it was the Council's
15 intent only to apply this to squid, or to apply this
16 overall. I mean O is general for all of these trip
17 terminations. So it's failed, so maybe that's it.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Okay. I think we're okay for now, Jason. Do you
20 have your next committee motion?

21 JASON DIDDEN: Yes. The next is move
22 to recommend to the Council 4F as preferred, and
23 that is obliging the Council to consider to meet
24 formally after the completion of the Sustainable

1 Fisheries Coalition Bycatch Avoidance Project and
2 consider the appropriateness of developing a
3 framework adjustment related to it.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Thank you. Discussion on the committee motion?

6 (No response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 What's the pleasure of the Council? Laurie.

9 LAURIE NOLAN: I would on the Council
10 move to support Alternative 4F as the preferred
11 alternative in Amendment 14.

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 there a second to the motion?

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Second by Erling Berg. Discussion on the motion?

17 (No response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Is
19 the Council ready for the question?

20 (Motion as voted.)

21 {Move 3f a the preferred alternative in
22 Amendment 14.}

23 COUNCIL CHAIRMAN RICHARD ROBINS: All
24 those in favor please raise your hand.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Sixteen. Opposed like sign.

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Abstentions like sign.

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: One
9 abstention. The motion carries. Thank you.
10 Jason.

11 JASON DIDDEN: The next passed motion
12 was: Move to recommend to the Council's preferred
13 5B(4). 5B(4) would require a hundred percent of
14 midwater trawl mackerel trips by federal vessels
15 to be observed if they are intending to retain over
16 20,000 pounds.

17 That means in order to come back to the
18 dock with 20,000 pounds, they would have to have
19 an observer, and the Center would assign coverage
20 based on pre-trip notifications. The Council's
21 already passed. And that's it. And this is
22 specific to midwater trawl mackerel.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thank you. Discussion on the committee motion?

1 What's the pleasure of the Council? George.

2 GEORGE DARCY: I'm going to reiterate
3 the comments that Dan Morris made at the committee:
4 to require the Agency to a given level of observer
5 coverage is probably not something that we could
6 support.

7 Without an additional source of funding
8 which could come through industry funding if the
9 Council so chooses, our ability to put observers
10 on vessels at anything close to a hundred percent
11 is probably not in the cards in the near future.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 George, thank you. And I appreciate the concerns
14 the Agency's raising. We are going to have some
15 discussions that were left unresolved at the
16 committee level about cost sharing. That has yet
17 to come up, but we'll be taking that up after we
18 go through the committee motions.

19 One other point that Dan Morris made the
20 other day was that in the event that funding is not
21 available to achieve and implement the Monitoring
22 Program that the Council seeks, that we should try
23 to clarify what exactly we are aspiring to. So
24 there should be some follow-up discussion about

1 think to that point, we have to suggest in the
2 language that this is our recommendation to the
3 Secretary. It's not something we're able to
4 legally require, but this is our recommendation as
5 a council. It reflects everything that's gone
6 into the development of the amendment.

7 But we are recommending a certain
8 monitoring package to the Agency. There are
9 questions about what the extent of resources are
10 that are going to be available to implement it.

11 We have yet again to have that cost
12 sharing discussion, but this I think would have to
13 be a recommendation based on what Joel said.
14 Discussion on the committee motion? Dr.
15 Weinberg.

16 JAMES WEINBERG: This is a point that I
17 raised during the committee, but it had to do with
18 the overlap between these motions and the SBRM
19 amendment.

20 From the Center's point of view, when
21 they allocate sea days under the SBRM amendment,
22 which is currently vacated, but I expect will be
23 back on line within a year or so, I just think that
24 it will be confusing to the folks who allocate sea

1 days which takes precedence, the recommendations
2 in these alternatives or the SBRM amendment. So
3 there needs to be some clarification on that. I
4 think if this were done in a number of different
5 amendments for different fisheries, it could
6 potentially make it even more confusing where to
7 allocate observers. Is it achieving the 30
8 percent CV on discards overall for the whole suite
9 of managed stocks, or is it FMP by FMP?

10 COUNCIL CHAIRMAN RICHARD ROBINS: And,
11 Jim, I appreciate that concern. In the committee
12 discussion I think they indicated that this might
13 take precedent, but you're going to have the same
14 complexity with Amendment 5.

15 Amendment 5 is going to contemplate a
16 whole new regime of accountability and monitoring.
17 So I think we're going to have to consider these
18 things fairly broadly going forward. I
19 appreciate your concern about how it will
20 intersect with SBRM. Further discussion by the
21 Council on the committee motion? Chris.

22 CHRISTOPHER ZEMAN: I'd like to make an
23 amended motion that the Council recommends to NMFS
24 that a hundred percent coverage, observer

1 coverage, is set for the midwater trawl mackerel
2 fishery.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is
4 there a second to the motion?

5 CHRISTOPHER ZEMAN: I'm was going to
6 add something else. I would say that this level
7 of coverage is necessary for the conservation and
8 management of river herring and shad, to
9 accurately assess all catch, and to implement
10 measures to minimize bycatch and/or incidental
11 catch of river herring and shad and other managed
12 species.

13 JASON DIDDEN: After implement
14 measures I have a little gap there.

15 CHRISTOPHER ZEMAN: To minimize
16 bycatch and/or incidental catch of river herring
17 and shad and other managed species.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Chris, I wonder do you want to include all that
20 rationale in the motion, or do you want to focus
21 the motion on what we're requesting the Agency to
22 do? I mean normally we would document as a matter
23 of record our rationale and our discussion.

24 You're the maker of the motion. If you

1 make the motion, I'll come back to you and ask the
2 rationale and put it in the record. But I'm just
3 asking I don't know that it's necessary to put all
4 that in the motion.

5 CHRISTOPHER ZEMAN: From my own
6 discussions with NOAA I felt it was, and I think
7 they specifically asked us for our prioritization
8 interests in terms of observer coverage and where
9 we want that to be. So I think it is appropriate
10 to be in the motion.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Okay. And, again, we will have follow-up
13 discussions on the priorities. Is there a second
14 to the motion?

15 (No response.)

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

18 (No response.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Seeing none, it dies for lack of a second. Further
21 discussion on the committee motion? Laurie.

22 LAURIE NOLAN: Just a question.
23 Jason, are the majority or all of the midwater
24 trawl vessels in Tier 1 of the mackerel tiered

1 system?

2 JASON DIDDEN: The majority of the
3 midwater trawl vessels who have been landing
4 mackerel would be in Tier 1 since Tier 1
5 constitutes a vast majority of mackerel landings.

6 But outside of the tie to mackerel, I
7 can't answer that question without digging into it
8 because there are herring vessels that are
9 midwater trawl that may not have made it into Tier
10 1. I know there are some. So it should cover the
11 mackerel universe, but I'm not positive about
12 overall midwater trawl. Most probably, but I'm
13 not positive.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Laurie.

16 LAURIE NOLAN: What do they land in the
17 overall percentage of the overall landings of that
18 again? I think you told us this -- 90 or
19 something.

20 JASON DIDDEN: Tier 1 is going to
21 account for the vast majority of mackerel
22 landings.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Okay. We're back to a committee motion for

1 consideration by the Council. What's the
2 pleasure of the Council? Peter.

3 PETER HIMCHAK: I had a question since
4 my notes have been lost. Did we not have a
5 subsequent motion that specified Tiers 1, 2, and
6 3 on observer requirements?

7 JASON DIDDEN: The Tier 1, 2, 3 failed
8 6-7-1 at the committee.

9 COUNCIL CHAIRMAN RICHARD ROBINS: But
10 wasn't that in small mesh bottom trawl and not
11 midwater trawl? Jason.

12 JASON DIDDEN: Yes. That's a good
13 point also. It was specific to small mesh bottom
14 trawl.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Right. And we'll take that up as a future motion.
17 I think that does need some more discussion
18 frankly.

19 So we're back to the committee motion on
20 midwater trawl. The recommendation is to request
21 a hundred percent coverage, but we would need to
22 refine the motion for recommendation to the
23 Agency. Steve.

24 STEVEN HEINS: Just quickly, the

1 language in the document says require a hundred
2 percent coverage, and then the language up here
3 says recommend. So we're recommending the
4 requirement? I just wanted to clarify it.

5 COUNCIL CHAIRMAN RICHARD ROBINS: I
6 think it comes back to the point that Joel's
7 raised. I mean we're recommending to the
8 Secretary a hundred percent observer coverage in
9 this fishery, but, again, we can't require it just
10 as a matter of law, but we can certainly clarify
11 our recommendation. What's the pleasure of the
12 Council? John.

13 JOHN MCMURRAY: I'll so move.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Are
15 you moving that we recommend --

16 JOHN MCMURRAY: Move to recommend the
17 National Marine Fishery Service as preferred
18 5B(4), 100 percent coverage for midwater trawl
19 mackerel trips.

20 COUNCIL CHAIRMAN RICHARD ROBINS: Is
21 there a second to the motion?

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Second by Lee Anderson. Discussion on the motion?

1 (No response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there any public comment on the motion?

4 (No response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: Back
6 to the Council. Is the Council ready for the
7 question?

8 (Motion as voted.)

9 {Move to recommend the NMFS 5b4, i.e. 100%
10 coverage for MWT trips as the preferred
11 alternative in Amendment 14.}

12 COUNCIL CHAIRMAN RICHARD ROBINS: All
13 those in favor please raise your hand.

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Fourteen. Opposed like sign.

17 (Response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Three. Abstentions like sign.

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: One
22 abstention. The motion carries. Thank you.
23 Jason.

24 JASON DIDDEN: The next motion was:

1 Move to recommend to the Council as preferred
2 5C(4), a hundred percent coverage for small mesh
3 bottom trawl mackerel trips.

4 COUNCIL CHAIRMAN RICHARD ROBINS: It's
5 a committee motion for discussion by the Council.
6 We had some discussion during the committee
7 discussion about this motion regarding the
8 different tiers involved in the small mesh bottom
9 trawl fishery, and I think Jason articulated some
10 of the points about the economic differences
11 across those different tiers.

12 I think that's something that we'd still
13 do well as a Council to consider, to discuss to make
14 sure that we have a good record basis for that
15 decision.

16 One of the concerns I would express here
17 is that going into this we know resources are going
18 to be limited for observer days and whether there's
19 the strong cost sharing function on behalf of the
20 industry or not resources are limited, and I think
21 that's where we do need to weight some of this issue
22 of prioritization. That is, we want to come out
23 of this with the most robust monitoring program
24 that we can to the extent that resources are

1 available. So, if we're going to focus resources,
2 I think they ought to be focused on the areas where
3 the interactions are greatest.

4 The data indicate the midwater trawl
5 fishery accounts for the majority of the
6 interactions. The small mesh bottom trawl
7 fishery is also important and needs to have an
8 effective monitoring program.

9 But I think we ought to have some
10 discussion about the different tiers and whether
11 or not it's practical or the best allocation of
12 resources to have a hundred percent observer
13 coverage, for example, on Tier 3.

14 I think the road of economics ought to
15 be considered. The allocation of those observer
16 resources ought to be considered just as a matter
17 of record, the decision, and I'm not going to
18 propose any specific numbers but would look to the
19 Council to have a little more discussion on that
20 matter. So we do have a committee motion before
21 the Council for discussion. Is there some public
22 comment? Pam.

23 PAMELA LYONS: Thank you. Pam Lyons
24 from National Coalition for Marine Conservation.

1 We support the Council's intent to try to get
2 maximum observer coverage on their fisheries;
3 however, we can't support a hundred percent
4 coverage on Tier 3. I dug back into Amendment 11,
5 the limited access amendment, just looking at the
6 vessels that would be eligible for each tier
7 understanding that there's still applying and we
8 don't have a final count.

9 But there would be 138 vessels
10 potentially eligible for Tier 3. Furthermore,
11 Tier 3 is capped at 7 percent of the annual quota,
12 and preliminary information I looked at these tend
13 to be smaller vessels, so the observer costs in
14 comparison to their daily operating costs is quite
15 significant.

16 In our letter that we submitted to the
17 Council, we supported a hundred percent coverage
18 for Tier 1 and Tier 2 with 25 percent coverage for
19 Tier 3.

20 And I do have a count that 10 small mesh
21 bottom trawl vessels are eligible for Tier 1
22 according to the Amendment 11 analysis and 19
23 eligible for Tier 2. Thank you.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you, Pam. Discussion by the Council on this
2 committee motion? Laurie.

3 LAURIE NOLAN: Well, based on the
4 numbers and the percentages of overall landing
5 that the Tier 3 vessels actually land puts things
6 in perspective I think where it would be useless
7 and wasteful to implement a hundred percent
8 observer coverage in the Tier 3 fishery.

9 So for starters I would at least go along
10 with the idea of 25 percent coverage for Tier 3.
11 On Tier 2 I think we should bring that down also
12 for a smaller number of vessels, smaller number of
13 fish and the overall quota being landed by these
14 vessels and getting the bang for our buck where the
15 problem occurs. So for Tier 2 I would recommend
16 50 percent coverage.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Laurie, is that a motion?

19 LAURIE NOLAN: I guess it's a motion to
20 --

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Motion to amend.

23 LAURIE NOLAN: -- to amend. We're now
24 breaking this out into tiers rather than the way

1 it was presented to us in the document. So I guess
2 I would have to move to amend: 25 percent coverage
3 would be applied to Tier 3, 50 percent coverage
4 would be applied to Tier 2, and a hundred percent
5 coverage would be applied to Tier 1.

6 COUNCIL CHAIRMAN RICHARD ROBINS: In
7 the small mesh bottom trawl mackerel fishery.

8 LAURIE NOLAN: Yes.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there a second to the motion?

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Second by Peter deFur. The seconder had suggested
14 a perfection indicating that it was for trips over
15 20,000 pounds. Jason, is that a fair modification
16 to the motion?

17 JASON DIDDEN: Yes. It's consistent
18 with the original alternatives in the document.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Thank you. Is that acceptable to the maker?

21 LAURIE NOLAN: Yes.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 George.

24 GEORGE DARCY: The alternative as

1 currently written still uses the word require, so
2 I would recommend that the Council consider making
3 that recommends to NMFS as you did in the last.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 George, thanks for clarifying that. Is that
6 perfection acceptable to the maker and seconder to
7 the motion?

8 LAURIE NOLAN: Yes.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you. You got that, Jason? Discussion?
11 Laurie.

12 LAURIE NOLAN: I would just say let's
13 remove that only, Jason, and just say move to
14 recommend 25 percent coverage for Tier 3. Yeah.
15 Thank you.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Well,
17 if you're not moving to amend, you're moving to
18 substitute.

19 LAURIE NOLAN: No, no. I just meant to
20 get rid of that only, not amend.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Okay. Fair enough. Sounds better now. Thank
23 you.

24 LAURIE NOLAN: Move to amend to

1 recommend 'cause we have to get it across that this
2 is all recommendations. Move to amend to
3 recommend.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Okay. So is that perfection acceptable to the
6 seconder of the motion? Thank you. Discussion
7 on the motion? Howard.

8 HOWARD KING: Do you have a second on
9 that?

10 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.
11 Peter deFur has seconded the motion. Thank you.
12 Is there any further discussion on the motion?

13 (No response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is
15 there any public comment on the motion?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: Back
18 to the Council. Is the Council ready for the
19 question?

20 (Motion as voted.)

21 {Move to recommend to NMFS that 25% coverage
22 would be applied for Tier 3 and 50% coverage
23 for Tier 2 and 100% coverage in Tier 1 for the
24 SMWT fishery for vessels to land over 20,000

1 pounds. }

2 COUNCIL CHAIRMAN RICHARD ROBINS: All
3 those in favor please signify by raising your hand.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Sixteen. Opposed like sign.

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Abstentions like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: One
12 abstention. The motion carries. Thank you.
13 Jason.

14 JASON DIDDEN: The next that passed
15 was: Move to recommend 5H as preferred. And 5H
16 is: Require a re-evaluation of those coverage
17 rates after two years.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you. What's the pleasure of the Council?
20 Is that a motion? Dr. deFur.

21 PETER deFUR: Thank you, Mr. Chairman.
22 Motion that we recommend re-evaluation of the
23 coverage requirement after two years to determine
24 if incidental catch rates justify continued

1 expense of continued high coverages.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Is
3 there a second to the motion?

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Second by Warren Elliott. Discussion on the
7 motion? George.

8 GEORGE DARCY: I'm assuming that this
9 is something that the Council would do or the FMAT
10 would do in which case the word require isn't an
11 issue for us because you're not requiring that the
12 Agency do this. So you might just word it
13 re-evaluate coverage requirement.

14 PETER deFUR: Perfection of the motion
15 then.

16 JASON DIDDEN: So does that mean that
17 the original alternative is okay?

18 PETER deFUR: Well, I don't think we
19 need require or recommend. Just move to
20 re-evaluate.

21 COUNCIL CHAIRMAN RICHARD ROBINS: But I
22 think Jason's point is the original committee
23 motion doesn't require modification. We can
24 simply act on that. So would you withdraw the

1 motion?

2 PETER deFUR: Yes.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Okay. So we're back to the original committee
5 motion, which is precisely that. Further
6 discussion on the committee motion?

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: Is
9 the Council ready for the question?

10 (Motion as voted.)

11 {Move to recommend 5h as a preferred
12 alternative.}

13 COUNCIL CHAIRMAN RICHARD ROBINS: Jason.

14 JASON DIDDEN: Who's making this
15 motion?

16 COUNCIL CHAIRMAN RICHARD ROBINS: It's
17 a committee motion. It doesn't specify council,
18 so we can just let it go to the Agency. All those
19 in favor please raise your hand.

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Sixteen. Opposed like sign.

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Abstentions like sign.

2 (Response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS: One
4 abstention. The motion carries. Jason. Mike.

5 MICHAEL LUISI: Thank you, Mr.
6 Chairman. That's the last for Set 5. Right?
7 We're going to move on to Set 6?

8 COUNCIL CHAIRMAN RICHARD ROBINS: I
9 believe so. I'm waiting for Jason to get to the
10 next motion. Go ahead.

11 MICHAEL LUISI: If I could, I mean no
12 disrespect or to be out of line at all, but given
13 our discussion yesterday about my timing today, I
14 was wondering if you would consider moving to
15 Alternative Set 9, and then we could jump back to
16 six, just something to consider.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Are
18 you bumping up against a flight?

19 MICHAEL LUISI: I'm bumping up against,
20 yeah, a train and 20 little boys at my son's
21 birthday party today.

22 COUNCIL CHAIRMAN RICHARD ROBINS: In
23 light of that, I would certainly indulge that.
24 So, Jason, do you want to go ahead and shift gears

1 and go to Option Set 9.

2 JASON DIDDEN: Sure. It's move that
3 the Committee recommend 9B, 9C, 9D, 9E to the
4 Council. The Council would begin Amendment 15 to
5 add river herring and shad as stocks in the fishery
6 with the EFH, ACLs, etcetera. I know the Region
7 has some comment on this motion.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Yeah. And we'll go ahead and take that, and then
10 I have some comments as well. Go ahead.

11 GEORGE DARCY: Well, I didn't know I
12 did, but other than the comment I made the other
13 day. The way the motion is structured now seems
14 to be confusing, if not conflicting.

15 I think the second part of the motion
16 that the Council is going to initiate an amendment
17 to both consider putting the stocks in the fishery
18 under management and to designate EFH, ACLs, AMs
19 and the whole suite of things that have to be
20 associated with it in an FMP is fine. But if
21 you're going to do that, then I don't know what 9B,
22 9C, 9D and 9E mean. They don't seem relevant
23 anymore.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 George, I share the same concern. I think we had
2 a lengthy discussion about this issue. We had
3 advice from legal counsel that we discussed as
4 well.

5 I think the point that Joel raised
6 during the committee meeting -- and I'll let him
7 follow up on it here -- was that there would be some
8 vulnerability if we added it as a stock in the
9 fishery in this action without also addressing the
10 other attendant actions that are required for the
11 management of stocks in a fishery, that is, the
12 other provisions of the management that would have
13 to go into effect, that is, ACLs, AMs, etcetera,
14 etcetera.

15 So it was my understanding based on the
16 discussion at least that we were proposing to
17 consider adding it in a follow-up amendment, which
18 would be Amendment 15, but we need to clarify
19 council intent on that issue because, as George
20 points out right now, there is quite a bit of
21 tension in that motion.

22 But it was at the end of a long day, and
23 so now I think is the right time for the us as a
24 full council to come back and clarify council

1 intent on that issue. So we have a committee
2 motion before the Council for discussion. Peter.

3 PETER deFUR: Thank you, Mr. Chairman.
4 As the maker of the motion for the Committee, the
5 intent when I made the motion was to have us include
6 river herring and shad as stocks in the fishery.

7 And recognizing that, as both Council
8 pointed out, as NERO pointed out in their letter
9 to us, the inclusion is a process. It isn't just
10 a one-decision, one-day activity. So that the
11 motion was intended to include them using the
12 appropriate legal and regulatory process that's
13 required. I wouldn't begin to question the
14 judgement of the Council on what's the right way
15 to do that.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 George.

18 GEORGE DARCY: Just one little
19 wordsmithing thing I guess. You probably want to
20 say: The Council will begin Amendment 15 as
21 opposed to would here if you intend to initiate
22 that action not through this amendment but the
23 additional amendment. I think you'd probably not
24 want to put it in the --

1 JASON DIDDEN: I think that's correct.

2 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
3 enough. Other discussion on the motion? Frank.

4 FRANK BLOUNT: Yes. Thank you, Mr.
5 Chairman. I guess my question's for the Service.
6 Is adding stocks to the fishery the same thing as
7 managing the stocks? Because wouldn't the
8 Council first have to ask the Secretary for the
9 authority to manage those two stocks 'cause what
10 if New England says the same thing?

11 GEORGE DARCY: Our conclusion is we
12 don't know. I would say to the first part of your
13 question yes, they would be managed certainly.
14 You would be putting in place measures. The
15 Council would be putting in place measures to
16 manage the fishery.

17 The jurisdictional thing between the
18 two councils is something I think still needs to
19 be worked out and with ASMFC potentially. But I
20 think that would be taken care of in the
21 development of Amendment 15.

22 FRANK BLOUNT: Thank you.

23 COUNCIL CHAIRMAN RICHARD ROBINS: So I
24 think we still need to significantly clarify

1 whether we are adding them here in Amendment 14 and
2 then having a follow-up action in 15 or whether we
3 are considering adding them in a follow-up action
4 which is Amendment 15. Peter.

5 PETER HIMCHAK: Well, I would recommend
6 as a strategy to get out of this dilemma that we
7 recommend now the preferred alternative as no
8 action but then indicate that subsequent to
9 Amendment 14 we would pursue the stocks in the
10 fishery through a following amendment. I don't
11 see what we accomplish by including 9B, 9C, 9D, and
12 9E.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Laurie.

15 LAURIE NOLAN: That's what I was going
16 to say. I mean basically this particular
17 amendment is committing to Amendment 15, to the
18 addition of the stocks in Amendment 15 and that the
19 action in that case in this Amendment 14 is no
20 action but with this commitment.

21 I mean we're kind of caught in between
22 it seems. We're not adding them in Amendment 14.
23 We're adding them in a future action, Amendment 15
24 specifically to come next.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Jason.

3 JASON DIDDEN: Discussions with
4 technical staff at NERO have indicated there are
5 potentially three possibilities. One is the
6 Council adds them in this amendment, and that's
7 just what it does.

8 Another is that it does 9A, no action,
9 and then you could start up another amendment. It
10 also sounded like the Council could just take no
11 action at all, not even select 9A, since these
12 alternatives have been kind of deemed to be like
13 non alternatives to some degree. Maybe NERO can
14 comment on that. Those seemed like the three
15 possible ways to go.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Joel
17 or George, do you care to comment?

18 JOEL MACDONALD: Thank you. Yeah, I
19 think Pete was on the right track here. I think
20 what we need in the amendment to clarify the record
21 is an explanation of what the Council is doing.

22 And one -- you know, one of the options
23 that hasn't been mentioned is to delete
24 Alternative Set 9 or as Jason -- you know, pointed

1 out, one of the alternatives is to put it under the
2 considered but rejected category.

3 But regardless of where you go with
4 this, I think it's important to make it clear on
5 the record that the Council has discussed this
6 issue and has concluded that the more defensible
7 process to follow to consider shad and river
8 herring as stocks in the fishery as a separate
9 amendment.

10 That would allow the Council to address
11 all the requirements that attend the designation
12 of a stock in the fishery, that is, your biological
13 reference points, your ACLs, AMs, and whatever
14 else is required.

15 In the context of this amendment, that's
16 virtually impossible. There's no
17 infrastructure, if you will, that speaks to any of
18 those items. There's no biological reference
19 point alternatives; there's no ACL alternatives;
20 there's no AM alternatives with respect to shad and
21 river herring.

22 What we were talking about -- we never
23 got around to really nailing down what the Council
24 intent was with respect to this, but regardless --

1 have a committee motion before us. So your motion
2 will be a motion to substitute. And your
3 substitute motion would be? If you'd read it into
4 the record.

5 PETER HIMCHAK: Move to substitute
6 recommend 9A, no action for Amendment 14; and the
7 Council will begin Amendment 15 to add river
8 herring, shad as stocks in the fishery.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there a second to the motion?

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Second
13 by Lee Anderson. Discussion on the motion, the
14 substitute motion? John McMurray.

15 JOHN MCMURRAY: Yeah. I wouldn't
16 support that motion. And I'm a little bit
17 confused because my understanding of the original
18 motion was that by including Alternative 9 we're
19 putting ourselves in a direct course of action to
20 deal with stocks in a fishery with Amendment 15 as
21 opposed to saying this is something we're going to
22 consider further down the road. This is more of
23 a concrete action.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you. Further comments? Peter.

2 PETER deFUR: Yeah. I was going to ask
3 Joel for the interpretation of this motion because
4 of the point that John just raised.

5 'Cause my understanding of the
6 Committee's vote the other day was that the
7 Committee voted not unanimously, but the vote was
8 to include stocks in the fishery which requires a
9 process of developing information and all those
10 specifications. Is your interpretation that that
11 intent and action is taken by this motion?

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Joel.

14 JOEL MACDONALD: It does -- pardon?

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Joel. Go ahead.

17 JOEL MACDONALD: It does meet the basic
18 requirements, but, again, getting to the text
19 that's going to be associated with this particular
20 aspect of the amendment. Let's say we have a
21 preferred alternative is 9A, no action, you really
22 have to explain -- the motion to do Amendment 15
23 is really a separate motion. It stands outside of
24 Amendment 14.

1 You know, technically speaking, the
2 Council, like Congress, they can't bind the future
3 Congress to a particular action. But I think if
4 you have a motion that's separate that says, look,
5 we will begin Amendment 15 to deal with this issue
6 and then -- you know, start moving that ball down
7 the field. Let's do it.

8 So you don't technically have to include
9 that, but I think you need at least an explanation
10 of why the Council adopted let's say 9A, the no
11 action, the reason we've adopted it is we don't
12 believe we can really designate shad and river
13 herring a stock in the fishery within the context
14 of Amendment 14 because it creates too many
15 procedural problems and doesn't provide the
16 deliberative vehicle we need to really address all
17 the requirements of designating a stock in the
18 fishery.

19 That we are going to do under the cover
20 of Amendment 15 as long as that's in there. I mean
21 that's what is understood by the public. I mean
22 the Agency -- you know, all of us around the table
23 are informed as to what we're doing, but -- you
24 know, when the public reads this, you want to make

1 sure that they understand what the Council's
2 decision is and why they made it and what they will
3 do in the future. And I think we can do that
4 easily.

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Thank you, Joel. Steve Heins. Passed. Rob
7 O'Reilly.

8 ROBERT O'REILLY: Yeah. As much as I
9 would like to see for Amendment 14 to incorporate
10 these (inaudible), I think based on the
11 information from Joel yesterday and again today,
12 that having them in 14 is just a placeholder, does
13 sort of open up the Council for problems. And I
14 think there's all intent it sounds like from the
15 Council to move forward with Amendment 15, so I
16 support that direction.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Laurie.

19 LAURIE NOLAN: I think this will also
20 give an opportunity for some coordination. For
21 all we know moving forward with shad and river
22 herring management, this may have to be a joint
23 plan with New England, and it may give us the
24 opportunity or not to explore talking to others.

1 COUNCIL CHAIRMAN RICHARD ROBINS: John
2 McMurray.

3 JOHN MCMURRAY: Just some
4 clarification on Joel's comments. As soon as we
5 include these as stocks in a fishery if we do do
6 it in this amendment, are we immediately required
7 to start having ALCs and AMs, or can that be
8 something that's dealt with in the amendment, in
9 Amendment 15? That was initially my
10 understanding of where we were going with this.

11 JOEL MACDONALD: Okay. That was the
12 problem that I was addressing on Tuesday. There
13 was some confusion and there still is in my mind
14 as to what the Council intent was.

15 If you look at the write-up on
16 Alternative Set 9, it talks about doing something
17 in the future, when these stocks are added in the
18 future. My understanding was.

19 And the comment from the Region is the
20 same thing. We believe that this was supposed to
21 be done in the future. But there's still some
22 confusion.

23 Let's say the Council really intended to
24 have a conceptual place holder, that is, we are

1 designating shad and river herring as stocks in the
2 fishery without doing any more. That's why my
3 comment about the lack of an infrastructure really
4 goes to a conclusion that this was something we
5 really intended to do in another action.

6 We put this question out amongst all the
7 officers in NOAA GC that deal with Magnuson Act
8 issues, which is a great system because we get to
9 talk about the issues and bring in different
10 experiences from around the country with respect
11 to similar or the same issues, and we come up with
12 a pretty good idea of which way we feel is the most
13 defensible way to go.

14 And our discussions have led to the
15 conclusion that you can't really do this as a
16 concept; you really have to meet the requirements
17 specified in National Standard I Guidelines.
18 You've got to establish biological reference
19 points; you have to do ACLs and AMs if you're going
20 to designate stocks in the fishery.

21 The whole purpose of designating a stock
22 in the fishery is to manage it. That's the whole
23 idea of it. And so, if you're not going to manage
24 it in the context of Amendment 14, it doesn't make

1 any sense, and it creates some huge procedural
2 deficiencies that could subject us to a challenge
3 and a successful one at that. We want to avoid
4 that. Here we have an opportunity to, as I said
5 before, do it right; do it in the context of an
6 amendment that deals specifically with that.

7 There's no question about the intent of
8 the Council: We're moving forward; we're going to
9 consider this; we're going to meet all the
10 requirements. And then have a discussion on each
11 and every one of those.

12 I mean the biological reference point,
13 what AMs do we want. What's the ACL? What's the
14 ABC control rule? The whole panoply of different
15 measures that you have to put in place. And that's
16 my recommendation. That's my advice to the
17 Council.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Chris.

20 CHRISTOPHER ZEMAN: I plan to support
21 the motion in light of the strong intent by this
22 council to manage river herring and shad as a stock
23 in the fishery. I have no concern that this
24 council will take appropriate action timely.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Erling.

3 ERLING BERG: Yeah. Thank you, Mr.
4 Chairman. I guess this will be for Joel. We got
5 him on the hot spot here now. If we decide we're
6 going to put river herring and shad in Amendment
7 14, I mean it looks to me like that would delay
8 'cause we have to do the EFH and the ACLs and the
9 AMs, so the implementation of 14 would be delayed
10 to some other time. I think right now it's going
11 to be early next year. I mean it would be a longer
12 road to get this implemented if we were to do that.
13 Is that what I get out of this?

14 JOEL MACDONALD: That's exactly right.
15 I mean -- you know, we'd have to go back out to
16 public hearing. I hate to be repetitive. But the
17 infrastructure we'd have to develop that.

18 We'd have to put it out for public
19 hearing. I mean there's no discussion -- you
20 know, on things that aren't in the amendment.
21 There are no biological reference points.
22 There's no ACLs, AMs. We would have to develop
23 that and bring it back out to the public. And
24 you're right; it would take a long time to do.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Erling.

3 ERLING BERG: Then it would seem to me
4 this motion is a much cleaner way to do this, and
5 it still would accomplish what the wish of the
6 Council. So I would support this.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you. Chris.

9 CHRISTOPHER ZEMAN: I just want to make
10 one last comment before I ask for you to call the
11 question, and that is, is that there may be some
12 downside or a legal risk in the approach of
13 designating these stocks now, but I just want to
14 highlight there's potential for a legal risk here
15 for NOAA in this approach as well.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Steve.

18 CHRISTOPHER ZEMAN: And I call the
19 question.

20 STEVEN SCHAFER: Just a comment.

21 These alosine (phonetic) species are indeed need
22 of conservation and management. I believe that we
23 fully recognize that. In recognizing that, I
24 think we're mandated to do so, to conserve and

1 manage these species. I'm not entirely certain
2 that just saying that we're going to do something
3 about it constitutes doing anything about it.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Thank you. We did have extensive public comment
6 on this question. I'll allow some very limited
7 comment before we vote. Let's see. Patrick.
8 Please be concise with these remarks. Thank you.

9 PATRICK PARQUETTE: Thank you, Mr.
10 Chair. Two points very quickly. The first point
11 is that I'm slightly confused by the legal advice
12 being given at the time, and I wonder if a team of
13 lawyers wouldn't all agree on anything.

14 Because I'm pretty sure that an approved
15 draft environmental impact statement I just had to
16 go and help explain to some 34 recreational fishing
17 organizations this Draft Alternative Set 9, and I
18 know that the public's understanding was that you
19 were making the decision in Amendment 14 to do
20 this.

21 Everybody knew there was going to be a
22 process, and I think that that was the future
23 action referred to. So I believe as a member of
24 the public and as a stakeholder representative who

1 also helped explain this to the groups, that this
2 was a proposed action that was put out to the public
3 in draft Amendment 14.

4 It didn't say anything about draft
5 Amendment 15. It did refer -- not refer to -- but
6 insinuate that there's a follow-up process but
7 that the decision has to begin that process. And
8 that decision is before you today I continue to
9 believe. On a second set, you're absolutely not
10 to kick this down the road into an Amendment 15
11 without making some sort of a decision on draft
12 Alternative 9. In my opinion, it leaves my
13 constituency, which is nine years, now prohibited
14 from access to this resource to do nothing but seek
15 remedy in other venues, whether that be in federal
16 court or through the Endangered Species Act.

17 Our resource has been taken away from us
18 for eight years now, and it is time for the
19 management of the fisheries that are incidentally
20 catching and selling this resource to actually
21 live by the same status that the recreational
22 community is.

23 So I believe that you're already selling
24 them. It's clear. The action was in the DEIS.

1 And I'm going to ask you to please make the
2 decision. Thank you.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Yes,
4 sir, in the back.

5 PETER BAKER: Thank you, Mr. Chairman.
6 My name is Peter Baker. I work for the PEW
7 Environment Group, but I'm director of the Herring
8 Alliance. The Herring Alliance is a group of 52
9 conservation organizations from Maine to North
10 Carolina. We've sent you extensive public
11 comment. We've been really excited about
12 Amendment 14 and the possibility of getting a real
13 monitoring program for the mackerel midwater trawl
14 fleet and real measures that protect river
15 herring.

16 You've set out as your goal of the
17 amendment to do that. You've received tens of
18 thousands of public comments encouraging you to do
19 those two things, protect river herring and
20 monitor the mackerel fleet.

21 The advice we're getting from the NMFS
22 bureaucrats at the table today is really bad
23 advice. They're recommending to you that you pass
24 a status quo amendment.

1 That doesn't satisfy the goals of your
2 amendment. It doesn't satisfy the public. And I
3 really hope that you will take the action that you
4 set out to do and not let NMFS push your around
5 anymore. Thank you.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Yes,
7 sir.

8 ROGER FLEMING: Thank you, Mr.
9 Chairman. My name is Roger Fleming. I'm an
10 attorney with Earth Justice. And I fully support
11 the prior two speakers. And I would just like to
12 point out in response to the advice that you're
13 getting from counsel that 302H of the Act requires
14 you to add stocks to the fishery that are in need
15 of conservation management. And, if you want to
16 put this in terms of litigation risk, as they are,
17 your litigation risk is far greater if you postpone
18 making that decision than it is to add them to the
19 fishery now and then set out on a very reasonable
20 path of determining the status determination
21 criteria and other required measures in 303 of the
22 Act.

23 And just to -- you know, to briefly point
24 out from the Amendment 4 litigation, from that

1 decision Judge Kessler in that opinion clearly
2 stated that you're required to add stocks to the
3 fishery, and she went on to state, and I'm quoting,
4 "The Council must then set ACLs and AMs for all
5 stocks in the fishery."

6 This is the way the Act is structured.
7 You add them, and then you initiate an amendment
8 to put in place all the required measures.

9 I mean no court is going to entertain a
10 suit challenging you for taking a year two years
11 to set out all the required measures. What you're
12 required to do is add stocks to the fishery that
13 are in need of conservation management. The Act
14 is clear. Thank you.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Thank you, Roger. Greg.

17 GREGORY DIDOMENICO: Greg DiDomenico,
18 Garden State Seafood Association, also speaking on
19 behalf of the constituents and our colleagues and
20 compatriots, if you will in the midwater trawl
21 fleet for mackerel.

22 All of those people who have invested
23 time and money and sweat equity into developing
24 this fishery spent most of our time, if not all of

1 our time, on Amendment 14 trying to talk about the
2 options that were deliberative, that were
3 described in the amendment, that actually fulfill
4 the intent of Amendment 14, which is in a timely
5 basis in a timely fashion increase monitoring,
6 increase observer coverage, and do all the other
7 things this amendment does prior to this
8 alternative.

9 So I think, as Erling had put it,
10 delaying the alternatives and the implementation
11 of those that it will increase our knowledge about
12 this fishery and I believe in some fashion
13 vindicate us from what is perceived as a huge
14 problem and a huge impact in the river herring
15 resource. We believe this is going to get you the
16 information to make a better informed decision
17 about what the actual problem is and how to remedy
18 it. Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS: Brad
20 Sool. And then I'm going to come back to the
21 Council. Go ahead Brad.

22 BRAD SOOL: Brad Sool. I'm going to
23 speak very briefly. The amendment laid out an
24 alternative that was to make the decision now to

1 include these species of stocks in the fishery and
2 then embark upon a process with a trailing
3 amendment to put in place the necessary elements
4 for fully managing and conserving these stocks as
5 stocks in the fishery.

6 It was a legally viable alternative.
7 The public was able to comment on it and did. I
8 think the course of action that's expressed in this
9 amendment, this motion is much less legally
10 viable.

11 The public has not commented on it.
12 It's -- you know, essentially kicking the can down
13 the road. And our view is as it is of Earth Justice
14 and the PEW Environment Group and others in the
15 audience is that there's greater political and
16 legal risk now to the course of action embodied in
17 this motion. Thank you.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you Brad. Steven.

20 STEVEN SCHAFER: Thank you, Mr.
21 Chairman. In reflecting on staff's opening
22 comments yesterday in a presentation, I'm reminded
23 that the overwhelming preponderance of
24 constituents and stakeholders are in favor of

1 including these species as stocks in the fishery.
2 Included in that was a letter from 25 U.S.
3 congressmen and women. I believe that should
4 weigh heavily on what's about to happen here.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Peter.

7 PETER HIMCHAK: Yes, Mr. Chairman. I
8 don't understand the problem here. The Council is
9 saying they want stocks in the fishery through a
10 subsequent amendment.

11 To include it in 14, the lazy observer
12 coverage, the bycatch avoidance, and the
13 implementation of the cap. So you're kicking the
14 can down the road to vote them into Amendment 14.
15 That's counter productive to me.

16 COUNCIL CHAIRMAN RICHARD ROBINS: Red.

17 RED MUNDEN: Thank you, Mr. Chairman.
18 I think it's important that shad and river herring
19 be added to the FMP, but based on the advice from
20 NOAA general counsel, I feel like that this is not
21 the time to do it. The motion would allow it to
22 be addressed in Amendment 15, and I support the
23 motion.

24 COUNCIL CHAIRMAN RICHARD MUNDEN:

1 Thank you, Red. Is the Council ready for the
2 question? Howard.

3 HOWARD KING: Thank you, Mr. Chairman.
4 I agree with Red. I support this motion based on
5 advice of our counsel notwithstanding public
6 advice. And this motion to substitute to me
7 doesn't say we might add river herring and shad;
8 it says the Council will add river herring and
9 shad. I'm comfortable with that.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Thank you, Howard. Frank.

12 FRANK BLOUNT: Sorry, Mr. Chairman, but
13 I'm going to go back to something that Joel said.
14 This council's vote today -- and I'm not going to
15 speak in favor or opposed to this motion -- but this
16 vote today about adding them in Amendment 15 you
17 cannot tie the hands of a future council or a future
18 decision.

19 This Council at the next meeting can
20 decide not to do Amendment 15 or to not add them.
21 The vote today does not guarantee that they will
22 or will not be in the next amendment. What this
23 vote says is the Council will be starting an
24 amendment. And even that could be changed at the

1 next meeting.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Well, Frank, I think we are agreeing to initiate
4 the action if the Council in fact votes this
5 substitute motion up. I mean you're correct in
6 that an amendment would include a no action
7 alternative, but again I think we're taking a
8 pretty clear action if it is approved.

9 PRESTON PATE: Call the question, Mr.
10 Chairman.

11

12 (Motion as voted)

13 {Move to substitute: recommend 9a (no action)
14 for Amendment 14 and the Council will begin
15 Amendment 15 to ass RH/S as stocks in the
16 fishery (with EFH, ACLs/AMs, etc.)}

17 COUNCIL CHAIRMAN RICHARD ROBINS: All
18 in favor please raise your hand.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Twelve. Opposed like sign.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Four. Abstentions like sign.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: One.
3 The motion to substitute carries. The substitute
4 motion is now the main motion. All those in favor
5 please raise your hand.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Fifteen. Opposed like sign.

9 (Response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: One.
11 Abstentions like sign.

12 (Response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: One.
14 The motion carries. Thank you. Jason. Mike,
15 tell him happy birthday.

16 MICHAEL LUISI: You saved me a night at
17 a hotel in Baltimore.

18 JASON DIDDEN: So there was -- I have to
19 collect myself here. There was no motion related
20 to industry funding because there were questions
21 about how it could be done.

22 My understanding is that at the current
23 juncture there are three viable alternatives for
24 the Council to pursue. One would be to put forth

1 these recommended funding levels with no industry
2 funding and to see what happens.

3 My understanding is also there's a very
4 high probability that the Service would reject
5 that as they can't implement it. Another one
6 would be to have full industry funding.

7 It's eight or nine hundred dollars a sea
8 day. And then NMFS would still have roughly \$400
9 of administrative costs. They could reject that
10 because they don't have enough money, but I think
11 that's a lower probability. A third option would
12 be to require industry to pay the at-sea portion,
13 independently contract with an observer provider
14 to cover the observer portion of the at-sea
15 portion.

16 The at-sea portion there's some travel
17 costs, some other things in there, and that's about
18 \$625 to \$775 a day that the Science Center projects
19 industry based on scallops would be able to enter
20 into a contractual relationship with an observer
21 provider to do that.

22 Those are the three known possibilities
23 right now that have -- and the latter two have some
24 likelihood of being acceptable to the Region. So

1 I think the Council could choose one of three
2 things for funding.

3 I think there's also a possibility of
4 I'll have a lot to work on in finalizing this
5 amendment. The Council could also request some
6 additional input from the Service working with
7 staff to explore -- you know, are there other
8 funding options available also, come back at a
9 subsequent meeting and take an action on that. I
10 don't think it would substantially delay 14
11 because I'll be working on lots of other stuff to
12 finalize the FEIS. So, I think those are -- as I
13 understand it, those are kind of the four viable
14 options, the three funding things are non funding,
15 funding, funding and then also kind of request more
16 input from staff to figure out are there other
17 options. So I think those are the four options.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Jason, I'm sorry. I was having a sidebar. Can
20 you explain in a little more detail that third
21 funding option. You were talking about the at-sea
22 portion cost.

23 And then would it be possible to convert
24 the original offer that came from industry -- I

1 mean they had offered up to \$325 a day per sea day.
2 Would it be possible to convert that and have them
3 pay a portion of the sea days based on the actual
4 sea day rate?

5 JASON DIDDEN: The Service's input to
6 me has been they don't think so, and that would kind
7 of go into the realm of explore further. But the
8 Center may have additional comments.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Okay. Well, I think one of the points was that the
11 Agency and the industry cannot cost share on the
12 same sea day. I mean that's one of the mechanisms
13 that's not provided for. So I'm wondering could
14 we do it the other way. Could the industry pay for
15 X percent of the sea days at least the sea day
16 portion of the rate. But, Dr. Karr, can you
17 comment on that?

18 WILLIAM KARR: Thank you, Mr. Chairman.
19 Yes. I think that that approach would work. The
20 other one that Jason mentioned with regards to the
21 625 to 775 a day cost, that's based on our
22 experience with the scallop fishery where the
23 industry pays the direct cost directly through a
24 contract with an observer contractor.

1 But in terms of a mechanism for sharing
2 the cost where entire sea days are purchased, I
3 think that there is a way to make that idea work,
4 but it's going to take some investigation.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 George.

7 GEORGE DARCY: Maybe I can help the
8 Council understand what the potential outcomes
9 would be under these different scenarios as I
10 understand it right now. With the motions that
11 you've voted up that are recommending a hundred
12 percent or tiered high levels of observer
13 coverage, without any other source of funding,
14 we'd be pretty limited in what we can do more than
15 what we've already done. We would do whatever we
16 could to increase the levels, but we would be
17 constrained for sure.

18 With the industry paying the contracted
19 price for the at-sea costs of an observer day, we
20 could probably supplement that with our own
21 resources and come up with something that's pretty
22 close to what the Council's recommended, high
23 levels of observer coverage.

24 With something less, like the 325, we'd

1 be somewhere in between. We would try to work out
2 a mechanism to make that work, whatever that is.
3 It's a little bit more complicated. But that
4 should allow us to increase the coverage some but
5 probably not as much as you and we might like.
6 That's the way I see it.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 George, thanks for that clarification. The way I
9 see this we've laid out as a council what sort of
10 monitoring program we'd like to see in effect for
11 this fishery, but the funding aspect of it is still
12 an important component. I think one way forward
13 might be to identify what we think is a desirable
14 outcome but recognize that there's going to have
15 to be significant work done between council staff,
16 the regional office, the Science Center to
17 consider exactly what those mechanisms might be,
18 for example, the requirement to have industry
19 contract with an independent service provider.

20 I mean some of those details aren't fully
21 developed in front of us, but perhaps we could
22 consider identifying what we think is an
23 appropriate or ideal outcome in terms of cost
24 sharing and then see what sort of progress can be

1 made to work out the mechanics of it recognizing
2 that, as George points out, the Agency's resources
3 are going to be budget limited.

4 But we've I think laid out what we want
5 to see in terms of our monitoring program. But I
6 would suggest considering something along those
7 lines. Laurie.

8 LAURIE NOLAN: Thank you, Mr. Chairman.
9 Personally, I think the contribution from industry
10 of 325 a day and somehow calculating what
11 percentage that could represent in the overall
12 observer needs and the monetary needs, I think
13 that's an avenue that I would like to see first if
14 we're going to prioritize this list of options. I
15 think to expect industry to pay the full load is
16 going too far. And the Service certainly can't
17 carry the full load either. So hopefully the 325
18 is meeting somewhere in the middle and will get us
19 closer to the goal of a hundred percent observer
20 coverage on the Tier 1 vessels.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Other discussion by the Council? We did not have
23 a committee motion on this, so we're going to need
24 to give it some thought in terms of how we want to

1 move forward and identify a preferred outcome or
2 preferred alternative for further development by
3 staff and the regional office. Chris.

4 CHRISTOPHER ZEMAN: Is this a motion in
5 terms of like are we considering 5F or 5H? I think
6 5F gets the alternative. Can we consider both 5H
7 and 5F to address this?

8 COUNCIL CHAIRMAN RICHARD ROBINS: I
9 think we're probably in a hybrid mode, but I'll ask
10 Jason.

11 JASON DIDDEN: I believe the Council
12 took action on 5H related to the re-evaluation, so
13 I think we'd be looking for motions related to
14 industry-funded observer coverage.

15 COUNCIL CHAIRMAN RICHARD ROBINS: But,
16 Jason, if we were to try to convert the funds that
17 have been offered -- let's say the rate that had
18 been offered by industry. To Laurie's point, if
19 you took that and essentially grossed it up over
20 the course of the year and then broke it down in
21 terms of the percentage of trips that that would
22 represent or percentage of sea days that would
23 represent and identified that as a targeted
24 outcome, wouldn't that be a hybrid version of the

1 options?

2 JASON DIDDEN: I think so. Again,
3 there's some complicated funding things that may
4 need to be worked out --

5 COUNCIL CHAIRMAN RICHARD ROBINS: I
6 understand.

7 JASON DIDDEN: -- so they could go that
8 route, and there may need to be some follow-up on
9 it.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Laurie.

12 LAURIE NOLAN: Are you still looking
13 for a motion in a priority of which direction we're
14 going to go in at this point to direct staff, or
15 are we going to sit on this and come back to this
16 at the next council meeting?

17 COUNCIL CHAIRMAN RICHARD ROBINS: I
18 think in light of the fact that we're making final
19 recommendations on the amendment, we ought to
20 identify a desired outcome and then have staff
21 engage the regional office and the Center to try
22 to resolve the mechanisms that would be used for
23 the funding. Laurie.

24 LAURIE NOLAN: Okay. Then I would move

1 that staff pursue an alternative, an option, of a
2 contribution of \$325 per fishing day of any vessel
3 participating in the mackerel fishery.

4 We need kind of like a projection to know
5 what kind of money we're talking about. But we're
6 trying to collect \$325 a day from any vessel
7 participating in the mackerel fishery that would
8 then feed into the funds to supply the observer
9 coverage goal.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Is
11 there a second to the motion?

12 (Response.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Second by Pres Pate. George.

15 GEORGE DARCY: Just a point of
16 clarification. I assume you mean by day any day
17 that they're carrying an observer on board or no?

18 LAURIE NOLAN: I actually meant any day
19 they're fishing.

20 GEORGE DARCY: Oh. Okay.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Let
22 me just ask real quick. What about I mean you've
23 got a hundred percent coverage in midwater. I
24 mean your objective is a hundred percent.

1 Then you've got 25 percent on Category
2 C. So is Category C in small mesh bottom trawl
3 boat going to be paying \$325 every day it leaves
4 the dock or every day that he would have a sea day
5 of observer coverage?

6 LAURIE NOLAN: I'm thinking 25 percent
7 of the time he goes fishing. I mean if he's
8 fishing at 25 percent observer coverage level,
9 then every fourth trip technically he should be
10 carrying an observer in Tier 3, and in Tier 2 50
11 percent of the time he would have to cover an
12 observer, so every other time he goes fishing.

13 These guys would have to kick up the
14 contribution to cover the costs attributed to
15 their percentage of observer coverage levels.
16 Everyone has to contribute. You may not be the guy
17 with the observer on board, but everyone has to
18 contribute every fourth trip or every second trip
19 and every trip on a Tier 1 vessel.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Okay. So it would relate back to the sea days that
22 are going to be required. Okay. I think as long
23 as that's clear. Jason, if you can clarify that
24 in the motion that would help.

1 JASON DIDDEN: Question. For the
2 region? Would it be more implementable if you're
3 figuring out, okay, that was a randomly selected
4 fourth trip, and so now you're going to pay \$325
5 a day or make if their coverage on Tier 2 is 50
6 percent, each time they went fishing they would pay
7 \$325 divided by two, and each time the other tier
8 went fishing they would pay \$325 divided by four.
9 I'm just not quite sure what might be more
10 implementable.

11 GEORGE DARCY: I don't know yet either.
12 We've never done anything like this before. And
13 I don't know who would collect the money. And what
14 if somebody doesn't pay? And how does the money
15 flow?

16 I can't answer those questions. I
17 don't think anybody can today. But what you've
18 described there I think actually would result in
19 more funding than just when they're actually
20 carrying an observer day.

21 So that would be better I think in terms
22 of achieving something close to the rates that
23 you've recommended. So I think that's good.

24 COUNCIL CHAIRMAN RICHARD ROBINS: I

1 think the details, Jason, that you raised
2 questions about are things that are going to have
3 to be resolved through interaction between staff
4 and the Regional Office. Frank.

5 FRANK BLOUNT: Just a thought.
6 Couldn't it be that if you're on a sea day, you pay
7 \$81.25 for every day you go, and if you're on a B
8 day, you'd pay -- was it 350 a day,
9 325 -- you'd pay 50 percent of that. So every day you
10 go you're contributing.

11 That just might be one way to do it.
12 Because otherwise it's going to be if I only made
13 three trips, do I have to pay on the first trip or
14 on the fourth trip? Just something to think
15 about. Every trip you go would be proportionate
16 to what the observer coverage should be.

17 COUNCIL CHAIRMAN RICHARD ROBINS: I
18 think we still need a perfection of the motion that
19 reflects the fact that the 325 per day is per
20 required observer sea day essentially. In other
21 words, whether you're in Category C and you're just
22 getting an observer 25 percent of the time or
23 whether you're in Tier 1 and getting a hundred
24 percent. So I just think that needs to be

1 reflected 'cause right now it just says per day
2 contribution. I think you might want to just
3 caveat that and clarify that it's for days in which
4 they're required to have an observer or targeted
5 to have an observer. Go ahead.

6 LAURIE NOLAN: Or in the relation to
7 that percentage of which the tier you're
8 participating in per day.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Warren.

11 WARREN ELLIOTT: I think that Frank's
12 point I mean one way you could do it is Tier 1 would
13 pay 325 every day; Tier 2 would pay 162 every day;
14 and Tier 3 would pay 81 bucks every day, and it just
15 goes into a collective fund to be used for -- so
16 Tier 3 would be paying 25 percent of the fee each
17 day they were out. Tier 2 would be paying 50 percent
18 of the fee. Rather than trying to figure out, you
19 just apply the percentage to the fee.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Yeah. I think we're getting at the same number,
22 and the question is how to perfect the motion.

23 WARREN ELLIOTT: Right. Exactly.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Yeah, you're right. You're right. Jason.

2 JASON DIDDEN: The Council could
3 consider just saying: in proportion for required
4 coverage levels in each tier and then staffs will
5 try to examine what's possible.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
7 enough. Laurie, is that acceptable?

8 LAURIE NOLAN: Yes.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Jason, you want to perfect it as such. Frank.

11 FRANK BLOUNT: Yeah. Just one thing.
12 On the 325 is that something you want to be fixed
13 in an amendment or something that's adjustable in
14 a framework? Something to think about. Or
15 through specs. How do you change the 325 in the
16 future?

17 COUNCIL CHAIRMAN RICHARD ROBINS: It's
18 fair enough. That's something that probably
19 ought to be modified through specifications.
20 Chris.

21 CHRISTOPHER ZEMAN: I would generally
22 feel more comfortable with just a general
23 statement that it's the Council's intent that
24 contribute toward funding of observer coverage to

1 achieve the Council's recommended goal, targets.

2 'Cause I don't have the analysis to sort
3 of go over how that's going to impact various --
4 you know, stakeholders in this fishery. So I
5 don't think we have that right now, do we? I don't
6 think it's in this plan, so I'd prefer just to make
7 a general statement that we intend the industry to
8 contribute. So I'd like to make that as an amended
9 motion.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Laurie.

12 LAURIE NOLAN: Well, I mean that sounds
13 nice, but I think that gets back to kicking the can.
14 You know we're sitting here saying we want observer
15 coverage. We're recommending it.

16 The Service has made it clear that the
17 funds are not there. Industry's come up with this
18 325. I think as an alternative it might be worth
19 just exploring and getting it in writing so that
20 everyone sees the intent.

21 And I'm sure there'll be feedback from
22 that. It was the number that everyone spoke to,
23 and there seemed to be a comfortable level when the
24 offering of 325 came out.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Jason.

3 JASON DIDDEN: I was unclear if the
4 maker of the motion wanted to specify that such
5 amounts would be able to be changed and specified
6 in the specifications.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Laurie.

9 LAURIE NOLAN: Yes.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Is
11 that acceptable to the seconder of the motion?

12 PRESTON PATE: Yes.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Thank you, Pres. Further discussion on the
15 motion?

16 (No response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: Is
18 there any public comment on the motion? Patrick.

19 PATRICK PARQUETTE: Thank you, Mr.
20 Chairman. I'm pretty sure that we're -- well,
21 actually, I know that there was no specific numbers
22 in the alternative that went to the public that we
23 commented on.

24 In this \$325 number -- and you got to

1 appreciate that industry comes to the table with
2 anything -- I'd ask the Council to consider that
3 in any negotiation or discussion about price -- you
4 know, it's often lower than you're willing to go,
5 first of all. And to this moment, I haven't see
6 either New England or here even come up with -- if
7 you're negotiating with industry 'cause it wasn't
8 in the DEIS, it's not necessarily based on the
9 reports that this Council has received from the
10 Observer Program during development of this
11 amendment, you're negotiating outside of the EIS
12 it appears with industry.

13 Of course you've got to try and accept
14 when industry comes to the table, but I would
15 suggest to you that industry's willing to pay more
16 'cause this is still their initial offer.

17 Secondly, I think that if you look at the
18 public comment, I think you're going to find out
19 that the bulk of the public comment was we want
20 industry to pay the difference between when NMFS
21 runs out of their allocated sea days and the
22 hundred percent.

23 And I think that the alternative that
24 was in the document that received the most public

1 comments was a much cleaner thing, and I think that
2 it actually did that, suggested that.

3 This getting into specific numbers not
4 necessarily based on actual cost I think is going
5 to put us in a place where we're not going to be
6 achieving anything, or we're going to be achieving
7 very little because you don't even have the details
8 of this. And I do agree with Laurie that this is
9 -- I believe this whole thing is end up kicking it
10 down the road 'cause I think you're based on some
11 things that haven't been analyzed.

12 And the public's clear. To operate the
13 industrial-sized vessels, we want them observed at
14 a hundred percent, and our concern is that once the
15 government can't pay that then it should be the
16 cost of doing business.

17 I'm pretty sure that every recreational
18 angler on the East Coast has to participate in some
19 sort of a program whether their state's paying for
20 it or they're paying for it to access their
21 resource.

22 So it's like I think you need to really
23 take a look at where this 325 is coming from 'cause
24 it doesn't make half of what the Observer Program

1 reported to the Council.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Thank you. Back to the Council. Is the Council
4 ready for the question? Jason.

5 JASON DIDDEN: Is there a second?

6 COUNCIL CHAIRMAN RICHARD ROBINS: Yes.
7 Pres Pate. Laurie, do you mind reading the motion
8 into the record now that it's been perfected.

9 LAURIE NOLAN: I move that staff pursue
10 an option of a \$325 per day contribution of any
11 vessel participating in the mackerel fishery that
12 would fund the previously specified observer goals
13 in proportion for required coverage levels for
14 each tier. The amounts would be modifiable in
15 specifications.

16 JASON DIDDEN: Would you like to change
17 proportion for to proportion to?

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Laurie, I would suggest that we recommend that as
20 our recommendation to the Agency for development
21 by the staff and the Agency.

22 In other words, if this is coming out the
23 Amendment 14 set of recommendations to the Agency,
24 I think it ought to be couched as a recommendation

1 recognizing that staff is going to have to work
2 with the Regional Office and Center. So if that's
3 acceptable to you as the maker of the motion.

4 LAURIE NOLAN: Yes.

5 COUNCIL CHAIRMAN RICHARD ROBINS: And
6 the seconder. Okay. Jason, can you perfect it?
7 Thank you. Chris.

8 CHRISTOPHER ZEMAN: I just don't
9 understand what that means by participating in the
10 mackerel fishery. Does that mean catching one
11 mackerel? Does that mean -- I think you intend to
12 mean just commercial vessels, but that's not
13 clear. And a lot of our prior motions have a sort
14 of catch level tied to the alternative and the
15 requirement for coverage.

16 So, to be consistent with our prior
17 alternatives, I think we should add something in
18 here, something like -- you know, any vessel
19 landing more than 20,000 pounds or some sort of
20 catch limit so that someone that's just
21 incidentally catching mackerel is not tied into
22 this.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Jason, go ahead.

1 JASON DIDDEN: It says previously
2 specified observer goals, and those are all tied
3 to 20,000 pounds, so I think if there are no further
4 changes, it would be understood that it would be
5 related to 20,000.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
7 enough. All right. Is the Council ready for the
8 question?

9 (Motion as voted.)

10 {Move to recommend to NMFS a preferred
11 alternative of \$325 per day contribution of
12 any vessel participating in the mackerel
13 fishery that would fund the previous specified
14 observer goals in proportion to required
15 coverage levels for each Tier. The amounts
16 would be modifiable in specifications.}

17 COUNCIL CHAIRMAN RICHARD ROBINS: All
18 those in favor please raise your hand.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Twelve. Opposed like sign.

22 (No response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Abstentions like sign.

1 (Response.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 George, is the Service abstaining? I'm sorry.

4 GEORGE DARCY: Yes. I'm sorry.

5 COUNCIL CHAIRMAN RICHARD ROBINS: Two
6 abstentions. Didn't want to miss it. Okay. The
7 motion carries. Thank you. Jason, what other
8 action items do you have for us within 14?

9 JASON DIDDEN: The Committee moved to
10 recommend to the Council under Alternative Set 6,
11 Mortality Cap 6F as preferred. The cap to be
12 determined after the implementation of Amendment
13 14 where the SSC will be able to review the accuracy
14 of the estimates of river herring -- wait. Hold
15 on for a second. Sorry.

16 COUNCIL CHAIRMAN RICHARD ROBINS: You
17 have a substitute.

18 JASON DIDDEN: Yeah. There was a
19 substitute. So the Committee substituted, and it
20 was the main motion and a passed: move to
21 recommend Alternative 6B, 6C and 6F as preferred.
22 And 6B is a cap on river herring in the mackerel
23 fishery. 6C is a mortality cap for shads in the
24 mackerel fishery. And 6F is also adding that

1 mortality caps can be frameworked.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Jason, before we discuss the motion, Joel had a
4 comment. Joel.

5 JOEL MACDONALD: Thank you, Mr.
6 Chairman. It was a comment related to the
7 development of a program for industry contribution
8 to the payment of observer costs.

9 What I was thinking is that since we
10 don't have a program developed right now and it's
11 going to take some time, that the amendment has
12 some text in there, Jason, that would describe what
13 we intend to do, what we intend to look at with
14 respect to -- you know, coming up with observer
15 cost contribution from the industry and then as a
16 placeholder put that concept in the framework
17 section so that we have the ability once we develop
18 the program to implement it through a framework.

19 It just seems to complete that thought.
20 'Cause otherwise, how would we implement the
21 program once we do it? I mean if you're talking
22 about doing it through the specification process,
23 you'd have to put some sort of provision in the
24 specifications that would allow you to do that, the

1 same as with the framework. I'm not sure what the
2 Council intent here is. Obviously, it's easier to
3 do it through the specification process than a
4 framework. Well, maybe not that much easier.

5 I mean you'd need the same level of
6 analysis. But it's something to think about.
7 I'm just thinking down the road. I mean we don't
8 have the information right now, and so you have to
9 look in the future as to, okay, when we get the
10 information, how do we put this in place, and
11 what's the Council's pleasure here -- to do it
12 through specs or framework?

13 COUNCIL CHAIRMAN RICHARD ROBINS: If we
14 can do it through specifications process, that's
15 the easier way to do it. We had already said that
16 we wanted the dollar figure to be adjustable
17 through specifications.

18 So I would think that any other
19 programmatic elements or details ideally would be
20 done in the same way. Assuming that they're not
21 so dramatically different from what we've
22 considered, they'd have to be done through a
23 framework. Is that fair?

24 JOEL MACDONALD: Right. We just have

1 to be specific developing the language a little in
2 the specification. Typically, when you go
3 through specifications, there's a litany of things
4 that you can change, and you have to put in there
5 the prospect of establishing -- you know, observer
6 contribution program on the part of the industry
7 so that it's clear that when the specification
8 process rolls around and we have the information
9 to do this that we can do it through that process;
10 otherwise, we're going to be dead in the water.
11 But I would recommend that we at least do that.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 George.

14 GEORGE DARCY: I'd just like to ask for
15 some clarification so that I understand this. So
16 what we would be doing in this amendment would be
17 approving an industry funded observer program but
18 not actually implement the details of it in this
19 action.

20 JOEL MACDONALD: That's correct.

21 GEORGE DARCY: There would be a
22 follow-up action through specifications that
23 would actually do the implementation. Okay.
24 Thank you.

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Joel, I would just ask the Council then if we could
3 do that by consent without objection. If there is
4 no objection, we'll plan on doing that. Thank
5 you. Jason. We have the committee motion.

6 JASON DIDDEN: Back to the mortality
7 caps, 6B, 6C, and 6F.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Right.
9 This would impose a mortality cap. So we had the
10 committee motion. Discussion on the motion?
11 Peter Himchak.

12 PETER HIMCHAK: Yes. The
13 implementation of Amendment 14 would be in 2013,
14 correct, so the cap would be developed during 2013
15 for implementation in 2014? Do I have my dates
16 correct?

17 JASON DIDDEN: Absent some other
18 action, I think the cap would be developed in late
19 2012/early 2013 for implementation in 2014,
20 January 1, 2014.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Peter.

23 PETER HIMCHAK: Yes. I'm very
24 supportive of the bycatch avoidance project and a

1 cap on river herring and shad, but, again -- and
2 I had the original motion. It did not succeed at
3 the committee level. Again, I just need to
4 reiterate that Alternatives 1 through 5 address a
5 problem where the data may be insufficient to
6 reliably come up with a cap estimate, and I realize
7 -- the perception on the magnitude of the bycatch
8 is huge, and the cap can be very restrictive. I
9 expect it to be very restrictive in 2014.

10 So am I kicking the can down the road?
11 Yes, I am on this one. And I'm saying that the
12 observer coverage has to be able to operate with
13 the bycatch avoidance project and come up with more
14 accurate levels to base a cap on because a lot of
15 people could be put out of business on this.

16 And, again, we have the complication of
17 a cap. Will it or will it not include the herring
18 fishery? Is it going to be a cap for all fisheries
19 combined? I think the cap -- and I'm prepared to
20 offer a substitute motion on this issue. But just
21 wanted to know if there's any support on this.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Well, we had that debate at the committee level,
24 and we can entertain an amendment or substitute

1 motion here. I guess I would ask if we didn't have
2 a mortality cap or the other measures fully
3 responsive to one of the earlier objectives of the
4 amendment that was described as reducing river
5 herring and shad bycatch. I think the one
6 program, the SMASS program is designed to do that,
7 but I think this is sort of where the parameters
8 come into place in terms of defining some of the
9 management objectives. But, anyway, if you have
10 a motion you'd like to make.

11 PETER HIMCHAK: Well, I would move to
12 recommend Preferred Alternative 6F with a cap to
13 be determined following the implementation of
14 Amendment 14 through a framework action using
15 better more reliable estimates of river herring
16 and shad bycatch levels.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Is
18 there a second to the motion?

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Second by Laurie. Discussion on the motion to
22 substitute? Howard.

23 HOWARD KING: Yeah. Worthy though it
24 may sound, I just can't support that. I feel as

1 though a cap can be set, as I said at the committee
2 meeting, based on current estimates which
3 admittedly are not all that precise, but to prevent
4 expansion of the river herring and shad catch in
5 the big fisheries and over time to reduce them. So
6 I can't support this substitute.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Thank you. Further discussion by the Council?

9 (No response.)

10 COUNCIL CHAIRMAN RICHARD ROBINS: Is
11 the Council ready for the question?

12 (Motion as voted.)

13 {Move to substitute to recommend 6f to
14 implement a cap through a future framework
15 action when better information is available.}

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Motion to substitute to recommend 6F to implement
18 a cap through a future framework action when better
19 information is available. All those in favor
20 please raise your hand.

21 (Response.)

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Five. Opposed like sign.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:
2 Nine. The motion fails. We're back to the
3 committee motion. Is the Council ready for the
4 question?

5 (Motion as voted.)
6 {Move to recommend to NMFS alternatives 6b,
7 6c, and 6f as preferred.}

8 COUNCIL CHAIRMAN RICHARD ROBINS: All
9 those in favor please raise your hand.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: Ten.
12 Opposed like sign.

13 (Response.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Three. Abstentions like sign.

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: One
18 abstention. The motion carries. Thank you.
19 Jason.

20 JASON DIDDEN: The next committee
21 motion was: Move to recommend to the Council
22 Alternative Set 7A, which is no action for
23 Alternative Set 7. This was larger area closures.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Committee motion's before the Council. What's
2 the preference of the Council? Do we need to
3 perfect it as a recommendation to the Agency if
4 that's the Council's intent? Chris.

5 CHRISTOPHER ZEMAN: Can we just zoom
6 that out. I can't read that.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 How's that? What's the pleasure of the Council?
9 Laurie.

10 LAURIE NOLAN: To move to recommend to
11 NMFS Alternative 7A, no action for Alternative Set
12 7.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Is
14 there a second to the motion?

15 (Response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Second by Erling. Is the Council ready for the
18 question?

19 (Motion as voted.)

20 {Move to recommend to NMFS Alternative 7a (no
21 action) for Alternative Set 7.}

22 COUNCIL CHAIRMAN RICHARD ROBINS: All
23 those in favor please raise your hand.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Fifteen. Opposed like sign.

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Abstentions like sign.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: One

8 abstention. Jason.

9 JASON DIDDEN: The next one that passes
10 was to move for Alternatives Set 8 for committee
11 to recommend Alternative 8B, which is
12 frameworkability for hot spots to the Council.
13 The hot spots are Amendment 5's protection or
14 monitoring areas are the smaller areas as
15 described in the document.

16 COUNCIL CHAIRMAN RICHARD ROBINS: What's
17 the pleasure of the Council? Laurie.

18 LAURIE NOLAN: I'm not supportive of a
19 hot spot method to regulate the fishery. I think
20 we've got a cap. I think we've got the fleet
21 communicating with one another for avoidance.
22 But at the same time, I think I will support this
23 right now because we're not implementing it at this
24 time; we're keeping it in the box of tools so that

1 we can use this as a tool later on in a framework
2 action if for some reason the data says this is the
3 way to go.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Thank you, Laurie. Further discussion? Peter.

6 PETER HIMCHAK: Yeah. I just add I
7 mean a clearly defined hot spot is definitely a
8 candidate for closure. I support the motion.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Okay. Chris.

11 CHRISTOPHER ZEMAN: Yeah. If I may,
12 Jason, can you put up that SMASS data, the 2011
13 river herring catch data. I still think this
14 council should look at implementing these hot spot
15 options now for the benefit of the fishery because
16 that will prevent exceedance of a cap which would
17 then lead to the shutdown of the entire sector of
18 that fishery.

19 And I think these hot spot measures can
20 be ways to actually make sure that we don't exceed
21 that cap, and this is why: And if you look at this
22 -- if you could zoom that out a little more -- but
23 what we're looking at here is the SMASS data for
24 2011. And this it's hard to see, but that's the

1 New York Bight, and the contours on the bottom --
2 you can see the contours -- that's the Hudson
3 Canyon the submerged portion of it. Can everyone
4 see that?

5 I guess going out to the hundred meter
6 -- I'm guessing it's the hundred meter line. But
7 you can clearly see that -- and what this is
8 representing -- I should go back up again, please.

9 What this is representing is biweekly
10 data of river herring catches in midwater trawls
11 that participated in the SMASS fishery -- or I'm
12 sorry -- study. And so if you look at the top left
13 box, what you see there is you see the reports.

14 There's a number of herring bycatch
15 reports by grid square, and you'll see that in that
16 first week, and that's February 1st, is that you
17 see some catches, minor catches of river herring.
18 And if you would make a general analysis here that
19 the higher catches are in the submerged river
20 channel of the Hudson River, the canyon.

21 The next grid, top right, shows the
22 number of herring trips two weeks later -- I'm
23 sorry -- the number of river herring catches two
24 weeks later. And you're seeing that the moderate

1 and now we're seeing high catches of river herring
2 directly coincide with the Hudson Canyon, the
3 submerged channel, river channel. As you
4 progress forward, now we're looking at the bottom
5 left map.

6 We're looking at this is now March,
7 March 2nd. And the results show again what we're
8 seeing is a very clear correlation of very high
9 river herring bycatch catches in trips that
10 directly coincide with that channel.

11 And the final bottom right is April 1st.
12 Now we're really seeing sort of the progression of
13 that river herring run moving up that channel up
14 the river.

15 And so I think it would be pretty easy
16 to believe that that will likely happen each and
17 every year because these river herring are
18 basically sensing the fresh water, which is
19 colder. It's dropping down. It's following that
20 river channel. They're probably migrating up
21 that channel.

22 So the arguments that we've heard that
23 sort of limit the benefits of this option, the FMAT
24 recommendations, I can't agree with those in cases

1 where we see very clear examples of bycatch related
2 to sort of topographical features and the river
3 contours. The FMAT is probably correct that the
4 variability is very great as you move outside from
5 the mouth of that river, but I have to believe that
6 that variability drops to a very low percentage as
7 you get closer to that river mouth.

8 And this is February. I think 10 of
9 these trips amounted to 80 percent of the river
10 herring bycatch. Those are the areas marked in
11 red. So what we're seeing here is that this is all
12 happening in the early part of the year.

13 Let's say the herring, mackerel fishery
14 opens up January 1st. And we're looking at a real
15 potential for major river herring bycatch right at
16 the outset of the year that can lead to a very early
17 shutdown of the cap.

18 And Dave Pierce made the same comment.
19 I'm not as familiar with the New England data, but
20 if you go to the next page, if you go to page 11
21 or 56 -- I think it's double marked -- if you go
22 to the New England data, what you'll see there is
23 one tow on the back side of the Cape. It's way off
24 in the corner, top right. Whereas, that's a

1 50,000 pound catch of river herring. And, again,
2 it's close to shore. It's probably where they're
3 setting up to go start the run. That's January.
4 So we're looking at a real risk here of having major
5 river herring bycatch in the beginning of a year.
6 That may shut that cap down prematurely if we don't
7 take any action to sort of avoid that.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Chris, do you have a specific recommendation for
10 consideration by the Council?

11 CHRISTOPHER ZEMAN: Yes. My
12 recommendation would be to amend that option and
13 to consider Alternative E mackerel and at a minimum
14 to require that a hundred percent observer
15 coverage in those areas so that we're avoiding that
16 bycatch.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Motion to amend. Is there a second to the motion?

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS: Is
21 there a second to the motion? John McMurray.
22 When it says move to recommend 8E Areas, is that
23 closure of the 8E Areas?

24 CHRISTOPHER ZEMAN: Yeah. That would

1 be it really would go to the midwater trawls, which
2 is 75 percent of the problem here. It's observer
3 herring bycatch I mean as I understand it. And
4 that's quarter one. That's the Mid-Atlantic.
5 Virtually all of the known interactions are
6 occurring in that quarter, Quarter 1 in that
7 statistical area, 612. That's really the core of
8 the Mid-Atlantic problem, that area in those
9 months.

10 JASON DIDDEN: Just a question. You
11 had mentioned something about a hundred percent
12 observer coverage. Was there closure in that area
13 or a hundred percent --

14 CHRISTOPHER ZEMAN: Again, I'm
15 throwing out with a different option here, and I'd
16 be willing to sort of consider each of those. But
17 if the Council's not comfortable with 8E, then I
18 would say as an alternative then we go with the
19 option that requires a hundred percent observer
20 coverage in those areas.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Well, Chris you need to clarify your motion as to
23 whether you want 8E or whether you want a hundred
24 percent observer coverage in those areas. So

1 please clarify the motion.

2 CHRISTOPHER ZEMAN: I would start to go
3 with move to amend to recommend 8E, Alternative 8E.

4 COUNCIL CHAIRMAN RICHARD ROBINS: Is
5 that modification acceptable to the seconder of
6 the motion?

7 CHRISTOPHER ZEMAN: Probably not.

8 JOHN MCMURRAY: Yes.

9 COUNCIL CHAIRMAN RICHARD ROBINS: So the
10 motion to amend. Jason, can you describe 8E as
11 it's in the document.

12 JASON DIDDEN: Yes. So 8E is vessels
13 possessing federal mackerel permit would not be
14 able to retain, possess, transfer more than 20,000
15 pounds of mackerel while in a river herring
16 protection area unless no mesh smaller than 5.5
17 inches is on board the vessel.

18 And so the river herring protection
19 areas they vary by month. And they start on page
20 184 of the DEIS and -- hold on for one second. I
21 just want to make sure I'm getting this right.

22 Okay. Sorry. So the protection areas
23 they vary by month, and you can see January,
24 February on page 179. There are areas some in

1 Hudson Canyon, some south of Rhode Island, the one
2 off of the Cape. That's January/February.

3 And then March/April they move to the
4 two that are off New Jersey and south of Long
5 Island. There are none in May/June, none in
6 July/August. And September/October and
7 November/December they have ones that are more
8 northerly.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Discussion on the motion to amend? Howard.

11 HOWARD KING: I certainly agree that we
12 need observer coverage in those areas. I don't
13 agree with adopting 8E at this time. But I wanted
14 to ask in that statistical area near Cape Cod where
15 the 50,000 pounds were taken, was that a mackerel
16 trip or a herring trip do you know? And how would
17 this affect the herring fishery if we implemented
18 this, if at all?

19 CHRISTOPHER ZEMAN: Again, I see that
20 as kind of a mixed fishery. I don't know if it was
21 mackerel or herring. I wish Dave Pierce was here.
22 I think he'd be a lot more familiar with that area.
23 I'm more familiar with the New York Bight area.

24 COUNCIL CHAIRMAN RICHARD ROBINS: The

1 other thing -- this motion doesn't go to the
2 observer coverage I guess, but we've already
3 recommended a hundred percent observer coverage
4 for the midwater trawl fleet regardless of where
5 they're operating as long as they're catching
6 volumes of mackerel. Laurie.

7 LAURIE NOLAN: Thank you, Mr. Chairman.
8 I read things like unlikely to effectively
9 minimize the bycatch of river herring due to
10 variability, distribution of river herring. In
11 fact, it could cause more bycatch by redirecting
12 effort. Fish swim, and what happened last year in
13 January, February and March -- you know, things
14 change. And I can't support this.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Chris, I think one other point about the
17 relationship with a hot spot approach to the cap
18 and the bycatch avoidance program we had that
19 presentation before the Council perhaps two or
20 three meetings ago about the results that you've
21 reference here on that bycatch avoidance program.

22 I would anticipate that if we move
23 forward with the cap that we've recommended and
24 that program, that there are going to be pretty

1 strong incentives to avoid areas that are hot.

2 And to the extent that the walls of the
3 Hudson might fall into that category on a seasonal
4 basis, obviously it would be in the industry's
5 interest to avoid those areas. I mean I
6 appreciate the concern about the Hudson. We do
7 see it in the analyses. But I would think that
8 that information's going to be available through
9 the bycatch avoidance program, and the cap ought
10 to provide a pretty strong incentive.

11 CHRISTOPHER ZEMAN: I don't know if I
12 can do this, but I would consider a friendly
13 amendment if we then change this Alternative 8E to
14 8C, which would then require a hundred percent
15 observer coverage in those areas.

16 And the basis for that is this: Is that
17 I don't expect to see that we get a hundred percent
18 observer coverage in the entire area for the entire
19 fishery. So this would be a priority area that
20 should get a hundred percent coverage if we do not
21 get a hundred percent coverage for the entire
22 fishery.

23 COUNCIL CHAIRMAN RICHARD ROBINS: Is
24 that modification acceptable to the seconder of

1 the motion, too?

2 JOHN MCMURRAY: Yes, it is.

3 COUNCIL CHAIRMAN RICHARD ROBINS:
4 Okay. Further discussion on the motion? Jason.

5 JASON DIDDEN: So 8E was the protection
6 areas. Are you saying 8C for the monitoring areas
7 or 8C as modified only to apply to the smaller
8 protection areas?

9 CHRISTOPHER ZEMAN: Can you show me --
10 I know the monitoring areas are much larger. So
11 I'd be fine with the protection areas at the
12 outset. I would like the option to change that
13 through specifications if possible.

14 COUNCIL CHAIRMAN RICHARD ROBINS: Is
15 that your motion as perfected?

16 CHRISTOPHER ZEMAN: Yes.

17 COUNCIL CHAIRMAN RICHARD ROBINS: Does
18 the seconder agree? Further discussion on the
19 motion? George, can the Regional Office comment
20 on if we have a hundred percent observer
21 requirement in the fleet as a whole versus this one
22 essential management area how they might relate to
23 each other if funding were limited?

24 GEORGE DARCY: Well, if we truly had a

1 hundred percent, this wouldn't be an issue at all.
2 But given that we're not likely to have that, I
3 would assume that we would consider this to be a
4 priority over the general coverage.

5 But whether we would be able to do it for
6 this area I couldn't say. I mean that's a question
7 for the Center. But I don't think we can probably
8 answer that today.

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

11 (No response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 the Council ready for the question?

14 (Motion as voted.)

15 {Move to substitute to recommend 8cMack as
16 modified such that 100% observer coverage
17 would be required in the protection areas,
18 modifiable via specifications and also
19 frameworkable to create or modify such area
20 (8b), to NMFS as preferred.}

21 COUNCIL CHAIRMAN RICHARD ROBINS: All
22 those in favor of the motion to amend please raise
23 your hand.

24 (Response.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Eight. Opposed like sign.

3 (Response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Six.

5 Abstentions like sign.

6 (Response.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: One.

8 The motion carries. Motion is now amended. It is
9 now the main motion. So, Jason, that was a motion
10 to amend, so the frameworkability would still be
11 preserved.

12 Jason, wasn't the frameworkability
13 broader in the original motion that came from the
14 Committee than just this protection area? Can you
15 review that. Greg, while he's working on that, do
16 you have a question or a comment?

17 GREGORY DIDOMENICO: I do not support
18 of approach for this problem for several reasons.
19 One, consistency. Three years ago or at least
20 three years ago we had the same exact conversation
21 about Amendment 10. And, in fact, we decided to
22 leave in -- at the last moment, we decided to put
23 back in options about square boxes, trying to fix
24 a problem that we cannot predict right now

1 scientifically or practically.

2 To depart from the Council's approach on
3 butterfish and to start to go back to square box
4 management and calendar day management is a big
5 mistake. It's contrary to your approach
6 (inaudible) butterfish. I don't think it applies
7 here.

8 It can still remain in the document. As
9 a matter of fact, it was Lee who added the issue
10 of GRAs back into the document in Amendment 10. So
11 I would like you to consider if it's still an option
12 at a later time, that's acceptable.

13 But at this time, this is not justified,
14 and it's another additional burden that I don't
15 think it going to bring about any positive impacts
16 to reduce river herring bycatch. Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS: So
18 we're back to the main motion as amended. Jason,
19 can you go back to the top of it so we can see the
20 whole thing. Move to recommend 8C is modified
21 such that a hundred percent observer coverage
22 would be required in the protection areas,
23 modifiable via specifications, and also framework
24 would create or modify such areas under 8B to

1 National Marine Fishery Service's preferred.

2 Further discussion on the motion? Chris.

3 CHRISTOPHER ZEMAN: It's really more of
4 a clarification. This amendment was originally
5 8E Mack, and we switched it to 8C. But I'm
6 thinking that we should be going with 8C Mack, not
7 just 8C 'cause we just expand that for longfin. So
8 I think the intent of this motion is amendment to
9 8C Mack.

10 COUNCIL CHAIRMAN RICHARD ROBINS: Is
11 that agreeable to the seconder? Ask for some
12 earlier clarification. Okay. Is the Council
13 ready for the question?

14 COUNCIL CHAIRMAN RICHARD ROBINS: All
15 in favor please raise your hand.

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: Six.
18 Opposed like sign.

19 (Response.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Eight. Abstentions.

22 (Response.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: One.
24 The motion fails for lack of majority. All right.

1 Where do you want to go with Section 8? Peter.

2 PETER deFUR: Thank you, Mr. Chairman.

3 I move that we recommend Option 8B for
4 implementation by NMFS which was make implementing
5 the hot spot requirements of the New England
6 Fishery Management Council's Amendment 5 to the
7 Atlantic Herring Plan frameworkable for mackerel
8 and longfin squid vessels.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there a second to the motion?

11 (Response.)

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Second by Peter Himchak. Thank you. Discussion
14 on the motion?

15 (No response.)

16 COUNCIL CHAIRMAN RICHARD ROBINS: Is
17 the Council ready for the question? I'll let
18 Jason get it up on the board. 8B I believe Jason.
19 Is that your motion, Peter?

20 PETER deFUR: That's the motion.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Is
22 the Council ready for the question?

23 (Motion as voted.)

24 {Move to recommend option 8b, making hotspots

1 (per NEFMC Amd 5) frameworkable.}

2 COUNCIL CHAIRMAN RICHARD ROBINS: All
3 those in favor please raise your hand.

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Fourteen. Opposed like sign.

7 (No response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Abstentions like sign.

10 (Response.)

11 COUNCIL CHAIRMAN RICHARD ROBINS: One
12 abstention. The motion carries. Thank you.
13 Jason.

14 JASON DIDDEN: Since the stock in the
15 fishery issue has been addressed, I think we're
16 done.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Thank you. We still need to make a final motion
19 as a council to recommend the preferred
20 alternatives to the Secretary for Amendment 14, to
21 submit Amendment 14 for approval. Steve Schafer.

22 STEVEN SCHAFER: Mr. Chairman, I'd like
23 to make that motion as you stated.

24 COUNCIL CHAIRMAN RICHARD ROBINS: Is

1 in favor please raise your hand.

2 (Response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Fourteen. Opposed like sign.

5 (No response.)

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Abstentions like sign.

8 (Response.)

9 COUNCIL CHAIRMAN RICHARD ROBINS: One
10 abstention. The motion carries. Thank you.
11 Jason, is there anything else under Amendment 14
12 to consider? That's it. What's your indulgence?
13 We have two very brief presentations that follow
14 this.

15 I would suggest that we go ahead and get
16 those done before we adjourn. And one is a
17 presentation from the Social Science Group at the
18 Northeast Fisheries Science Center. Matt, are
19 you going to handle that? Great. Thank you.

20 PETER deFUR: You have a question in the
21 audience.

22 KRISTEN: Thank you, Mr. Chairman.

23 COUNCIL CHAIRMAN RICHARD ROBINS: I'm
24 sorry. If you can hold on one second. I had a

1 question from a member of the audience. Kristen.

2 KRISTEN: Thank you, Mr. Chairman. We
3 seem to have had a mass exodus of the council
4 members. But I just wanted to take a really quick
5 moment and thank the Council and the council
6 members for all of its hard work and dedication to
7 getting this done this week and passing the
8 strongest conservation management measures that
9 it seems able to do this week. You know, this is
10 certainly not an issue. It's been going on for a
11 really long time. River herring and shad are in
12 need of conservation management on the federal
13 level.

14 And so, once again, we'd like to thank
15 the Council for doing so. And I recognize for
16 those council members that felt it was really
17 difficult to go against NOAA general counsel
18 advice and agency advice; however, we would just
19 like to reiterate the sentiment we expressed in our
20 letter to the Regional Office in response to their
21 letter to the Council.

22 We still remain really disappointed
23 that NMFS did not express some of the objections
24 that they decided to raise here today until after

1 the public comment period and after a significant
2 amount of time had gone by in the development of
3 Amendment 14.

4 Many of those alternatives remained
5 unchanged since the inception of this amendment
6 and also particularly since you guys sent this out
7 for public comment back in October if I'm correct.
8 So, once again, we thank the council members. But
9 we are a little disappointed that NMFS didn't raise
10 some of these issues in alternatives where the
11 language remained absolutely unchanged for a very
12 long time. And we look forward to the development
13 of Amendment 15. Thank you.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thank you, Kristen. Okay. Turn the microphone
16 on, please. Thank you.

17

18 NATIONAL STANDARD 1 GUIDELINES

19 TAMMY MURPHY: Thank you, Mr. Chairman.
20 My name is Tammy Murphy. I'm with the Social
21 Sciences Branch of the Northeast Fisheries Science
22 Center. I'm here today to tell you about two new
23 data collection initiatives that the branch is
24 going forward with this summer.

1 These data collection initiatives are
2 prompted by our performance measures program that
3 the branch initiated. I have a presentation that
4 was put together for this. I'll let you refer to
5 that so that I can keep my remarks brief.

6 But the five fishery performance
7 measures that we developed are: financial
8 viability, distributional outcomes, stewardship,
9 governance, and wellbeing.

10 Based on that and the desire to have more
11 socioeconomic information included in FMPs for
12 analysis and also following up on the
13 recommendation from the Touchstone report to ramp
14 up the collection of socioeconomic data, we're
15 launching two data collection initiatives. One
16 is a socioeconomic survey of vessel owners and
17 vessel crew members in the Northeast and
18 Mid-Atlantic.

19 This survey is split. The owners will
20 receive a survey in July, and the crew members will
21 be interviewed over the next year on the docks
22 using an intercept approach.

23 This is really designed to support data
24 collection for the development of performance

1 have is the vessel annual coast survey of the
2 Northeast vessel owners, commercial. This will
3 be mailed out in July as well. It will go to 1700
4 vessel owners in the Northeast.

5 And the purpose of this survey is to
6 supplement the data that we get on trip costs from
7 the observers. We get data on things like ice,
8 bait, etcetera, but we don't have a good measure
9 of the annual cost associated with running a
10 business, so, for example, crew payments, vessel
11 insurance, office expenses, etcetera.

12 So we're really trying to capture that
13 total cost associated with running that fishing
14 business. And, again, this is to provide more
15 rigorous data to develop our financial viability
16 and distributional outcomes performance measures.
17 So we will again be putting out a groundfish report
18 from the branch, and we're also hoping to put out
19 a monkfish performance report this year. And I'm
20 here today just to let you know that these survey
21 efforts are going on.

22 We've engaged in a lot of outreach.
23 We've been to talk to the commercial fisheries
24 research foundation of Rhode Island, the Northeast

1 Seafood Coalition. We'll also be talking to the
2 New England Fishery Management Council next week,
3 and we're trying hard to really engage with the
4 stakeholders.

5 We're also trying to be more accountable
6 in terms of how this data is used. One things
7 we've heard a lot from fishermen is that they fill
8 out all this paperwork, and they have no idea how
9 it actually feeds into the process.

10 So we are actually launching a new
11 website this summer, and we will be updating the
12 data monthly as it rolls in and also providing
13 links to the reports in which the data is used.

14 So, again, we're really trying to reach
15 out, and we'd appreciate any suggestions with
16 respect to that. And I can follow up with you
17 anyone interested off line. Thank you.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you very much. And I think, as you're all
20 aware, we've just come through the data collection
21 phase of our visioning project. The report for
22 that data collection is now available on our
23 website.

24 And we heard a lot about economic issues

1 in the course of surveying a lot of the
2 constituents in the region. We had about 2500
3 total surveys. We also met with hundreds of
4 individuals in small group meetings.

5 And so, in the appendices to that
6 report, you'll find the summaries of small group
7 meetings, and you'll hear I think a lot and see a
8 lot of information in there about economics and
9 economic viability and concerns about that.

10 So I would suggest that you collaborate
11 with our staff to mine some of that data because
12 I think we just completed that. It was a massive
13 data collection project. And hopefully, you can
14 glean some information out of that that will be
15 useful for your project as well.

16 TAMMY MURPHY: Thank you, Mr. Chairman.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Absolutely. Are there any questions? Okay.
19 Thank you very much. And Jim Lovgren had a
20 brief presentation for us as well. Jim. Jim, I
21 apologize for the fast pace here. Our agenda got
22 trashed --

23 JAMES LOVGREN: I understand. I've
24 been here, and I know how it goes. I appreciate the

1 Council's concern here. We are Clean Ocean
2 Action. We are going to hold off on our
3 presentation on a clean ocean zone from this
4 council meeting and push it back. Long Branch is
5 only 10 miles away from our headquarters there.

6 And this isn't a specifically timely
7 issue. The timely issue that does relate to the
8 clean ocean zone which is basically a prohibition
9 of non extractive or nonrenewable energy or
10 resources from the Mid-Atlantic Bight, from Cape
11 May to Montague.

12 The Bureau of Ocean Energy management's
13 seismic testing proposal that was discussed on
14 Tuesday, I had specifically asked for that to put
15 on the agenda and for them to give a presentation
16 there.

17 Due to my work, I was out fishing Tuesday
18 and basically had to go fishing, so couldn't be
19 here and make some specific comments to you then.
20 I would have liked to. The concern with the Bureau
21 of Ocean Energy Management's proposal obviously
22 would be the marine mammal takes, enormous level
23 of takes. Amazingly, nobody can seem to pin down
24 seismic testing mortality; although, you can pin

1 down sonic testing mortality, and that's testing
2 the Navy does.

3 There's over 20 reported marine
4 strandings world wide for U.S. and NATO that have
5 documented hundreds of marine mammal takes.
6 Whales seem to be most susceptible to the sonic and
7 seismic testing. But the Navy owns up to it. The
8 oil companies don't. Okay.

9 You have an agency here, Bureau of Ocean
10 Energy Management that basically ignored the
11 Council altogether despite the fact that you're
12 managing the resources that they're blowing up.
13 That's disrespectful. And that was done on
14 purpose.

15 Now, I understand that you want to write
16 comments expressing your concerns, but that's not
17 going to do anything because they'll just gloss
18 them over, okay, and say, well, we addressed your
19 concerns; yes, we're aware of your serious
20 concerns about this issue. You need to oppose
21 this issue. There is a scientist in Australia,
22 Bob McDonald, who's documented scallop beds dying
23 after seismic testing, within two months, scallop
24 beds wiped out. Think about that to our

1 Mid-Atlantic scallop fishery.

2 It affects squid, snow crabs. Their
3 insides were described as mush after sonic
4 testing. Sonic testing can be heard a thousand
5 miles away. And this is basically it's like a
6 torture of marine mammals. It's a horrible,
7 barbaric things that really should be banned.

8 And I believe within 10 or 15 years it
9 will be banned if enough people start realizing
10 what they're doing. This is all about oil
11 drilling. It's about the oil reserves on the East
12 Coast which are estimated at 1.9 billion barrels.

13 Our country is exporting over a billion
14 barrels a year of oil mostly refined gasoline and
15 diesel. Nobody's aware of that. But that's less
16 than two years worth of oil reserves that is
17 available on the East Coast.

18 To basically jeopardize a hundred
19 million dollar tourist or billion dollar tourist
20 industry, the fishing industry, commercial and
21 recreational, for this is ludicrous. What it gets
22 down to they want to do the seismic testing and
23 estimate how much reserves are on the East Coast
24 and that BOEM can lease them out, and by leasing

1 they sell their rights to the oil. Each area is
2 assigned a specific estimate of what the reserves
3 are.

4 Whoever wins that bid then says that
5 oil's worth this much money, and they add that on
6 to the bottom line or the net worth of their
7 company.

8 Then they use it for tax depreciation
9 purposes. It's a huge tax loophole. People
10 aren't aware of that, but that's what it is. It's
11 a big tax write-off for the oil companies.
12 Whether they drill there or not they continue to
13 depreciate it.

14 So what I would hope this Council does
15 a step farther than just submitting comments with
16 concerns, but that they come out and vote to oppose
17 this testing. Any questions?

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you, Jim. Peter.

20 PETER HIMCHAK: Yes. Thank you, Mr.
21 Chairman. Jim, I stole some of your comments
22 yesterday from your testimony at the Atlantic City
23 hearing. Yeah, I mean this, I could not
24 understand how the environmental organizations

1 would not be jumping out of their seat when you talk
2 about the potential takes of marine mammals of
3 138,612 Level A takes. And, yeah, we should
4 follow up with the take reduction teams. And the
5 comment period has been extended.

6 I'm just flabbergasted that this level
7 of takes of marine mammals could even be
8 considered, and that's not even talking about fish
9 species.

10 They talked about a 50-mile radius of
11 one detonation event. It could do irreparable
12 damage, and all our efforts of conserving fish
13 could amount to nothing in comparison.

14 So, yeah, Greg's on the take reduction
15 teams. I don't know that they're actually
16 stepping up and warmly commenting on the prospects
17 of these takes.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Thank you, Peter. I think the concerns were
20 pretty apparent when we heard the presentation the
21 other day the potential for impact. So we are
22 going to plan on drafting a comment letter. I
23 would think it would reflect the strong level of
24 concerns that we had around the table. Erling.

1 ERLING BERG: Thank you. Well, I had a
2 motion to that effect, but if we are going to draft
3 a letter expressing our concern -- I expressed my
4 concern the other day when this presentation was
5 made -- I won't present that motion under the
6 assurance that we are going to do something.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Well, either way is fine, Erling. In fact, if the
9 Council wants to have as a matter of record having
10 taken a positive action requesting a letter
11 expressing our concerns about the project, I think
12 that would be in order. So, if you want to make
13 such a motion.

14 ERLING BERG: Jan, can you put up the
15 second one, not the first one they gave you. The
16 one on the yellow paper. On the BOEM one, yeah.
17 Thank you. (Pause.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Jan,
19 if it doesn't come up, can you just read it into
20 the record if you have it on your screen.

21 JAN BRYANT: Move to submit written
22 comments opposing the BOEM seismic testing on the
23 U.S. East Coast due to our grave concerns of the
24 enormous Level A and Level B marine mammal takes

1 and the unknown but suspected deleterious effects
2 on other marine species that our Council manages.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Second to the motion by Peter deFur. Discussion
5 on the motion? I wonder if it would be possible
6 also to recommend that if it is done it be done on
7 a pilot basis in a limited area.

8 I mean the concerns that we heard were
9 I think pretty clear that it could have significant
10 impact on marine resources, so. I wonder if we
11 could incorporate that into the letter. Erling.

12 ERLING BERG: I would disagree with
13 that. I think it should be rejected outright. I
14 just don't think it's a good idea. These mammal
15 takes I mean we are concerned about one take. Here
16 we're talking about 138,000 over a time period,
17 plus we have no idea what it's going to do to other
18 critters that are in the ocean. I just think that
19 we should just say that this is craze; let's not
20 do it.

21 COUNCIL CHAIRMAN RICHARD ROBINS: Fair
22 enough. Is there any discussion on the motion?

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS: So

1 the motion was made by Erling and seconded by Peter
2 deFur. Further discussion on the motion?

3 (No response.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: Is
5 there any public comment on the motion? Yes, Sir.

6 SEAN DIXON: Hello. My name is Sean
7 Dixon from Clean Ocean Action, and just thanks for
8 this opportunity to discuss this issue. I just
9 wanted to touch on that one point about the pilot
10 programs.

11 One of the reasons why that wouldn't
12 work if that was to be discussed by the Council
13 would be that this is a BOEM programmatic decision,
14 so it's far ranging for eight years, and so they'd
15 probably come back and say that's outside of the
16 scope of the things that we'd want to do with this.
17 So it's either an all-or-nothing decade plan of the
18 seismic surveys. So thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Thanks for that clarification. Chris.

21 CHRISTOPHER ZEMAN: I would just make
22 one amendment to this, a friendly amendment. And
23 I think the statement: And the unknown but that,
24 I think gives too much credit to BOEM. I think it

1 should be unexamined, the unexamined effects --
2 the likely yet unexamined effects.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is
4 that acceptable to the maker?

5 ERLING BERG: Yeah, that's fine.
6 Sure.

7 PETER defUR: Acceptable to me.

8 COUNCIL CHAIRMAN RICHARD ROBINS: Is
9 the Council ready for the question?

10 (Motion as voted.)

11 {Move to submit written comments opposing the
12 BOEM seismic testing on the U.S. East Coast
13 due to our grave concerns of the enormous
14 Level A and Level B marine mammal takes and
15 the unexamined but suspected deleterious
16 effects on other marine species that our
17 Council manages.}

18 COUNCIL CHAIRMAN RICHARD ROBINS: All
19 those in favor please raise your hand.

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: Ten.
22 Opposed like sign.

23 (No response.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Abstentions like sign.

2 (Response.)

3 COUNCIL CHAIRMAN RICHARD ROBINS: One
4 abstention. The motion carries. Thank you. Is
5 there anything else to come before the Council?
6 Peter.

7 PETER HIMCHAK: Yes. While leaving
8 the room today, if anybody finds a Mid-Atlantic
9 Council red and black bag that does not belong to
10 them, please let me know. I'm still missing it.
11 Thank you.

12 COUNCIL CHAIRMAN RICHARD ROBINS:
13 Sure. Chris.

14 CHRISTOPHER ZEMAN: Just on that prior
15 motion, I'd like to know where NOAA is in terms of
16 their comments on this. My recommendation is this
17 should be more of a secretarial comment to -- you
18 know, it should be at that level of commenting on
19 this action.

20 GEORGE DARCY: I don't know, Chris. I
21 don't know who's been asked to comment on it. It's
22 not something that's come before me.

23 COUNCIL CHAIRMAN RICHARD ROBINS: But we
24 can certainly follow up with the Agency to have

1 some subsequent discussion on it. Well, thank you
2 all, very much for making this modified agenda
3 work.

4 Apologies on the issues that we weren't
5 able to get to in detail. The other items that we
6 didn't accomplish while we were here, we'll put off
7 until the next council meeting, but we did get
8 through all of our proposed regulatory actions, so
9 I appreciate your perseverance on that. With
10 that, safe travels. We're adjourned.

11

12 WHEREUPON:

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14 THE COUNCIL MEETING WAS CONCLUDED AT 1:35 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 1st, day of August, 2012.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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