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

COUNCIL MEETING

15-16 APRIL 2009

at

The Sanderling Resort and Spa
1461 Duck Road
Duck, NC 27949

WEDNESDAY, APRIL 15, 2009

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1 [1:03 p.m.]

2 _____
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Let's go ahead and take our seats so we can get
6 started. We'll be convening the Council -- we'll
7 convene the Squid, Mackerel, Butterfish Committee
8 convened as a committee of the whole.

9 But before I do that, I'd like to
10 welcome everybody and acknowledge the North Carolina
11 delegation and thank them for their Tar Heel State
12 hospitality. Of course home of the 2009 NCAA
13 National Champion Tar Heel men's basketball team.
14 Go Heels. Had to have a nod for my alma mater. All
15 right.

16 (Laughter and comments away from microphone.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Well, as you know, we just finished a meeting of the
19 Squid, Mackerel, Butterfish Committee, and we'll
20 review those committee actions here in just a
21 moment, but as part of that, they voted to defer
22 action on Amendment 11 until the June meeting. And
23 so -- you know, I thought it would be prudent to go
24 ahead and take that -- that item, which was on the

1 end of the day's agenda today and go ahead and take
2 it, just in the interest of continuity, take that
3 first, and we can discuss that.

4 But I think the -- I think the
5 conclusion right now is that the deliberations on
6 the rationale and the relevant issues there is going
7 to be done on a staff-to-staff level following this
8 meeting. So, I don't know that we're going to gain
9 a lot by trying to delve into the specific
10 rationales for the options. I'd hope to be able to
11 use some of this time for that, but I would like to
12 go ahead and go to those -- go to those committee
13 motions and actions.

14 Dan, can you check my mike on your
15 end? Are all they out?

16 (Pause.)

17 COUNCIL CHAIRMAN RICHARD ROBINS: All
18 right. We have power back. The last time we lost
19 power in the whole building. This time we just lost
20 the mikes.

21 Okay. With that, I'll go to Laurie.

22 SQUID, MACKEREL, BUTTERFISH COMMITTEE

23 MEETING AS A WHOLE WITH THE COUNCIL

24 LAURIE NOLAN: Thank you, Mr.

1 Chairman. The committee met and reviewed the
2 document. Some adjustments were made and -- after
3 our last committee meeting and have been
4 incorporated into the document. So, we're looking
5 to move these motions forward on behalf of the
6 committee for Council approval.

7 We would start with Alternative 1,
8 adding on to move to use the new herring provision
9 as detailed in the current DIS Draft 1H/1I. This is
10 dealing with the herring fleet, and in considering
11 giving them access to the limited access scheme,
12 rather than dealing with them in conjunction with
13 the alternatives, the herring issue -- the herring
14 guys have been -- are going to be dealt with in an
15 isolated fashion, and then they can be added on to
16 any of the alternative -- any of the limited access
17 alternatives that are chosen. We can piggyback
18 either of these alternatives onto the limited access
19 alternative that's chosen, which would include those
20 vessels described in the document.

21 So, this is what this motion is
22 dealing with, and we had consensus from the
23 committee to move this into the document.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you, Laurie. Is there any discussion or
2 further questions on the motion?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Seeing none, the motion does not require a second,
6 it's on behalf of the committee.

7 (Motion as voted.)

8 {Move to use new herring provisions as detailed in
9 current DEIS draft (1H, 1I).

10 COUNCIL CHAIR RICK ROBINS: Is there
11 any objection to the motion?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Seeing none, that's approved by consent. Laurie.

15 LAURIE NOLAN: Thank you. Dealing
16 with Alternative 2, we have a minor change, minor
17 operational change, and this is dealing with the
18 idea of allocating Tier 2 more than its historical
19 level of allocation in the time line used in the
20 document.

21 In other words, we would take the
22 allocation, the historical allocation, and the time
23 line of '97 to '07, and we have two other
24 alternatives, 2C and 2B, which would multiply that

1 allocation in 2C by two, and in two -- I'm sorry,
2 yeah in 2C by two and in 2D by three.

3 This is to give some consideration to
4 historical participation and it was spoken of that
5 their landings were much higher if we went back
6 further in time, due to the shaky database when you
7 go back too far, this seemed to be a way to
8 accommodate the issue of allocating more quota to
9 Tier 2.

10 But at the same time, by allocating
11 more to them, you don't want to leave quota on the
12 table at the end of a fishing year. So, this
13 provision would allow for a rollover. Jason has it
14 lined up very specifically with an example of
15 stating -- I don't know, maybe this is too much
16 detail, but it's to get unused quota. If half the
17 quota has -- if more than half of the quota has been
18 landed by Tier 2, this won't happen. So, it's only
19 if half or less has been landed that this would
20 occur. And it would be half of that unused quota
21 would roll over back into the allocation to Tier 1,
22 3 and open access.

23 So, the committee agreed to this by
24 consensus, and would like to move it forward.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Laurie. Are there any questions or
3 comments on the motion?

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Seeing none, the motion's made on behalf of the
7 committee.

8 (Motion as voted.)

9 {Move to use new transfer provisions as detailed in
10 2C and 2D in current DEIS draft.}

11 COUNCIL CHAIR RICK ROBINS: Is there
12 any objection to the motion?

13 (No response audible.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Any
15 abstentions on the motion?

16 (Response.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Seeing none, it's approved by consent -- one
19 abstention? Okay. Approved by consent. Laurie.

20 LAURIE NOLAN: Okay. This is dealing
21 with Alternative Set 4, which -- Page 18 -- it's to
22 clarify the intent to allow vessel baselines to be
23 either the applying vessel or the vessel that
24 created the history.

1 Replace -- we have so many -- clarify
2 4B5 applies to vessels applying for permit --
3 vessels applying for permit. So, 4-B-5 is regarding
4 the 10/10/20. The vessel baselines refers to those
5 specifications -- clarify 4-B-5 -- all right, now
6 I'm confused. Why am I confused? Wait a minute.
7 Okay. So this is -- Jason, sorry?

8 (Pause.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Laurie, do you want Jason to clarify --

11 LAURIE NOLAN: Yeah, Jason --

12 COUNCIL CHAIRMAN RICHARD ROBINS: I

13 think at this point, just for the group's reference,
14 we're working from Page 20.

15 LAURIE NOLAN: Right.

16 COUNCIL CHAIRMAN RICHARD ROBINS: In

17 the Amendment 11 document, and this is the -- 4-B-5
18 is one of the options establishing vessel baselines.

19 Jason.

20 JASON DIDDEN: Yes, it would just

21 clarify that under Alternative 4B, which is a
22 laundry list of administrative issues, that the
23 baselines for the 10/10/20 under 4-B would apply to
24 the vessel that applies for the permit.

1 And then 4-E would look -- allow
2 consideration of the other way. If transfers have
3 occurred, it would require the baselines of vessels
4 receiving permits -- would not be the vessel that
5 applied for the permit, but that created the
6 history.

7 And then just kind of tied in, if 4-E
8 was selected, it in essence replaces 4-B-5, just
9 allows consideration of those two possibilities, the
10 apply and permit is the vessel that the baseline is
11 centered on, or the vessel that created the history.

12 And the issue is if it's not the vessel that
13 created history, possible of getting these history
14 and permits on a much larger vessel than actually
15 created the history.

16 COUNCIL CHAIRMAN RICHARD ROBINS: So
17 again, these are two separate options, but the
18 intent of the motion is to clarify the intent of
19 Option 4-B-5 here. Laurie.

20 LAURIE NOLAN: If you look at Page
21 18, you have 4B1 through 4-B-11, and that's a
22 package basically. And the option here is to tack
23 on 4-C, 4-D, 4-E or 4-F on to the 4-B-1 through 11.

24 And the bottom line is if we are to

1 adopt 4-E, that would replace 4-B-5, because they
2 contradict one another. So --

3 COUNCIL CHAIRMAN RICHARD ROBINS: Any
4 further discussion or questions on the motion?

5 (No response audible.)

6 (Motion as voted.)

7 {Move that:

8 Clarify 4B5 applies to vessels applying
9 for permit.

10 Replace 4E with "Require baselines of vessels
11 receiving permits would be the baselines of the
12 vessel that created the history."

13 If 4E is selected (in addition to 4B), replaces
14 4B5.}

15 COUNCIL CHAIRMAN RICHARD ROBINS: Is
16 there any objection to the motion?

17 (No response audible.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: Any
19 abstentions on the motion?

20 (Response.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: One
22 abstention. No objections. The motion carries.
23 Laurie.

24 LAURIE NOLAN: Alternative 5 is

1 dealing with EFH, and the action taken creates no
2 change in the end result --

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Excuse me, Laurie.

5 LAURIE NOLAN: Oh, I'm sorry.

6 COUNCIL CHAIRMAN RICHARD ROBINS: If
7 I can interrupt?

8 LAURIE NOLAN: Yeah.

9 COUNCIL CHAIRMAN RICHARD ROBINS: Can
10 you go back, Jan, to the previous page, because I
11 think those were two -- okay, I just wanted to make
12 sure. I thought they were two separate motions, but
13 that was one motion, so that's fine. Thank you. Go
14 on. Go ahead, Laurie.

15 LAURIE NOLAN: Okay. EFH is the
16 issue at hand and the motion: Move to use new EFH
17 alternatives as detailed in 5B through 5E and
18 current DEIS draft.

19 This is not -- this is a no-change in
20 the end result. It keeps the alternative cleaner.
21 It's a matter of bundling all the data sources,
22 rather than picking and choosing which ones you want
23 to move -- use in the future. This was supported by
24 the Science Center, and again, it's a no change in

1 the end result. So, the committee would like to
2 forward this.

3 COUNCIL CHAIRMAN RICHARD ROBINS: All
4 right. Are there any questions on the EFH motion?

5 (No response audible.)

6 (Motion as voted.)

7 {Move to use new EFH alternatives as detailed in
8 5B-5E in current DEIS draft.}

9 COUNCIL CHAIRMAN RICHARD ROBINS: Is
10 there any objection to the motion?

11 (No response audible.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Any
13 abstentions on the motion?

14 (No response audible.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Seeing none, the motion carries. Laurie.

17 LAURIE NOLAN: Okay. This involves
18 Alternative Set 7, which is Page 29, and this is
19 alternatives for limited at-sea processing of
20 Atlantic mackerel.

21 Move to add at-sea processing caps of
22 50 percent and 75 percent to Alternative Set 7. The
23 committee left its last meeting with not having the
24 inclusion of the 50 and 75 obviously. And it's just

1 to better cover the range of alternatives between
2 zero and a hundred.

3 So, there was no -- no issues here
4 with the committee, everyone agreed to move this
5 forward.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thank you, Laurie. Are there any comments or
8 questions on the motion?

9 (No response audible.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Rich, on this issue, you mentioned in the discussion
12 that you had received some recent information about
13 marine mammal rates of encounter and entanglements,
14 I guess, and some of the JV operations. Are you
15 going to be able to bring some of that information
16 to bear on the document?

17 RICHARD SEAGRAVES: Yeah. In fact,
18 it's already in there, yeah. Jason was able to
19 incorporate that. It was a several-page analysis
20 conducted by Marjorie Crossman and Debbie Palk,
21 marine mammal experts at the Center, looking at the
22 observations from the most recent U.S. JV operations
23 where there was a fairly high interaction rate with
24 -- I can't remember, it's either common or dolphin

1 or white-sided, but it's in there now.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Okay. Thank you. We have a motion on behalf of the
4 committee.

5 (Motion as voted.)

6 {Move to add at-sea processing caps of 50% and 75%
7 to Alternative Set 7.}

8 COUNCIL CHAIR RICK ROBINS: Are
9 there any objections to the motion?

10 (No response audible.)

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Seeing none, are there any abstentions on the
13 motion?

14 (Response.)

15 COUNCIL CHAIRMAN RICHARD ROBINS: One
16 abstention. The motion carries. Thank you.
17 Laurie.

18 LAURIE NOLAN: Okay. Well, covering
19 all these items, the committee agreed today to move
20 to delay forwarding Amendment 11 DEIS to NMFS until
21 June, and this will give an opportunity for some
22 more staff to staff work on the document for maybe
23 further analysis, further details. And as it was
24 pointed out, this will have no effect on the

1 implementation date by doing this. So, no one saw
2 any harm in allowing this delay.

3 And if it comes down to substantive
4 changes that need to occur, we will have another
5 committee meeting before the June Council meeting.
6 And if it's minor stuff, then the staffs will work
7 together, make the changes, and we'll see the
8 document in our briefing books again.

9 And then I just have to talk one more
10 time.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Thank you, Laurie. Any comments or questions on
13 this motion?

14 (No response audible.)

15 (Motion as voted.)

16 {Move to delay forwarding Amendment 11 DEIS to NMFS
17 until June.}

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Seeing none, is there any objection to the motion?

20 (No response audible.)

21 COUNCIL CHAIRMAN RICHARD ROBINS: Any
22 abstentions on the motion?

23 (No response audible.)

24 COUNCIL CHAIRMAN RICHARD ROBINS: The

1 motion passes without objection or abstention.

2 Thank you. Laurie.

3 LAURIE NOLAN: Okay. I have to say
4 that Jason has done an unbelievable amount of work
5 to pull this together. He's done it quite a few
6 times in draft form and he's extremely conscientious
7 and at it all the time, and does a great job of
8 keeping me up to speed on what's going on. And
9 thank you, Jason, very much.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Indeed. Okay. Thank you, Laurie. Do you any other
12 committee business to come before the Council?

13 LAURIE NOLAN: Okay.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Okay. Thank you.

16
17 APPROVAL OF FEBRUARY COUNCIL MEETING MINUTES

18 COUNCIL CHAIRMAN RICHARD ROBINS: Our
19 next order of business is approving the February
20 2009 Council minute -- Council meeting minutes.
21 You've had an opportunity to review those. Are
22 there any comments on the minutes? Pete Himchak.

23 PETER HIMCHAK: Mr. Chairman, I had
24 -- I had pointed out to Mr. Wallace that I had used

1 a word, it was an acronym, Page 60 -- Page 60 in the
2 book which translates into Page 239 of February
3 12th, Line 10. I referred to LIDAR. LIDAR is an
4 acronym for Light Detection and Ranging, L-I-D-A-R,
5 all in caps.

6 So, Mr. Wallace already has that, and
7 -- a very small issue, but it's corrected.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thank you for picking that up. Are there any other
10 amendments or changes to note to the minutes?

11 (No response audible.)

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 there any objection then to approving the minutes as
14 amended?

15 (No response audible.)

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Seeing none, they're approved by consent. Thank
18 you.

19 Next item is the Regional
20 Administrator's Report, Pat Kurkul.

21 _____
22 NMFS REGIONAL ADMINISTRATOR'S REPORT

23 PATRICIA KURKUL: Thank you, Mr.
24 Chair. Let's see. Starting with Summer Flounder,

1 Scup and Black Sea Bass, recreational fishing
2 specifications, the proposed rule for the 2009
3 specifications was published in the Federal Register
4 on April 1st. The comment period closes on May 1st.

5 We are proposing conservation
6 equivalency for summer flounder, status -- the
7 status quo -- status quo season, minimum fish size
8 and possession limit for scup and a half-inch
9 minimum fish size increased to 12 and a half inches
10 for black sea bass -- the black sea bass season, and
11 possession limit is proposed to remain status quo
12 with a year-round season and 25-fish possession
13 limit.

14 In March 2009 at the request of the
15 states, we twice transferred commercial summer
16 flounder quota from North Carolina to Virginia.
17 Landings by North Carolina vessels that were
18 authorized to land summer flounder in Virginia under
19 Safe Harbor provisions prompted the transfers. So,
20 there was 28,952 pounds and 23,130 pounds
21 respectively were transferred. That will increase
22 Virginia's 2009 quota and reduce North Carolina's
23 2009 quota.

24 The comment periods have now closed

1 on the Atlantic bluefish and dogfish 2009 proposed
2 specifications, and on Framework 2 to spiny dogfish,
3 and those final rules are all under review.

4 Let's see. An update on where we are
5 with the implementation of the sea scallop limited
6 access general category ITQ program. We received
7 about 1200 applications for all categories, with the
8 majority of them being for IFQ permits. The
9 deadline to apply was August 30, 2008. Currently
10 there have been 261 IFQ, 71 northern Gulf of Maine
11 and 199 incidental permits issued.

12 In addition, 56 vessels were issued
13 certificates of confirmation of permit history. 45
14 of those are for IFQ permits. There are
15 approximately seven appeals still pending at the
16 first stage of appeal and 70 at the second or
17 hearing level of appeal. So, we still at this point
18 have approximately 50 vessels fishing under
19 temporary Letters of Authorization while their
20 appeal is pending.

21 Continuing with scallops, the
22 Delmarva scallop access area was -- oh, that's much
23 better; love the mood lighting, but -- scallop
24 access area was closed to the limited access general

1 category scallop fleet on April 1st.

2 Let's see. Herring, as of April
3 15th, vessels issued federal permits for Atlantic
4 herring may not fish for, catch, possess or land
5 more than 2,000 pounds of Atlantic herring. So,
6 that's effective today in or from Area 2 through
7 December 31st of this year.

8 And multispecies I think may be a
9 little bit of interest to this Council. We did
10 finally get decisions from the court on the pending
11 court case that was filed by the States of
12 Massachusetts and New Hampshire.

13 You may have heard on the first
14 count, the court ruled in our favor, agreeing that
15 we had used best available science when we developed
16 Framework 42 to the multispecies plan.

17 And then after quite a bit of back
18 and forth with the court and the Council on
19 analyzing the mixed stock exception, the court also
20 recent agreed that we had -- we had thoroughly
21 analyzed it and presumably then with our conclusion
22 that it did not apply in this situation.

23 And recently, just yesterday, the
24 court ruled on the remaining six counts and found

1 them to be moot. So, we are moving beyond that
2 litigation at this point, which is a good thing.

3 You may also be aware that -- I'm
4 sure you're aware at this point that we published a
5 final rule in the Federal Register on April 13th
6 implementing interim regulations for the Northeast
7 Multispecies fishery for the calendar year 2009,
8 which begins on May 1st of this year.

9 The rule does contain measures that
10 are substantially different from the proposed rule,
11 the primary measures having to do with the way that
12 days-at-sea are counted. There was no change in the
13 Gulf of Maine area, but in the area that was
14 previously proposed to be a closure area in the
15 Southern New England, it's now going to be an area
16 that's counted two for one, where the days-at-sea
17 are counted two for one.

18 Moving on to Protected Resources,
19 under the Atlantic Right Whale Take Reduction Plan,
20 the broad-based sinking groundline requirements for
21 traps and pot gear became effective on April 5th,
22 and so with the implementation of these sinking
23 groundline requirements, the Dynamic Area Management
24 Program expired on April 4th.

1 Let's see. We did the NRCC -- the
2 Northeast Region Coordinating Council met on March
3 31st and April 1st, and there's information on that
4 in your binders, both the agenda as well as the
5 summary or worksheet, I think, from last -- last
6 fall's meeting. And I know you're scheduled to talk
7 about that later, so I won't spend any time on it.

8 We did have a full agenda, and so
9 there are quite a number of issues. And if anyone
10 after looking at the agenda has any specific
11 questions on any of the items on the agenda, please
12 feel free to talk with me or any of the other folks
13 that were at the meeting, right along here, as well
14 as Rich.

15 DANIEL FURLONG: To that point, Pat,
16 I do have the summary that Mike sent out. I'm going
17 to give that as a handout tomorrow.

18 PATRICIA KURKUL: Oh, okay. That's
19 draft at this point, but --

20 DANIEL FURLONG: Yes.

21 PATRICIA KURKUL: Good. And then
22 finally, I'm not sure whether -- skip ahead here for
23 a minute to -- I'm not sure whether you've gotten
24 this letter yet or not. It should be at the Council

1 office now. And it may have arrived after you left
2 for this meeting on Monday, but it's having to do
3 with a determination that -- or making the -- well,
4 yeah, the determination that black sea bass and scup
5 were considered to be rebuilt according to the
6 criteria in the Magnuson-Stevens Act.

7 I don't think that comes as any
8 surprise on scup, because that was the conclusion of
9 the data poor workshop that was held this past
10 December. The black sea bass information became
11 available after that, when projections were run
12 based on the model that was adopted in the data poor
13 workshop. And basically looking retroactively and
14 we determined that the -- in 2003 and 2004, the
15 rebuilding biomass target was exceeded.

16 What that means is that the black sea
17 bass requirement -- rebuilding program requirement
18 has been satisfied in terms of rebuilding by 2010.
19 So, good news there.

20 And that's all I have.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Pat, thank you very much. On the black sea bass,
23 that doesn't change the fact that it's still subject
24 to overfishing; is that correct? Is that not part

1 of the finding of the data poor group?

2 PATRICIA KURKUL: Yeah, thank you for
3 mentioning that. Yes, and the letter speaks
4 specifically to that issue. It is still subject to
5 overfishing and the Council will still have a
6 responsibility, of course, of dealing with the
7 overfishing in that fishery.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thank you very much. Questions for Pat? Dennis.

10 DENNIS SPITSBERGEN: Yeah. Pat, with
11 regard to the general category scallops, I think you
12 said there were 70 appeals that were in a second
13 appeal, and I think there were 50 that were still
14 fishing under some kind of a permit. Are those all
15 individual fishing quotas or are some of those the
16 -- what's the other option we have? Open --

17 PATRICIA KURKUL: They have the
18 Northern Gulf of Maine and the incidental.

19 DENNIS SPITSBERGEN: The incidental,
20 that was the one I was looking for.

21 PATRICIA KURKUL: Yeah.

22 DENNIS SPITSBERGEN: I would imagine
23 they're probably all individual fishing quota ones.

24 PATRICIA KURKUL: It doesn't say

1 specifically, but that would be my --

2 DENNIS SPITSBERGEN: That would be --

3 PATRICIA KURKUL: -- assumption, as
4 well.

5 DENNIS SPITSBERGEN: Yeah, okay.

6 COUNCIL CHAIRMAN RICHARD ROBINS:
7 Gene Kray.

8 EUGENE KRAY: Thank you, Mr.
9 Chairman. Pat, that doesn't change anything with
10 regard to the omnibus plan. We're going to move in
11 the same direction, including black sea bass in the
12 omnibus as we had planned before.

13 PATRICIA KURKUL: If that's a
14 question to me, no, it shouldn't change anything in
15 the omnibus. No, absolutely not.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Further questions for Pat?

18 (No response audible.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Thank you, Pat. Seeing no questions, we'll go to
21 Jim Weinberg, Northeast Science Center.

22 _____
23 NMFS NORTHEAST SCIENCE CENTER REPORT

24 JAMES WEINBERG: Thank you. I'll

1 start out with a review of some of the survey
2 activities. The 2009 cooperative monkfish survey is
3 in its final stages. It was a cooperative effort
4 between -- with two commercial fishing vessels, the
5 F/V Mary Kay and the Endurance.

6 And all of the stations that were in
7 the experimental -- in the survey design are being
8 completed. So, those data will be available and
9 analyzed for the SARC, which will take place next
10 year.

11 On the 2009 spring bottom trawl
12 survey, the Bigelow is currently conducting that
13 survey. The overall duration of the -- well, I
14 should first say that it's utilizing the trawl gear
15 and protocols that were developed through the Trawl
16 Survey Advisory process. The overall duration of
17 the survey has been increased from 48 scheduled sea
18 days to 60 sea days, and the survey started at the
19 end of February and will continue until mid-May.

20 The increase in station density,
21 particularly in deeper water, is likely to improve
22 the precision of the estimates in the survey strata
23 in deeper water.

24 The Bigelow, due to the hull design

1 and the size of the vessel, can't sample in water
2 that is shallower than ten fathoms. So, those
3 stations will no longer be sampled by the NEFSC
4 survey. However, these areas are sampled by NEAMAP
5 and the state surveys that are occurring both north
6 and south of Rhode Island.

7 The increase in station density in
8 deeper water -- and by that I mean in depths that
9 are greater than 110 meters, were added, and that's
10 a concern that the Mid-Atlantic Fishery Council
11 expressed. And by adding stations out there, there
12 should be better estimates of the mackerel and
13 dogfish and a few other species. Monkfish, as well.

14 And then additionally stations have
15 been added in the Western Gulf of Maine, and those
16 concerns were expressed by the New England Council.

17 On the sea scallop survey, that's a
18 dredge survey. It will be conducted using the
19 Research Vessel Sharp from early May until early
20 July of this year.

21 And the survey was intentionally
22 scheduled this year to occur sooner in the year so
23 that the data will be available for the PDT process
24 which takes place.

1 Then moving on to stock assessments,
2 the June 2009 we have SARC 48 and three species are
3 on the agenda: ocean quahogs, tilefish and
4 weakfish. This will be a peer reviewed meeting that
5 will take place the first week in June.

6 There are also a number of updates
7 that the Center will be performing on a number of
8 Mid-Atlantic stocks.

9 There is also a vessel calibration
10 meeting, which is -- I don't have exact dates for it
11 yet, but it will occur either in late July or early
12 August. And the purpose of that meeting will --
13 that's to look at statistical methods, applying them
14 to all of the calibration data that have been
15 collected using the new research vessel Bigelow and
16 the Albatross, and to attempt to come up with
17 estimates of calibration coefficients between the
18 two vessels for all of the stocks that we assess.

19 There are a number of TRAC meetings
20 that are taking place. As I mentioned, more stocks
21 are being moved into the TRAC process because they
22 are transboundary stocks. And these TRAC stocks now
23 include cod, haddock, Georges Bank yellowtail.

24 There is going to be TRAC meetings

1 for dogfish, mackerel. Then SARC 49, which will
2 take place in early December of 2009, we have
3 Atlantic surfclam and butterfish on the agenda for a
4 benchmark assessment.

5 And then I'll go as far as telling
6 you about June of 2010. That will be SARC 50, and
7 we have sea scallop and monkfish on the agenda for
8 SARC 50.

9 And I wanted to mention, just say a
10 few words about the SBRM process. At your last
11 Council meeting, Paul Rago gave a presentation to
12 you, basically proposing the observer coverage for
13 New England and the Mid-Atlantic. And he requested
14 feedback from both Councils and the Regional Office
15 to fine-tune the prioritization. And the Center did
16 receive feedback from the Regional Office and both
17 Councils, and responded by increasing the coverage
18 in certain areas and decreasing it. And this is all
19 constrained by funding constraints and we only have
20 so many observers observer days that we can
21 allocate.

22 But the handout I believe is in the
23 back of the room, and the changes that are described
24 in that handout are now being implemented. So, we

1 did listen to the feedback and changes were made
2 within the constraints to try to make the observer
3 coverage better. That concludes my report. Thank
4 you.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Jim, thank you. And thanks again for your
7 responsiveness to our Council's concerns about the
8 SBRM prioritization. I think that reallocation that
9 you all have responded with is going to be important
10 as we try to ultimately administer a butterfly cap.
11 So, thank you very much.

12 Questions for Jim? Ed.

13 EDWARD GOLDMAN: Thank you. Just
14 real quick, I missed the species for SARC 48, was
15 quahog, weakfish and?

16 JAMES WEINBERG: Tilefish.

17 EDWARD GOLDMAN: Thank you.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Additional questions?

20 (No response audible.)

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Seeing none, we'll go on to Law Enforcement. Andy
23 Cohen.

24

1 of violations criminally. In fact, in cases of
2 accidental takes, we often do not pursue even a
3 civil remedy to that.

4 However, in cases where there is an
5 intentional take, a reckless take or a negligent
6 take, we do have the option of going criminally.
7 And in these two instances, that was the decision
8 that was made and they were accepted for prosecution
9 by the U.S. Attorney's Office, both in Boston.

10 And I also wanted to add that the
11 fact of two of these happened within a one-week
12 period was absolutely coincidental. It does not
13 reflect any kind of a new emphasis on our part.

14 Also in this report, on the last
15 couple pages I included a good number -- I think 33
16 observer issues that we've addressed in the last
17 quarter.

18 This is only the second report in
19 which I've included observer data because I think
20 it's very important that we show what kind of
21 challenges the observers are facing when it comes to
22 enforcement issues.

23 It does not necessarily indicate that
24 there's a big upswing in the problem, although I

1 would submit for your consideration that 33
2 complaints in a one-quarter period is a lot and
3 we're seeking to bring that number down by a few
4 compliance efforts.

5 As I'm sure you're aware, the Office
6 of Law Enforcement has been under a lot of scrutiny
7 in the press, especially in New England, although
8 there's been some press coverage down here. And I
9 wanted to lay out some facts for you folks so you
10 can make your own decision as to whether or not our
11 program is appropriate. And as Council members, I
12 would really value your input either now or you're
13 always welcome to call me -- your advice and your
14 input on how we're running the program.

15 I think that a lot of the news
16 coverage has not really been reporting, it's been
17 editorials, in my estimation anyway. Some of the
18 reports talk about the Office of Law Enforcement
19 being overzealous, intimidating, vindictive, a rogue
20 law enforcement agency, that we have been known to
21 coerce fishermen into forfeiting trips prior to any
22 issuance of charges, that we have told people not to
23 seek legal counsel and that we've coerced people
24 into confessing.

1 I could take each one of these
2 individually, but I'll just highlight a couple of
3 them. Regarding the claim that the Office of Law
4 Enforcement is a rogue agency, I just wanted to
5 bring to your attention that we are accredited by
6 the Commission on Accreditation for Law Enforcement
7 Agencies, which is an independent group that ensures
8 best practices are used.

9 Very few law enforcement agencies are
10 accredited by this peer review group, and this
11 ensures that we use best professional practices,
12 which is really the opposite of the definition of
13 the word rogue.

14 The allegation that we have been on
15 the docks pushing people around, I don't know if
16 that was meant figuratively or literally, and that
17 we've used foul language is -- those things are
18 unacceptable. I don't believe that they've
19 occurred, and after that report came out I
20 questioned each of the supervisors who work with me
21 and was ensured by them that they knew nothing of
22 any foul language being used. And that complaint,
23 by the way, although it surfaced again recently in
24 the newspaper, was originally made about three years

1 ago. So, these things tend to recycle themselves.

2 Regarding the claim that we do not
3 let people seek legal counsel, that's absolutely
4 untrue. That would be unethical, that would be
5 illegal, and if any of you ever hear of such
6 behavior on the part of an agent, I would really
7 encourage you to report that to me, to our Office of
8 Professional Responsibility, or to any one of the
9 agents who I work with. And we are bound by policy
10 -- if anyone of the agents in the field hears that
11 kind of a complaint, they do not have the option of
12 not reporting it up the line. So, it can be told to
13 me directly or it will get to me indirectly. And I
14 would really encourage that.

15 Also, to assess the public's opinion
16 of what we did, I did a three-year review of our
17 work product, and if we can go to the second slide,
18 please -- oh, this is just a copy of one of the
19 articles, which you may have read already.

20 Can I have the next one? And the
21 next one?

22 I did a three-year assessment of our
23 work product, and in 2008, for example, there were
24 5400 federally permitted vessels in the Northeast,

1 and those 5400 vessels made over 128,000 fishing
2 trips. We opened 498 investigations in 2008, which
3 does not mean that we made 498 cases; it means that
4 we looked into 498 suspected violations.

5 And of those, we referred a portion
6 of them to NOAA General Counsel for prosecution and
7 111 of those violations resulted in a NOVA being
8 issued. That's only two -- that's a little bit more
9 than two percent of the total fleet. It's 2.04
10 percent.

11 And as you can see up on the slide,
12 the figures for 2006 and 2007 are in the same ball
13 park. And incidentally, those 111 NOVAs totalled a
14 little bit less than \$900,000, which is less than
15 one percent of the value of the product landed.

16 In 2008, we figured out that
17 \$713,474,000 worth of product was landed in the
18 Northeast, of which one percent was forfeited as a
19 penalty.

20 And then on the next slide, the last
21 slide just is a graphic of what I just summarized.
22 Each one of the bars on the left represents a year.

23 The second column is the number of vessels
24 permitted. The third column is the number of

1 investigations that were opened. And the fourth
2 column is the number of NOVAs that were issued as a
3 result of those investigations.

4 And then there's an even lesser
5 number that I did not include on this, but it would
6 be -- it would be almost invisible on the far right,
7 and that's the number of cases that we took
8 criminally, which is the separate system from what
9 we use for our civil violations. There were about
10 64, in that three-year period, criminal cases, and
11 none of those criminal cases were based on Magnuson-
12 type FMP violations. They were all smuggling or
13 Lacey Act or other non-Magnuson violations, very
14 small percentage.

15 So, again, I welcome your input, I
16 welcome your advice anytime, and that concludes my
17 report.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you very much, Andy. Questions for Andy?
20 Thanks again for giving us the comprehensive report.

21 Dan, go ahead.

22 DANIEL FURLONG: Andy, we talked
23 during lunch about the reporting format change that
24 segregated out the enforcement component from the

1 Office of General Counsel component, so would you
2 expand on that a little bit.

3 ANDREW COHEN: Yes, typically and
4 historically my reports and my predecessor's reports
5 have been in two parts. The first part is the
6 enforcement report that I hand out and the second
7 part is the sanction and NOVA report. And I was
8 speaking to both Councils and recommending that if
9 the Councils want to continue to get the General
10 Counsel portion, I suggested that they ask for that
11 directly from General Counsel.

12 I think it's important that I still
13 discuss those cases and the resolution of the cases,
14 but I just want to make it very clear that my office
15 gathers facts. The Office of General Counsel for
16 enforcement and litigation, not Joel's office per
17 se, but Joel's coworkers, they act on the
18 information that we provide.

19 And sometimes the line gets a little
20 bit blurred. We have a very strong partnership with
21 General Counsel, we're really joined at the hip and
22 we work together every day, but we have very
23 different mandates and the decision to prosecute a
24 violation rests with them. And the decision of what

1 kind of a penalty to attach rests with them based on
2 their published penalty schedules. That's not a law
3 enforcement function.

4 So, although I don't -- I will not --
5 I will no longer be bringing the General Counsel
6 report to these meetings, I'll still discuss the
7 outcomes and why the cases are important.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thank you, Andy. Did you have a follow-up, Dan?

10 DANIEL FURLONG: Just a comment.

11 Historically, we've put in this law enforcement --
12 the Enforcement Report that is a handout at your
13 place, and if you look in the book behind Tab 6, you
14 do have the February report, so -- as Andy just
15 pointed out, they're making a bright line
16 demarkation between law and order -- you know, the
17 kind of deal, where the enforcement people bring, as
18 Andy has, information about their activities, and in
19 terms of the order side, the Office of General
20 Counsel, we just got this report.

21 Now, I point that out because the
22 date behind Tab 6 is February 19th, and this is the
23 Enforcement Report tells you -- you know, the
24 vessels and who got what. March 17th is in there.

1 And today is March the 15th. So, they're just -- or
2 excuse me, April. April 15th. I hope you all filed
3 your taxes. Otherwise, you get penalized. Or get
4 an extension.

5 My point is is that this report is
6 not synchronized with our meetings, okay? So, I
7 will check in -- you know, with General Counsel and
8 see if there's information that can come.
9 Otherwise, it just comes as a monthly kind of report
10 and we do incorporate it into your briefing book.
11 So, I just wanted to make that bright-line
12 demarkation note.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Thank you, Dan. Before I go to Tim, I skipped over
15 Joel MacDonald, and I'll go to Joel for the General
16 Counsel Report.

17 _____
18 NOAA OFFICE OF GENERAL COUNSEL REPORT

19 JOEL MACDONALD: Thank you, Mr.
20 Chairman. You may remember that the New York and
21 United Boatmen of New York case involved a challenge
22 to the 2008 summer flounder recreational measures.

23 After the original complaint was
24 filed, Judge Sifton allowed United Boatmen to

1 intervene as a plaintiff in that lawsuit and to add
2 the Commission as a defendant.

3 The Commission filed a motion to
4 dismiss itself from the lawsuit. However, Judge
5 Sifton found that they were a quasi-federal agency,
6 partly because of their funding, and said that there
7 was a private right suit against the Commission.

8 The Commission filed a motion to
9 reconsider, which was with Judge Sifton, which
10 understandably he denied. However, he did allow the
11 Commission, under a 1292 certification, to raise the
12 question of whether there is a private right of suit
13 against the Commission to the Court of Appeals. So,
14 that, as far as I know, has not been done. So, it
15 should present some interesting questions.

16 Meanwhile, United Boatmen has filed a
17 motion for a preliminary injunction to enjoin the
18 Fisheries Service from publishing the 2009 summer
19 flounder recreational measures, despite the fact
20 that Section 305F of the Magnuson Act disallows any
21 preliminary injunctive relief.

22 We filed a motion in opposition to
23 that, and that has yet to be decided. I expect that
24 since there's been no stay in this lawsuit that the

1 question posed to the Court of Appeals will not slow
2 down the remainder of the lawsuit and that in due
3 course, probably within the next several weeks, we
4 will be briefing the case before the Court.

5 So, I'll keep you posted as to what's
6 happening. That's it, Mr. Chairman.

7 COUNCIL CHAIRMAN RICHARD ROBINS:
8 Joel, thank you very much. Questions for Joel?

9 (No response audible.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Seeing none, we'll move on. Tim Brown.

12 _____
13 UNITED STATES COAST GUARD REPORT

14 LCDR TIM BROWN: Thank you, Mr.
15 Chairman. I'll be speaking to the Fifth Coast Guard
16 District Enforcement Report you should all have in
17 front of you.

18 On February and March of this year,
19 cutters and stations in District 5 conducted over
20 157 fisheries boardings across a range of Mid-
21 Atlantic fisheries. They're broken down on Pages 2
22 and 3 of the report.

23 In addition, there were more than
24 2300 cutter hours, 680 small boat station hours and

1 115 aircraft hours dedicated to fisheries law
2 enforcement patrol effort in Coast Guard District 5
3 in the Mid-Atlantic during this time.

4 This level of effort is comparable to
5 previous years, but I would note that so far for the
6 fiscal year we're tracking below last fiscal year.

7 Seven significant violations were
8 detected over this time, and they're noted on Page 3
9 and 4 of your report. Pages 3 and 4 again detail
10 the significant violations. A couple striped bass
11 violations, a couple non-broadcasting on VMS
12 violations that were detected. A black sea bass
13 violation conducted jointly with North Carolina
14 Marine patrol, so I'd point out that joint effort
15 there.

16 And then finally, two scallop
17 violations, one working jointly with NOAA OLE,
18 seizing the catch of a fishing vessel that was
19 fishing without -- or with an expired Atlantic sea
20 scallop permit, and then the second was working
21 jointly with Delaware Natural Resource Commission
22 detecting an overage on a general category scallop
23 vessel.

24 We underwent a number of other

1 enforcement activities which are detailed on Page 4,
2 several commercial fishing vessel terminations and
3 other general law enforcement events.

4 For Marine Protected Species, several
5 significant operations this period. The Mudhole
6 closure in the northern New Jersey area, we
7 conducted patrols in that area for several days
8 during this period and I would note that we detected
9 no concentration of gear or gillnet fishing vessels
10 during those patrols.

11 And then on the 15th of February,
12 Station Cape Charles in Virginia did an operation
13 and -- Z, is when the Harbor Porpoise Take Reduction
14 Plan regulations went into effect on the 15th, and
15 they noted multiple vessels with gear in the water
16 in violation of the regulations. VMRC also detected
17 the same. We worked with NOAA OLE and basically
18 communicated with those vessels to get the gear out
19 of the water, and it was quickly complied with.

20 A number of other events there
21 regarding marine mammals that you can read about.

22 With regard to commercial fishing
23 vessel safety efforts, 107 dockside examinations
24 conducted during this two-month period with 74

1 decals being issued.

2 The commercial fishing vessel or
3 Commercial Fishing Industry Vessel Advisory
4 Committee, CFIVAC, they met the beginning of March
5 down in Jacksonville, and one issue that came out of
6 that report that I wanted to highlight was that the
7 Council was noting that many immersion suits and
8 survival craft that they have been seeing and has
9 been noted in follow-up inspections have reached the
10 end of their service life and servicing facilities
11 are starting to see more of those items condemned
12 for material failures.

13 So, just because you have them on
14 board, you can't always make an assumption that
15 they're going to work for you. You need to be
16 inspecting those items.

17 From January through March of '09,
18 there were 25 reportable marine casualties and
19 they're detailed there on the bottom of Page 5 and
20 then on Page 6. I think these are important to
21 read.

22 On an older wood vessel with deck
23 winches, a crew member became entangled in a wire,
24 was pulled into the winch, resulting in death. That

1 was in -- off the northern New Jersey coast.

2 An older -- on an older wood vessel,
3 again, an engine room fire of unknown origin led to
4 an explosion, ruptured the hull and caused
5 uncontrollable flooding that sank the vessel. The
6 crew abandoned ship without injury.

7 Third report there on an older wood
8 vessel, a swinging trawl door struck and breached
9 the hull, caused uncontrollable flooding. It sank
10 the vessel and again the crew was able to abandon
11 ship without injury.

12 Fiberglass vessel grounded in an
13 inlet off North Carolina and broke apart before it
14 could be salvaged.

15 And then the final case there is
16 about the Lady Mary. I'll speak more about that in
17 a second.

18 But then just to summarize, four
19 vessel losses in three months. That's slightly
20 above the historical average for the winter season.

21 Seven fatalities, however. That's far more than we
22 normally see in an entire year.

23 Some of my normal outreach
24 information, I would just note that today's the

1 start of TWIC enforcement in all Captain of the Port
2 zones nationwide. So, Transit Worker Identification
3 Cards are being inspected throughout the nation.

4 Let's see. I know most of you have
5 read the press reports on the Fishing Vessel Lady
6 Mary, but I just wanted to provide a little bit more
7 detail. I am limited in what I can say, just
8 because -- as I'll detail here -- yesterday a Marine
9 Board of Investigation started in Cape May to look
10 into this event.

11 On March 24th, 2009, at approximately
12 0707, Coast Guard Fifth District Command Center,
13 which is in Portsmouth, Virginia, received a 406
14 EPIRB -- megahertz EPIRB alert approximately 65
15 nautical miles east southeast of Cape May, New
16 Jersey, from the 71-foot Fishing Vessel Lady Mary.

17
18 H865 Dolphin helicopter from Atlantic
19 City was dispatched and located the source of the
20 signal, along with an unmanned life raft. Three
21 crew members were found and recovered in the
22 immediate area. One of those crew members was
23 recovered alive, and the other two recovered crew
24 members were later pronounced dead. Four other crew

1 members from the vessel remain missing to this day.

2 The one survivor indicated the vessel
3 sank at approximately 5:00 a.m. that morning.
4 Searches were conducted over the next day and a
5 half, utilizing multiple aircraft out of both
6 Atlantic City and Elizabeth City, North Carolina,
7 fixed wing as well as rotary, and then the Cutters
8 Dependable and Finback both out of Cape May, New
9 Jersey, searched the area, as well.

10 Over the course of the search, there
11 were a total of 70 search hours, covering more than
12 3,670 square miles.

13 In accordance with the regulations, a
14 Coast Guard Marine Board of Investigation is being
15 convened to investigate the facts and circumstances
16 relating to the sinking of this vessel, the loss of
17 six lives, and to develop conclusions and
18 recommendations to improve the safety and operation
19 of similar vessels.

20 The Board was delayed to allow --
21 they wanted to allow time for the Board to review
22 evidence they obtained from the use of ROVs. That
23 operation hasn't -- still hasn't yet occurred, but
24 we're working to do that. But as I mentioned, the

1 Board did convene yesterday.

2 I should note the assistance we
3 received from NOAA in terms of getting out and
4 surveying the location of that casualty, and we
5 believe we have found what is the Lady Mary on the
6 bottom.

7 As I mentioned, the 14th of April,
8 yesterday, that Board convened in Cape May at the
9 Coast Guard Training Center. It is open to the
10 public. Accommodations have been made for the
11 deceased's family members, interested parties and
12 the media can attend. So, I'd ask you to pass that
13 information to those that may be interested.

14 And we have three Coast Guard
15 officers participating in that Marine Board of
16 Investigation as well as the NTSB is involved with
17 us in that investigation.

18 And that's all I would have for my
19 report, Mr. Chairman.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Tim, thanks for your report, and I'd like to just
22 take an opportunity to thank you also for arranging
23 Admiral Rosa's visit yesterday. We appreciate his
24 hospitality.

1 I had a chance to meet with him at
2 lunch yesterday and discuss a number of issues of
3 concern with the fleet and the Region, and Lee
4 Anderson and Dan Furlong accompanied us, but it was
5 a great opportunity to talk to the admiral and I
6 look forward to that ongoing dialogue, but we really
7 appreciate that opportunity yesterday. Thank you.

8 LCDR TIM BROWN: Yes, Mr. Chairman,
9 and I would note I definitely appreciated your
10 feedback. The Admiral did, as well. And that's why
11 I'm here, to listen to your comments and take that
12 -- take that back. Thank you.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Thank you very much. Howard.

15 HOWARD KING: Thank you, Tim. Two
16 questions. One, what was the weather conditions at
17 the time of the Lady Mary's sinking?

18 LCDR TIM BROWN: I don't have the
19 exact conditions, but the weather did pick up that
20 morning and overnight the night before. Like five
21 to eight foot seas, I think, and it was blowing --
22 it was blowing 25 or more, I think, that morning.
23 Erling's shaking his head, so I think I'm pretty
24 accurate.

1 HOWARD KING: And also on Page 3,
2 Figure 3 of your report, what's the reason for the
3 high percentage of -- well, it was boardings by gear
4 type, but a high percentage of general unspecified
5 gear?

6 LCDR TIM BROWN: Poor data entry,
7 primarily.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Thanks. Frank.

10 FRANCIS BLOUNT: Thank you, Mr.
11 Chairman. I asked at our Council meeting of the
12 Coast Guard in our area, and it might be of interest
13 to this Council also, I understand in the
14 President's budget that Loran has been phased out or
15 is scheduled to be shut off, and if there's been any
16 news on that or when it does become, if the Council
17 could be briefed on that, on the final date.

18 LCDR TIM BROWN: Thank you, Frank.
19 I'm not certain of the plans for that, so I will
20 have to do some research, but I will get back to
21 you.

22 COUNCIL CHAIRMAN RICHARD ROBINS: Any
23 additional questions for Tim?

24 (No response audible.)

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Jim, come on up.

3 JAMES FLETCHER: Will the Coast Guard
4 on the Lady Mary and the other wooden boats that
5 sank investigate the possibility that the 10/10/20
6 rule by management played a role in those vessels
7 not being replaced?

8 LCDR TIM BROWN: Jim, as I said, the
9 Marine Board of Investigation will look into all
10 aspects that surround this case, so they will be
11 looking into what may have caused or led to this, if
12 that is at all a factor.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Thank you, Tim.

15 Captain O'Shea is not with us today,
16 so we do not have an ASMFC Report, but we'll move on
17 to the New England Council Report. Erling Berg.

18 _____
19 NEW ENGLAND COUNCIL LIAISON REPORT

20 ERLING BERG: Thank you, Mr.
21 Chairman. Pat has already done some of my report
22 there on the court case, so I'll skip over that.
23 Thank you, Pat, wherever she is.

24 And then for your information, the

1 NOAA Administrator, Jane Lubchenco, made a visit to
2 the Council, and announced that 16 million dollars
3 will provided to support fisheries management in New
4 England. The money will be used primarily to
5 improve monitoring systems and for cooperative
6 research. And maybe we should invite her here. We
7 probably could use the money.

8 But anyway, public hearings are
9 expected to be held on Amendment 16 to the
10 Groundfish Plan either late May or early June.

11 And then also Pat got into the
12 Interim Rule and the Final Rule, so I'll skip that.

13 I will add that the Final Rule prohibits the
14 landing of winter flounder.

15 On herring, there really hasn't been
16 a meeting. There was something going on at this
17 Council meeting. There's a herring meeting
18 scheduled for June 4th and 5th, somewheres in New
19 England, the location to be announced, unless Frank
20 knows more than I do.

21 But the Council had made a motion
22 that herring vessels in order to access Closed Area
23 I there would have to be a hundred percent observer
24 coverage and they would not be allowed to dump the

1 cod-end before it was brought aboard to be
2 monitored. It's a big issue in New England, it's
3 fishermen against fishermen, and there's also some
4 environmental concerns.

5 Skates, there was a motion to revise
6 the skate wing possession limit to one landing per
7 day with a 1900-pound maximum per landing. All
8 vessels fishing on B days regardless of gear, the
9 possession limit would be 500 pounds of whole skates
10 and 220 pounds of wings.

11 On scallops, Pat has reported some on
12 what's going on with scallops. The Council made a
13 motion to establish separate ACT for the limited
14 access and limited access general category
15 fisheries, and apply corrective AMs only if the
16 respective ACLs are exceeded.

17 There was another motion to allow
18 limited access general category IQF permit owners to
19 permanently transfer some or all quota allocation
20 independent from their IQF permit to another limited
21 access general category permit holder while
22 retaining the permit itself.

23 Another motion was to allow limited
24 access general category IQF permit owners to

1 permanently transfer some or all of the quota
2 allocation independent from the IQF permit to a
3 community-based trust or permit bank while retaining
4 the permit to sell and the permit bank can lease or
5 transfer to any limited access general category IFQ
6 permit holder. How they're going to do that, I
7 don't know.

8 And then Amy Van Atten was there and
9 did a presentation on the sea scallop fishery catch
10 estimation method

11 And I'm going to stop there. Thank
12 you.

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 Erling, thank you. The bottom line on that scallop
15 ACL/AM issue is that did get clarified --

16 ERLING BERG: Yeah, I think that's
17 correct.

18 COUNCIL CHAIRMAN RICHARD ROBINS: --
19 per the intent of the committee; right?

20 ERLING BERG: That's what you and I
21 spoke about, and I think that's what clarified that.

22 I spoke to Dave Preble and he was aware of your
23 concerns, and it was cleared up.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you. Are there questions for Erling?

2 (No response audible.)

3 COUNCIL CHAIRMAN RICHARD ROBINS: Any
4 questions for Erling?

5 (No response audible.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: All
7 right. Seeing none, I think we have a -- Frank, did
8 you have a comment?

9 FRANCIS BLOUNT: Just a couple
10 additional things. The Council asked NMFS to
11 reconsider the Georges Bank winter flounder and
12 white hake trip limits in the Interim Rule based on
13 the analysis.

14 The Gulf of Maine Research Institute
15 will also be hosting some informational meetings to
16 prepare people for Amendment 16. I'm not sure if
17 there's any down in this area or how far south
18 they're going, but if you go to their website it has
19 the dates for the meetings.

20 As you mentioned, the herring
21 meeting, we're moving forward. There's four options
22 for monitoring. There's not a lot of details yet in
23 there. So, hopefully at the next -- there will be a
24 two-day meeting, should be the 4th and 5th, probably

1 be in Mansfield, Mass., but that's not definite yet.

2 The Council also asked the Service to
3 publish a control date for the skate bait fishery,
4 which might affect some people in this area.

5 And I think that's about all I have.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thank you, Frank. Gene Kray.

8 EUGENE KRAY: This is the New England
9 Fishery Management Council Habitat/MPA/Ecosystem
10 Committee Report. That committee met on March 3rd
11 in Mansfield, Frank, and by consensus agreed to send
12 the fishing gear sea bed impact model to their SSC
13 for review on Friday, March 6th.

14 The SSC Report was expected to be
15 presented to the New England Council at their April
16 meeting. One goal of the above model is to
17 categorize that or quantify the vulnerability of
18 habitats to fishing gears through a literature-based
19 matrix assessment.

20 The expected outcome is an evaluation
21 of the Northeast habitat susceptibility --
22 susceptibility to and recovery from the effects of
23 fishing by Northeast gears. This above process
24 builds on Amendments 13 and 10.

1 I saw the press release on this
2 morning's -- on my computer, but it said nothing
3 about this.

4 Frank, was that taken up at your
5 meeting, the fishery -- fishing gear sea bed impact
6 model?

7 FRANCIS BLOUNT: (Inaudible.)

8 EUGENE KRAY: Then it may not have
9 gotten through the SSC, so I don't know where that
10 stands.

11 The other item they dealt with, the
12 Atlantic wolffish EFH designation. The EFH
13 descriptions in the committee review document dated
14 March 3rd be included in the New England
15 Multispecies Amendment 16 with the following
16 modifications:

17 41 degrees north latitude, 71 degrees
18 west longitude south from the New England shore be
19 noted as the southern and western boundary of
20 wolffish in Option 2, and that the EFH text
21 description for Option 3 be included for Option 2.

22 The committee will meet again on
23 April 23rd in Portsmouth, New Hampshire. That's my
24 report, Mr. Chairman.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Gene. And the vulnerability model that
3 they're developing for habitat is a very, very
4 substantive model. It's going to be a major step
5 forward, I think, in terms of assessing habitat
6 vulnerability and susceptibility.

7 You know, and it's going to have
8 interesting implications for our fisheries, not just
9 in New England, but also some within our
10 jurisdiction. But I've already asked John
11 Pappalardo to please arrange to have a presentation
12 of that when it's ready for our Council to see, so
13 we can see the work of that model, because it is --
14 a very comprehensive vulnerability assessment.

15 It looks at all the existing habitat
16 types and then classifies them in terms of their
17 vulnerability and susceptibility. So, it's going to
18 be -- it's a very substantial production, but I look
19 forward to seeing that and being able to have our
20 Council review it, as well.

21 EUGENE KRAY: Yeah, they get into
22 very very finite descriptions of -- and definitions
23 of the difference between a boulder and a rock and a
24 pebble and gravel. I mean they're all different

1 definitions. So, -- and of course their concern
2 about what impact fishing gear has on that, and
3 that's what they're trying to develop in this model
4 through this -- a matrix assessment of the
5 literature that's written about all of this in
6 northeast fishing waters.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you, Gene. Questions for Gene or on this
9 issue? Jim.

10 JAMES WEINBERG: Yeah, at that

11 meeting, Steve Cadrin is the Chairman of their SSC,
12 he did mention that they had reviewed that model and
13 that they thought it was very good work.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Okay. Thank you, Jim. Additional comments?

16 (No response audible.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 I'll go to Red Munden for the South Atlantic Council
19 Report.

20 RED MUNDEN (No microphone):

21 (Inaudible.)

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Well, if you're ready to do Monkfish, we can go
24 ahead and have that while we're on the New England

1 theme.

3 MONKFISH OVERSIGHT COMMITTEE REPORT

4 RED MUNDEN: Thank you, Mr. Chairman.

5 I attended a meeting of the Monkfish Oversight
6 Committee on Monkfish Oversight Committee on March
7 31st in Manchester, Massachusetts, and I didn't
8 realize until I arrived at the meeting that I'd been
9 named as the Vice Chairman of the joint committee.

10 Terry Stockwell of the New England
11 Council is the Chairman. Jim Odlin and Mark Leary
12 from New England were in attendance, as well as
13 Laurie Nolan and Larry Simms and myself.

14 The purpose of the meeting was to
15 begin development of Amendment 5 to the Monkfish FMP
16 and the staff presented information to the team --
17 to the committee, rather, on the Plan Development
18 Team's recommendations and alternatives for setting
19 allowable biological catch, annual catch limits,
20 accountability measures and other management
21 references to bring the FMP into compliance with the
22 authorized Magnuson-Stevens Act.

23 The joint committee had a total of
24 nine actions that we voted on, and Mr. Chairman, I

1 have asked Jan to prepare those for projection on
2 the screen. And I'll also ask Frank to weigh in. I
3 don't know if the New England Council has acted on
4 these recommendations from the committee or not.
5 So, I will also ask Laurie and Larry to kind of keep
6 me straight here relative to these motions.

7 One of the first things we discussed
8 is recommendations from the Plan Development Team.
9 There are two actions that could be used for setting
10 the annual catch target, a top-down method and a
11 bottom-up method.

12 The top-down method requires
13 specifications of a buffer to account for management
14 uncertainty which is applied to the annual catch
15 limit. The opposite of that, the bottom-up
16 approach, requires specifications of an acceptable
17 precautionary increase in the current TAC.

18 The committee had a motion initially
19 for utilization for -- of the top-down approach for
20 management of monkfish. That motion failed. There
21 was a substitute motion and it's on the board, it's
22 Motion Number 1, that the document contained both
23 methods, the top-down as well as the bottom-up
24 methods, for calculating annual catch target as

1 alternatives.

2 And Mr. Chairman, I'll offer that on
3 behalf of the joint committee.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Well, Red, has this been -- has this already been
6 acted on by the New England Council?

7 RED MUNDEN: That's what I'm asking
8 Frank to help us with. Has not?

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Frank, it has not?

11 FRANCIS BLOUNT: No.

12 RED MUNDEN: So --

13 LAURIE NOLAN (No microphone):

14 (Inaudible.)

15 RED MUNDEN: Okay. Laurie's leading
16 me out of the woods here. She said that the
17 Chairman said that the Mid-Atlantic Council would be
18 the first Council to act on these motions that the
19 joint committee voted for.

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Okay. So, New England is expecting us to act on
22 these first, even though New England's the lead
23 Council on the plan?

24 RED MUNDEN: That's correct; that's

1 my understanding.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Well -- one moment.

4 (Pause.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Frank, has New England initiated Amendment 5 yet?

7 RED MUNDEN: And Mr. Chairman?

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Red, go ahead.

10 RED MUNDEN: Again, the purpose of
11 this meeting was to begin development of Amendment
12 5, and these were items that the joint committee
13 felt like should be included in Amendment 5. So, I
14 believe it's kind of like our dogfish discussion
15 yesterday, to take these items out for scoping.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Okay. All right. Well, then I'll allow the motion.

18 We have a motion on behalf of the
19 joint committee: Move that the document contain
20 both methods top down and bottom up for calculating
21 ACT as alternatives.

22 Does not require a second, since it's
23 on behalf of the committee. Questions on the
24 motion? Or discussion on the motion? Lee.

1 COUNCIL VICE CHAIR LEE ANDERSON (No
2 microphone): Could you clarify again the
3 distinction between top down and bottom up? I
4 wasn't --

5 (Microphone on:) I asked for a
6 distinction between top down and bottom up.

7 RED MUNDEN: The top down method
8 requires that specifications of a buffer to account
9 for management certainty be applied to the ACL. So,
10 you specify your buffer up front. The bottom up
11 approach requires specifications of an acceptable
12 precautionary increase in the current TAC before
13 setting ACL.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Dan.

16 DANIEL FURLONG: Yeah, let me make
17 the comment I made yesterday about -- you know, what
18 we were doing -- you know, with our plan.

19 If this is pre-scoping and what we're
20 doing is brainstorming ideas, and I believe that to
21 be the case, then again it's a toggle switch; and
22 the joint committee has decided that this is the way
23 they want to inform the public of one of the things
24 they want to consider for inclusion in Amendment 5

1 to the Monkfish Plan.

2 So, you know, in the sense of
3 debating this stuff or -- you know, trying to dig in
4 and find out -- you know, what it means, that's
5 really more academic than it is practical. The
6 practical question is is it in or out, and in that
7 context if the joint committee has already decided,
8 you might want to just say hey, here's the list,
9 move them all.

10 RED MUNDEN: I'll be glad to do that,
11 Mr. Chairman, should you so desire. But the Plan
12 Development Team laid it out as two options, and
13 initially the motion was to include only the -- go
14 back to my notes here -- the motion was to use the
15 top down approach. That motion failed and a
16 substitute motion was to include both of the methods
17 in the scoping document.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Okay, Red. I think we'll go ahead and take them one
20 by one, but is there any further comment on this
21 motion?

22 (No response audible.)

23 (Motion as voted.)

24 {Move that the document contain both methods (top

1 -down and bottom) up for calculating ACT as
2 alternatives.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Is
4 there any objection to the motion?

5 (No response audible.)

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

8 (No response audible.)

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Seeing none, it carries. Thank you. Red.

11 RED MUNDEN: Thank you, Mr. Chairman.

12 The second motion -- okay. The committee then
13 discussed the specifications period when ACT, DAS,
14 trip limits and other measures would be adjusted. A
15 motion was approved by the committee to recommend
16 that specifications be set for a three-year period
17 with an automatic extension provision if regulatory
18 action is not taken within that time period.

19 So, this was a recommendation from
20 the joint committee for inclusion in the public
21 scoping document.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Thank you, Red. The motion is to recommend that
24 specifications be set for a three-year period with

1 an automatic extension provision with regulatory
2 actions not taken within that time. Are there any
3 comments or questions on the motion?

4 (No response audible.)

5 (Motion as voted.)

6 {Move to recommend that specifications be set for a
7 3-year period, with an automatic extension
8 provision if regulatory action is not taken within
9 that time.}

10 COUNCIL CHAIR RICK ROBINS:

11 COUNCIL CHAIRMAN RICHARD ROBINS: Any
12 objection to the motion?

13 (No response audible.)

14 COUNCIL CHAIRMAN RICHARD ROBINS: Any
15 abstentions on the motion?

16 (No response audible.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Seeing none, it carries unanimously. Red.

19 RED MUNDEN: Thank you, Mr. Chairman.
20 The action was -- this next action was a consensus
21 action, but again I would like for the Mid-Atlantic
22 Council to take action on it.

23 We wanted to assure that the
24 committee agreed that we were going to have two

1 different management systems for the -- that can be
2 applied in the two management areas that have been
3 established for monkfish, a northern and southern
4 management area.

5 And the group agreed by consensus
6 that in the two management areas you could have
7 different management measures in place, and we all
8 agreed to that.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you, Red. Is there any questions or comments
11 on the motion?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Comment? Go ahead, Pat.

15 PAT AUGUSTINE: Thank you, Mr.
16 Chairman. Again, following what Dan's comment was,
17 this is a committee of two groups that are actually
18 saying what's going to be in the document, and I
19 don't know where that statement allows for
20 flexibility when it gets out to the public.

21 Do you really want to be that
22 specific and not include -- consider anything else?

23 I don't know if it requires an answer, but these
24 are very specific items, and it seems as though this

1 pre-scoping is actually directing the group where
2 you're going to go, and that's all you're going to
3 include. It doesn't allow for any flexibility.

4 That's my interpretation, Mr.
5 Chairman. If I'm wrong, please clarify that.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Well, Pat, as I understand what's on the board in
8 terms of that motion, it allows for the fact that
9 there could be different management regimes in the
10 two different management areas. I think that does
11 provide for flexibility. But perhaps Red could
12 comment. Red.

13 RED MUNDEN: I would defer to Laurie,
14 after I make a brief statement. As we go through
15 these motions, there were several motions that were
16 very specific to restrictions in -- different
17 restrictions in the two different management areas.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you. Laurie.

20 LAURIE NOLAN: Pat, and anyone who is
21 unfamiliar, the two areas operate very separately,
22 the industry. They fish differently, they have
23 different needs.

24 So, if anything, this was an issue

1 that kept coming up that we have to remember that
2 these are two different areas and let them have the
3 flexibility to manage each area differently, which
4 is why you see the inclusion of keeping the
5 alternatives in the document so that they can be
6 handled separately and differently, if that's the
7 case.

8 PAT AUGUSTINE: That greatly helps.
9 Thank you.

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Okay. I have Erling.

12 ERLING BERG: Well, if you'll bear
13 with me -- my ignorance here, but -- you know, we
14 keep talking about two different areas and maybe
15 everybody around the table knows, but where is the
16 demarkation line between the two areas? Somebody --

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Laurie.

19 LAURIE NOLAN: I don't have it
20 exactly, but I mean there's a northern area and a
21 southern area with a line that's monitored now even
22 through VMS, I mean, to keep track of where an
23 industry member is fishing, to know where the stock
24 is being taken from.

1 So, I don't know the exact
2 coordinates, it's in the documents, but it's clearly
3 marked with a line in the ocean.

4 ERLING BERG: So, would it be south
5 of Long Island or somewhere up in Block Island
6 Sound?

7 LAURIE NOLAN (No microphone):
8 (Inaudible.)

9 (Laughter.)

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Frank.

12 LAURIE NOLAN: I have a picture in my
13 room, if I should go get it. I don't have that
14 folder with me.

15 ERLING BERG: Thank you, Laurie.
16 That's very clear. Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Thanks. They're the existing management areas.

19 Frank, did you have a comment?

20 FRANCIS BLOUNT: Yes, thank you. I
21 understand how -- why the committee would make this
22 motion, but I don't understand this motion at the
23 Council level, because it's actually move to advise
24 the Council that the committee is considering.

1 Actually, at this point, the Council
2 should say that they endorse the two separate
3 management areas or something, because right now
4 it's -- I'm not quite sure what you're doing. The
5 Council --

6 UNIDENTIFIED: You've been advised.

7 FRANCIS BLOUNT: You've been advised
8 by the committee, but I'm not sure what the Council
9 is endorsing, unless they endorse that they're going
10 to do it. They don't have to -- just needs to be
11 reworded, I think.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you, Frank. I had Dan Furlong.

14 DANIEL FURLONG: Yeah, again, just --
15 you know, we're pre-scoping. I mean we haven't even
16 -- you know, taken this out to the public. And
17 understand that -- you know, under NEPA that when we
18 do go to the public after scoping and we get the
19 feedback, that then they do develop alternatives for
20 all these measures.

21 But I agree with what Frank just
22 said. This -- I don't know what the value is of
23 this motion -- you know, other than to tell the
24 Council hey, we're going to keep the two management

1 areas -- you know?

2 UNIDENTIFIED (no microphone):

3 Inaudible.

4 DANIEL FURLONG: There you go.

5 COUNCIL CHAIRMAN RICHARD ROBINS: I
6 have Red Munden.

7 RED MUNDEN: Thank you, Mr. Chairman.

8 Erling, the demarkation line between the northern
9 management area and the southern management area is
10 an east/west line just below the tip of Long Island.

11 And there are very specific management measures in
12 place for the two areas, trip limits and gear
13 restrictions and whatever. I stand corrected. Cape
14 Cod.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Red, further I would ask -- further, to Frank's
17 comment, would you like to amend the committee's
18 motion so that it would allow for the possibility
19 that there would be different management regimes in
20 the two management areas?

21 RED MUNDEN: Yes, Mr. Chairman. Or
22 we could make this -- recommend that the Councils --
23 recommend that -- let's see.

24 Yes, I believe strike out move to and

1 just say advise the Councils that the committee is
2 considering.

3 That would be a motion on behalf of
4 the committee, Mr. Chairman.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Okay. We're still advising the Council that the
7 committee is considering. I think, getting back to
8 Frank's point, as the Council, I mean all we're
9 doing is trying to include the possibility that
10 there would be different management regimes in the
11 two different management areas, so I guess I would
12 suggest incorporating Frank's comment that we say
13 allow in the scoping document that there would be
14 different management regimes in the two areas.
15 Frank.

16 FRANCIS BLOUNT: I think you just
17 have to say the Council is considering the
18 possibility. That will be two different management
19 regimes in the two areas.

20 So, we take out advise the Council,
21 and then take out that the committee. Then you say
22 the Council is considering the possibility.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Okay. Laurie.

1 LAURIE NOLAN: To this point, this is
2 the way it's managed now. I mean, you have the
3 northern area, the southern area. There's been
4 different trip limits. There's been different days-
5 at-sea allocated. It's the idea that at this point
6 for some reason just to clarify that and really put
7 it on the record that we're two different areas.
8 And if the north is choosing to drift towards an
9 LAPP and the south doesn't want to, it's just to
10 formalize the idea that they can continue really to
11 be managed as separate areas.

12 COUNCIL CHAIRMAN RICHARD ROBINS: I
13 have Pat Kurkul.

14 PATRICIA KURKUL: Was that an
15 explanation motion? I apologize. I came in late,
16 but I'm having a little trouble following. It's not
17 in the format of a typical motion, which would be a
18 decision by the Council or an action by the Council.

19 So, I'm a little confused, I think, about where we
20 are.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Pat, this started out as a committee motion and it
23 was -- the motion said that the committee will
24 advise the Council that it is considering this

1 option. And so we're in a pre-scoping state right
2 now and it was suggested by Frank Blount that we
3 clarify the motion so that it's a Council action and
4 not simply the committee advising the Council. And
5 so there was some discussion about that. Red.

6 RED MUNDEN: I'd like to amend my own
7 motion, Mr. Chairman. Move that the Council
8 consider -- strike out is, and make considering
9 consider. How does that look, Frank?

10 COUNCIL CHAIRMAN RICHARD ROBINS:
11 Frank.

12 FRANCIS BLOUNT: I think that
13 captures the intent.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Okay. Well, this is a -- this is now a motion by
16 Red. We need a second. Is there a second to the
17 motion? Erling. Okay. Discussion on the motion?

18 (No response audible.)

19 (Motion as voted.)

20 {Move that the Council consider the possibility
21 that there would be different management regimes in
22 the two areas.}

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

1 (No response audible.)

2 COUNCIL CHAIRMAN RICHARD ROBINS: Any
3 abstentions on the motion?

4 (Response.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: One
6 abstention. All right. The motion carries. Thank
7 you. Red.

8 RED MUNDEN: Thank you, Mr. Chairman.
9 Motion No. 4 is also a consensus motion from the
10 committee, and as it reads on the board: Move the
11 committee -- okay. Again, the motion on the board
12 needs to be amended and, Jan, if you would strike
13 out the committee in the first sentence.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Red, you want Motion No. 4, which is up top first;
16 right?

17 RED MUNDEN: Oh, okay. Thank you,
18 Mr. Chairman. I don't think there are any changes
19 needed for the fourth motion. If you'd like me to
20 read it, Mr. Chairman.

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Please.

23 RED MUNDEN: Move to request the PDT
24 to provide information on landings and permits by

1 vessels submitted by those that fished only in one
2 or the other area, and those that fish in both
3 areas. Later, as this concept is developed further,
4 the committee would like to have a complete vessel
5 by vessel listing of landings by area using a proxy
6 ID to preserve confidentiality over a long period,
7 1999 through 2008.

8 I make that motion on behalf of the
9 joint committee, Mr. Chairman.

10 COUNCIL CHAIRMAN RICHARD ROBINS:

11 Thank you, Red. Discussion on the motion?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS: Any
14 questions on the motion? Dan.

15 DANIEL FURLONG: Yeah, this just
16 seems like guidance to the staff. I mean, what --
17 what action does the Council have?

18 RED MUNDEN: We are recommending that
19 the PDT provide this information.

20 DANIEL FURLONG: I understand that,
21 but for what purpose?

22 RED MUNDEN: Laurie, lead us out of
23 the woods.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Red. Laurie.

2 LAURIE NOLAN: Okay. Well, how about
3 to reinforce that both Councils are coming together
4 with these motions that have been recommended by the
5 committee in order to reinforce that this is the
6 direction that both Councils agree to go in, since
7 it's a joint plan.

8 If we don't need it, I mean, it was
9 on consensus. It wasn't really a motion. It was
10 kind of a request at the committee meeting level.
11 So, maybe this could just be informational and we
12 don't really need it in a motion form, because it
13 was a request. I'm not sure.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Dan.

16 DANIEL FURLONG: Again, for what
17 purpose? I mean the joint committee said we'd like
18 to get this information, and I assume it's going to
19 be for some management scheme related to -- you
20 know, how Amendment 5 would alter the current
21 management system. And I don't see the connection
22 of this statement to that purpose, other than -- you
23 know, hey, we want information.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Laurie, I think the issue is whether or not the
2 Council needs to take action to request information
3 of the PDT, and I think the committee can do that.
4 Okay? So, I don't think this requires a Council
5 action.

6 RED MUNDEN: That's fine with me,
7 sir.

8 COUNCIL CHAIRMAN RICHARD ROBINS:
9 Okay. Let's go on to the next motion then.

10 RED MUNDEN: Identified as Motion No.
11 5. Move that the committee recommends that the
12 catch share program submitted by the Associated
13 Fisheries of Maine and scoping comments be
14 considered in Amendment 5.

15 This was a very detailed proposal,
16 about three pages long, submitted by Associated
17 Fisheries of Maine, and it had a number of different
18 approaches in it, and the group felt like it should
19 be considered in the amendment, but not necessarily
20 the only thing in the amendment.

21 And Mr. Chairman, I think the motion
22 would make more sense if we would strike out the
23 committee recommends and the motion be: Move the
24 catch share program proposed submitted by Associated

1 Fisheries of Maine and scoping comments be
2 considered in Amendment 5.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Since the motion is modified, motion by Red Munden.

5 Is there a second to the motion? Second by Dennis.

6 Discussion on the motion? Dan.

7 DANIEL FURLONG: I hate to get back
8 to this again, but the question I raise is this
9 suggests that they're further down the road on
10 Amendment 5 unless the scoping comments were
11 captured in Amendment 4 or some other framework
12 action.

13 I don't understand the connection
14 between scoping -- you know, what was scoped that
15 caused this information to become available to the
16 committee? You know, if the committee has yet to
17 really turn the wheel to start Amendment 10 or
18 Amendment 5, and that's what we're doing now.

19 I just -- it's a procedural question.

20 I don't know --

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 This hasn't been scoped yet, that I'm aware of.

23 Red, can you comment on this? I mean is that -- is

24 your final motion -- is the committee's final motion

1 to initiate Amendment 5?

2 RED MUNDEN: Scoping was held,
3 because they had review of scoping comments at the
4 beginning of our meeting. And so these were items,
5 based on the scoping comments, that would be
6 considered in Amendment 5.

7 Earlier I said that these items were
8 to go to scoping, but now that I think about it,
9 this issue has already been taken to scoping.

10 DANIEL FURLONG: Okay. So, Amendment
11 5 has been initiated?

12 RED MUNDEN: Yes.

13 DANIEL FURLONG: Okay. That's --

14 RED MUNDEN: That's why we had the
15 meeting.

16 DANIEL FURLONG: Okay.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Okay. So, the motion is to move the catch share
19 program proposal submitted by the Associated
20 Fisheries of Maine and scoping comments be
21 considered in Amendment 5.

22 Are there any further questions on
23 the motion or comments? Frank.

24 FRANCIS BLOUNT: Sorry, but I just

1 got off the phone with Phil Haring, and I guess our
2 Council was briefed today, we were going to take
3 action on these in June, and it's not anything that
4 the Council -- it was just informational purposes
5 was his understanding of these motions. So, it
6 seems like you really didn't have to take action on
7 these.

8 COUNCIL CHAIRMAN RICHARD ROBINS: All
9 right. Go ahead, Laurie.

10 LAURIE NOLAN: If we have, will that
11 put us ahead of the curve after New England meets?

12 FRANCIS BLOUNT: I don't know if it's
13 ahead or behind the curve. I mean, it shows that
14 the Council is supporting these actions, but I don't
15 think it was -- Pat. That's all I have.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Pat.

18 PATRICIA KURKUL: I would recommend
19 holding off on -- I mean, I know I don't feel
20 comfortable. I have no idea what's in the
21 Associated Fisheries of Maine scoping comments.

22 So, it makes sense to me that the
23 Council might want to wait until they get briefed on
24 where these issues are, and then they could take

1 more informed decisions.

2 COUNCIL CHAIRMAN RICHARD ROBINS: In
3 that case, perhaps we'll take this up after New
4 England's taken action on the committee report.
5 Red, go ahead.

6 RED MUNDEN: Then Mr. Chairman, I
7 would recommend that we defer action on all of these
8 recommendations from the joint committee until after
9 we determine the action that the New England Council
10 has taken.

11 COUNCIL CHAIRMAN RICHARD ROBINS:
12 Thank you, Red. Thank you for that clarification,
13 Frank.

14 Is there a second to that motion?
15 Dennis. Further discussion on that motion?

16 (No response audible.)

17 (Motion as voted.)

18 {Move to defer action on motions until further
19 notice.}

20 COUNCIL CHAIRMAN RICHARD ROBINS: Is
21 there any objection to the motion?

22 (No response audible.)

23 COUNCIL CHAIRMAN RICHARD ROBINS: Any
24 abstentions on the motion?

1 (No response audible.)

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Seeing none, the motion carries. Thank you. Frank.

4 FRANCIS BLOUNT: Yeah, one other
5 thing, just to clarify that scoping was done for
6 this amendment already. Technically, the formal
7 scoping ended on March 30th, I believe. But the --
8 it's still -- comments can still be received.
9 You're never going to not take comments or things,
10 but the formal process was, so -- we're not going
11 out to scoping again is what I'm trying to say.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thank you, Frank, and I apologize for the confusion
14 on that issue.

15 All right. Red, do you have a South
16 Atlantic Council Liaison Report?

17 RED MUNDEN: Yes, I do, Mr. Chairman.

18 Just one second.

19 (Pause.)

20 DENNIS SPITSBERGEN: I would
21 recommend that copies of those monkfish motions be
22 gotten out to all the Council members so at least
23 we'll know what we're dealing with the next go-
24 round.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you. We'll ask that they be included in the
3 briefing book for the June meeting. Thank you.

4
5 SOUTH ATLANTIC COUNCIL LIAISON REPORT

6 RED MUNDEN: Thank you, Mr. Chairman.

7 Now we'll move into a little more familiar
8 territory for me. The South Atlantic Council met in
9 Jekyll Isle, Georgia, March 2nd through the 9th, and
10 a number of issues were discussed. One was not a
11 committee that I served on, but I think it's of
12 importance to the Mid-Atlantic Council.

13 The South Atlantic Council discussed
14 limited access participation programs. We heard a
15 lot of comments yesterday on LAPPs. And the Council
16 decided that they would like any LAPPs that are
17 developed in their fishery to be done individually
18 by fisheries with the possibility of incorporating
19 all the programs into a single comprehensive LAPP
20 document, which is very similar to what -- the
21 approach that we're taking.

22 The staff was asked to prepare an
23 analysis of the work that would be required to
24 prepare a LAPP for the entire snapper/grouper

1 fishery and present those results at the June 2009
2 meeting.

3 It does not mean that the Council is
4 requesting a LAPP to be developed for the entire
5 snapper/grouper fishery; however, Council members
6 are starting to get requests from fishermen and
7 comments from fishermen who say that the way things
8 are going in the snapper/grouper fishery with all
9 the restrictions that are coming down, they would
10 like for the Council to consider LAPPs for that
11 fishery.

12 I attended the Mackerel Committee,
13 and Dennis Spitsbergen can probably shed a little
14 light on this, but the King and Spanish mackerel
15 fishery is managed through a joint plan with the
16 Gulf Council; and for years, the South Atlantic
17 Council has not been satisfied with the mackerel
18 that are found in an area off southern -- eastern
19 coast -- the southern portion of east coast of
20 Florida, where mackerel from the Gulf Council
21 migrate around the tip of Florida and mix with
22 mackerel from the Atlantic stock.

23 And the Gulf has always contended
24 that those are all Gulf fish, so that has increased

1 the amount of fish that they have available in that
2 quota.

3 So, some Council members felt like
4 that the best way to handle mackerel was to initiate
5 a divorce from the Gulf Council, and manage King and
6 Spanish mackerel -- this is primary King mackerel,
7 but manage mackerel through a separate FMP.

8 But now the Gulf has agreed that the
9 mackerel that are found in the mixing zone should be
10 considered 50 percent Gulf fish and 50 percent
11 Atlantic fish. And the South Atlantic Council said
12 well, we don't need to go through with the divorce,
13 because this is what we wanted all along.

14 However -- and that's the position
15 that the South Atlantic Council is taking now.

16 However, the reviewers of the latest
17 stock assessment indicated that King mackerel
18 landings from Mexico needed to be incorporated into
19 the assessment. So, if that happens, it may be
20 better if you do separate the plan and let the Gulf
21 Council worry about the Mexican fish that are not
22 currently being reported and considered in the
23 assessment, and for the South Atlantic to go back to
24 the original position and say we need a separate

1 plan.

2 So, it kind of reminds me of spiny
3 dogfish in Canada, where we're sharing a stock and
4 the data sometimes are not what we would desire.

5 Anything you'd like to add to that,
6 Mr. Spitsbergen?

7 DENNIS SPITSBERGEN: No, only that I
8 thought I had negotiated a 55/45 split before I
9 left, 55 for the Atlantic. So, I was a little
10 surprised to hear that it dropped to a 50/50. So,
11 anyhow, that's my recollection from a lot of years
12 ago.

13 RED MUNDEN: Moving on to
14 dolphin/wahoo, the Council voted to include dolphin
15 and wahoo in the comprehensive ACL amendment to
16 establish annual catch limits and accountability
17 measures for these species in the comprehensive
18 amendment.

19 The Council also desires to evaluate
20 prohibiting bag limit sales of dolphin from for-hire
21 vessels, and you have to keep in mind that the
22 dolphin/wahoo plan is a South Atlantic plan, but
23 also it applies to both the Mid-Atlantic and the New
24 England areas of jurisdiction.

1 So, the Council is considering the
2 prohibition on the sale of bag limit caught fish
3 from for-hire vessels throughout the range of the
4 species.

5 Another thing that the Council is
6 looking at is whether or not to establish minimum
7 size limits off the Carolinas, because currently
8 Georgia and Florida currently have minimum size
9 limits of dolphin, but the other two states don't.

10 There was no discussion that I recall
11 of a minimum size limit for dolphin north of the
12 Carolinas.

13 I'd be glad to answer any questions
14 concerning dolphin/wahoo before -- and mackerel
15 before we get into snapper/grouper.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Thank you, Red. Are there any questions on that
18 issue for Red?

19 (No response audible.)

20 COUNCIL CHAIRMAN RICHARD ROBINS: I
21 don't see any, Red, if you want to move on.

22 RED MUNDEN: Thank you, Mr. Chairman.
23 As usual, with the South Atlantic Council
24 snapper/grouper discussion, the committee usually

1 meets a full day and sometimes a day and a half, and
2 at this meeting a lot of discussion was devoted to
3 Amendment 17 and Amendment 18, and I'll touch
4 briefly on Amendment 18 in the latter half of my
5 report here.

6 But under Amendment 17, the Council
7 took action to request that NMFS develop an interim
8 rule to implement a no-harvest restriction for red
9 snapper off the coast of North Carolina, South
10 Carolina, Georgia and Florida. And this is for both
11 sectors, commercial and recreational.

12 And this action was necessary because
13 they were notified a year ago this coming June that
14 red snapper was overfished and that rules would have
15 to be placed -- put in place in order to end the
16 overfishing.

17 They initiated Amendment 17, but it
18 is not expected to be in place by the time that the
19 time clock runs out in June of 2009.

20 The bulk of the red snapper landings
21 come from the recreational fishery. It's been
22 determined that high discard rates and high
23 mortality of the fish that are discarded has
24 resulted in overfishing. And also it is clear from

1 the stock assessment that just prohibiting --
2 reducing discards will not rebuild the stock. So,
3 you need a closure. And initially, they were
4 talking about a massive closure from southern North
5 Carolina all the way through Florida.

6 But after looking at the landings
7 information and whatnot, they determine that a
8 closure primarily off Florida -- Georgia and
9 Florida, from the South Carolina/Georgia border
10 southward to just below Cape Canaveral, in water 30
11 to 50 meters deep, would -- should allow the stocks
12 to rebuild, the red snapper stocks.

13 And that is -- appears to be the
14 preferred option that will go into Amendment 17,
15 which is still being developed.

16 One of the things that the South
17 Atlantic Council is considering is a method for
18 determining recreational TALs and subsequent
19 accountability measures for snapper/grouper based on
20 historical landings, and what they are proposing,
21 that the overages in future years will be taken off
22 of subsequent years, and this is problematic for
23 North Carolina, because if there's an overage in one
24 year and then the next year they decide to reduce

1 the harvest by the amount of the overage, that could
2 possibly cut out North Carolina, because the fishery
3 starts in Florida. And the Florida fishermen could
4 take the entire quota before the fish arrived in
5 North Carolina.

6 North Carolina has been pushing for
7 state-by-state quotas and NMFS claims that they do
8 not support state-by-state quotas because the -- any
9 overage could be addressed through the FMP framework
10 action. But the North Carolina delegation doesn't
11 feel like that that would be as desirable as state-
12 by-state quotas.

13 One other thing of interest is that
14 the -- relative to the snowy grouper fishery, the
15 Council recommends accountability measures for the
16 recreational snowy grouper fishery. Currently 523
17 fish can be landed annually in the recreational
18 fishery, 523 fish for the whole South Atlantic area.

19 And that's for snowy grouper.

20 And in order to address the overage
21 that has occurred in the recreational fishery, they
22 reduced the limit -- the possession limit on snowy
23 grouper to one per vessel. I believe it was one per
24 person aboard the vessel until this action. And any

1 averages of the 523-fish limit -- harvest limit in
2 the recreational fishery will be reduced -- taken
3 away -- subtracted from the quota for the next year.

4 So, that concludes the actions that
5 the Council has taken and that they are considering
6 for Amendment 17.

7 Amendment 18 we talked about a number
8 of different times, and Amendment 18 would apply to
9 the Mid-Atlantic and New England area jurisdiction.

10 There are several things that are under
11 consideration:

12 A limit on the participation and
13 effort in the golden tilefish fishery, and this
14 would be from North Carolina south, because the Mid-
15 Atlantic Council manages golden tilefish through our
16 FMP.

17 A limit on the participation and
18 effort in the black sea bass pot fishery.

19 But the most significant thing that's
20 considered for Amendment 18 is extend the fisheries
21 management unit for snapper/grouper northward, which
22 could include both the Mid-Atlantic area of
23 jurisdiction or a portion of that, or all the way up
24 into the New England area of jurisdiction.

1 Tomorrow we have a presentation
2 scheduled by South Atlantic staff member Rick
3 DeVictor and he is the staff person who coordinates
4 the snapper/grouper amendments and he will come up
5 and discuss Amendment 18 with the Mid-Atlantic
6 Council.

7 Our Chairman was able to make it down
8 to the meeting and we made comments concerning
9 extension of their jurisdiction of snapper/grouper
10 up into the northern areas of jurisdiction through
11 Amendment 18, and one of the things that we
12 recommended on the record is that we felt like it
13 would be appropriate to delay any action on
14 Amendment 18 until data are available on
15 snapper/grouper abundance and distribution.

16 We already manage both black sea bass
17 and scup north of Hatteras under the existing Summer
18 Flounder, Scup and Black Sea Bass FMP. And
19 fishermen who harvest those species are required to
20 have a Northeast Region limited access permit. And
21 we manage golden tilefish through our Golden
22 Tilefish FMP; and likewise, those fishermen are
23 required to have a permit issued by the Northeast
24 Region for participation.

1 The reason why I'm dwelling on
2 permits, there's one provision in the
3 Snapper/Grouper FMP that requires that an individual
4 who obtains a snapper/grouper permit -- and these
5 are a transferable permit from the South Atlantic
6 Council -- first obtain two permits and they have to
7 turn in those two permits to the National Marine
8 Fisheries Service and then they're issued one. It's
9 a two-for-one exchange.

10 So, any fisherman who -- commercial
11 fisherman who wanted to land snapper/grouper, if the
12 jurisdiction is extended north, would have to go
13 through this two-for-one permit exchange as
14 currently specified in the Snapper/Grouper FMP.

15 Those permits are quite expensive and
16 we have a number of fishermen in North Carolina who
17 gave up their permits and then when they went to get
18 back in the fishery, they just couldn't afford to go
19 for the two-for-one exchange. So, these are the
20 items -- some of the items that Rick and I pointed
21 out at the meeting that were of concern to the Mid-
22 Atlantic Council.

23 Mr. Chairman, that concluded my South
24 Atlantic Council Report.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Red, thank you very much. And as you pointed out,
3 we do have a presentation from South Atlantic staff
4 member Rick DeVictor tomorrow. He'll be briefing us
5 on 17 and 18 as they relate to the Mid-Atlantic.
6 So, we'll look forward to that discussion tomorrow
7 morning.

8 Are there any questions for Red? Ed.

9 EDWARD GOLDMAN: Yes, thank you, Mr.
10 Chairman. I was curious on the red snapper. You
11 mentioned that the recreational fishery, that the
12 discards are the problem. Are those discards caused
13 by the regulations?

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Red.

16 RED MUNDEN: Regulations and size
17 limit. And the reason discards in the recreational
18 fishery are so much higher -- discard mortality --
19 is because they catch that many more fish. They
20 catch about 80 percent, 88 percent of the total
21 landings.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Thank you. Jeff Deem.

24 JEFFERY DEEM: Red, the discard

1 mortality is high in the snapper/grouper -- the deep
2 water species like that. Is part of that because of
3 the advent of electric reels? Do you think if they
4 were brought -- were only brought up manually at a
5 slower pace that the mortality would be as high?

6 RED MUNDEN: I think that's part of
7 it, and red snapper are found from 30 to 50 meters
8 water depth, and I think when you bring off the
9 bottom -- you know, you're going to have mortality.

10 The South Atlantic Council has a
11 requirement -- I think it's in Amendment 17 where
12 they require venting tools on the vessels to vent
13 the swim bladder of the snapper/grouper when they
14 bring them up. And the requirements are based on
15 the restrictions that are already put in place in
16 the Gulf.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Thank you, Red. Dennis.

19 DENNIS SPITSBERGEN: Yeah, Red, you
20 mentioned that they were going to take overages on
21 snapper/grouper off the following year. Did they
22 discuss how they were going to determine those
23 overages? Or should I wait and ask the
24 representative from the South Atlantic that question

1 tomorrow?

2 RED MUNDEN: Yes, we should wait till
3 tomorrow, because I don't recall.

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Thanks, Red. Other questions? Pat.

6 PAT AUGUSTINE: Thank you, Mr.
7 Chairman. Good presentation, Red. Are you talking
8 about just closing down the fishery in total, which
9 includes all other groundfish, or are there no other
10 groundfish in that area where they would fish for
11 snapper/grouper?

12 And would that be an MPA or would it
13 be just a prohibition on fishing for or retention
14 of?

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 Red.

17 RED MUNDEN: Retention of. And they
18 have identified specific areas. Actually, they are
19 the NMFS logbook areas. And they extend, as I say,
20 from the South Carolina/Georgia border all the way
21 down to about Cape Canaveral. And so that's where
22 they're planning on the restrictions applying. And
23 that's -- they feel like they'll get the biggest
24 bang for their bucks if they go and close those

1 specific areas rather than much larger areas where
2 there's not that much harvest of red snapper.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Frank.

5 FRANCIS BLOUNT: Thank you, Mr.

6 Chairman. If I can, I want to go back to something
7 he said on dolphin earlier. Back in a former life,
8 I think I was a member of that committee when it
9 first started. I might still be, I'm not sure, but
10 you mentioned they were talking about the size
11 limits on the dolphin?

12 Was that only for the southern areas?

13 Because I know originally it was said once the fish
14 moved up into the northern area that they probably
15 never go south again, so there was like fewer
16 restrictions.

17 RED MUNDEN: Florida and Georgia

18 already have minimum size limits. North Carolina
19 and South Carolina don't. So, they're proposing
20 that they apply size limits, also, in the Carolinas.

21 So, right now it's not being proposed -- I don't
22 believe -- for -- well, anything north of North
23 Carolina.

24 FRANCIS BLOUNT: Thank you.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Howard King.

3 HOWARD KING: Pass.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thank you. Dan.

6 DANIEL FURLONG: Behind Tab 7, all
7 the motions are there on the snapper/grouper. And
8 immediately after the motion to close the red
9 snapper -- this is on Page 4, Motion 20 I'm
10 addressing.

11 Immediately following Motion 19,
12 which was the interim rule to no harvest red
13 snapper, they then said: Request the Regional
14 Administrator not publish a final rule prior to the
15 June Council meeting.

16 Do you know what the motives were for
17 that, or -- you know, are they going to take the
18 June meeting and change their minds?

19 RED MUNDEN: No, it's because they
20 hope to have an update stock assessment in time for
21 the June meeting.

22 DANIEL FURLONG: Ah, okay.

23 RED MUNDEN: And they asked the
24 Regional Administrator just to hold off to see if

1 indeed the stock assessment would change the status
2 of the action.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thank you, Red. I would just clarify one other
5 motion that's in there. This is behind Tab 7 on
6 Page 1, and it's the summary of the motions. And
7 Red commented on Amendment 17 and Amendment 18, and
8 we'll get into this tomorrow in more detail, but
9 just for background, Motion Number 2 says: Establish
10 an annual catch limit of zero for speckled hind and
11 Warsaw grouper; prohibit all fishing for, possession
12 and retention of all deep water snapper/grouper
13 species seaward of 40 fathoms.

14 And what that would have the effect
15 of doing, if this -- this is in 17. 18 proposes to
16 extend the jurisdiction or the management range of
17 the FMP throughout the Mid-Atlantic or New England.

18 And by prohibiting fishing deeper than 40 fathoms
19 in the Mid-Atlantic, that would effectively
20 eliminate our deepwater snapper/grouper fishery.
21 Notwithstanding our managed fisheries within that
22 complex for black sea bass, golden tilefish and
23 scup.

24 So, that's sort of where the rub is

1 on 17 and 18, but again we'll have a comprehensive
2 report tomorrow from their staff. But that's just
3 by way of background.

4 And Red, thanks again for a great
5 report. Go ahead.

6 RED MUNDEN: And I'm going to ask my
7 colleague, Mr. Spitsbergen, to make sure I'm in the
8 right ball park here, but one reason that
9 snapper/grouper management is so complicated is
10 there are something like 73 species in the
11 snapper/grouper complex. And they have very little
12 data on a lot of the species, and so -- another
13 thing that I've observed about the South Atlantic,
14 over the years, they have not established quotas.

15 They have tried to manage their
16 fisheries through seasons, size limits and trip
17 limits or possession limits. And so often times
18 there's been no payback provision. It's just a
19 matter of adjusting your regulation.

20 And I think the Mid-Atlantic
21 Council's approach of hard quotas with paybacks and
22 all has benefitted the stocks tremendously, as
23 compared to what I've observed over the past couple
24 years with South Atlantic.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Red. Additional comments or questions
3 for Red? Go ahead, Dennis.

4 DENNIS SPITSBERGEN: Yeah, Red pretty
5 well hit the nail on the head with that. One of the
6 problems with the snapper/grouper complex is there's
7 no way of running any kind of surveys like we have.
8 I mean it's all dependent on getting information
9 from the fishing industry, but there's no way to
10 compare that with surveys. So, it's a very
11 difficult fishery to get decent data on, to run good
12 assessments.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Thanks, Dennis. That's an important point. A lot
15 of the data is basically catch data. So, that's an
16 important aspect of it.

17 With that, why don't we move on to
18 the report from Dan Furlong, the Executive
19 Director's Report.

20 _____
21 EXECUTIVE DIRECTOR'S REPORT

22 DANIEL FURLONG: Okay. I'll be
23 pleased to do that. If you'll take a look at the
24 information behind Tab 8, there's a series of emails

1 back to the green divider that just capture the
2 motions from the last meeting and task appropriate
3 staff -- you know, with the action to follow-up.
4 So, you'll see that we started with the ACLM
5 Committee, we've met -- had a committee meeting
6 today. We're well on our way.

7 The next one relates to two motions
8 for Surfclam/Ocean Quahog and the documentation
9 indicating that -- take it out of the plan, the
10 concept of the ACLMs, but move on the issues with
11 excessive shares.

12 With regards to the next motion,
13 that's the series of motions that relate to the --
14 what am I talking about, the Squid, Mackerel,
15 Butterfish, particularly the mackerel plan in
16 Amendment 11.

17 And then finally a motion related to
18 our Council supporting the issue of compensation for
19 SSC members at that time in the future Council
20 Chairmen's meeting.

21 Behind that there's correspondence
22 that occurred between our two meetings. The first
23 one relates to a letter that concern the Garden
24 State Seafood Association's request to this Council

1 about changing the tending requirements for the
2 Bottlenose Dolphin Take Reduction Plan.

3 We concluded that it was not within -
4 - you know, our jurisdiction to alter that plan,
5 inasmuch as it was under Marine Mammal Protection
6 Act. And that the absence of data suggests that --
7 you know, we not take an action on that.

8 But we did inform the Bottlenose
9 Dolphin Conservation Coordinator that as relates to
10 dogfish we're changing our trip limits from 300 to -
11 - from 600 to 3,000 pounds, and that that would
12 probably displace some inshore fishery out to the
13 EEZ.

14 The next letter is an acknowledgement
15 of an incoming letter from Oceana that was jointly
16 signed by Gib Brogan and Buffy Bauman, indicating
17 how they would like to see this Council develop its
18 annual catch limits and accountability measures.

19 You'll note that requirements of the
20 Act allowed an opportunity to consider interactions
21 for all of our managed fisheries and stocks, and
22 they want to make sure that we consider those
23 interactions as we move forward. And we indicated
24 that we certainly would do that.

1 The following letter is a letter to
2 Dr. Thompson, relates to the receipt by Paul -- or
3 the transmission of Paul Rago's report related to
4 Standardized Bycatch Reporting Methodology and
5 Annual Discard Report and the
6 consultation/prioritization process for 2009.
7 Indicates that the Council was concerned with the
8 allocation of sea sampling days in the Mid-Atlantic
9 jurisdiction on small mesh, inasmuch as our
10 Amendment 10 program had indicated that -- you know,
11 in the establishment of bycatch cap in honor of the
12 30 percent CV requirement that we didn't think the
13 level of observers in our jurisdiction would really
14 meet that.

15 So, the Council went on to request
16 that sampling of the small mesh fisheries in the
17 Northeast be conducted at a level that results in an
18 acceptable level of precision, about the estimates
19 of butterfish bycatch in the loligo fishery.

20 Now, on that point, distributed at
21 lunchtime and in front of you is this report on
22 Standardized Bycatch Reporting Methodology. And if
23 you turn to Page 8 of that document -- and I'll give
24 you a second to find that -- you'll see a table.

1 This is what Jim Weinberg referred to in his report
2 -- that there have been changes made in the
3 allocation of observer days.

4 And this table is a good summary of
5 before and after. And if you course down this, you
6 can see that there have been some adjusted -- some
7 adjustments in the small mesh allocation. I think -
8 - is it Line 22? Yeah. If you go there, Mid-
9 Atlantic small mesh trawl. You can see what was
10 originally contemplated and you can see what's now
11 been revised.

12 So, there was a positive outcome. We
13 bumped up from the original allocation of about 209
14 to 347. So, that was a good outcome.

15 The next letter just some courtesy
16 thank yous to the people who participated in our
17 workshop in our February meeting.

18 There's also one letter to Bruce
19 Freeman, where he was writing on behalf of Captain
20 Puskas out of Barnegat Light, indicating that
21 Council consider initiating another quota-based
22 research set-aside program to accommodate people who
23 had made a lot of contributions historically to
24 these fisheries.

1 And basically we suggested that --
2 you know, work with Captain Puskas and work with our
3 Research Set-Aside Committee to develop priorities
4 and develop proposals that may better fit in that
5 experimental design, the allocation process to
6 accommodate people like Captain Puskas, who when the
7 Tilefish Amendment 1 went through -- as well as the
8 Tilefish Plan itself -- weren't recognized for their
9 prior activity in that fishery.

10 And again, just some more courtesy
11 thank yous for people being involved in that
12 workshop from our February meeting.

13 The next item behind that green
14 separator is an email exchange between Bill Wolfe of
15 the Pew Environmental Group wherein on the bottom
16 half he communicates to us a letter that follows
17 that email dated March the 9th, and my comment back
18 to him about the letter.

19 This is a very comprehensive letter
20 that lays out from the Pew Environmental Group's
21 perspective what our Council's duties are, our
22 obligations are, regarding the reauthorization.

23 I think it's a fair letter in the
24 context of identifying what needs to be done. And I

1 think in that context, we are moving in the right
2 direction, and the letter also recommended -- you
3 know, some monitoring, some enhancements -- you
4 know, in that area to make things happen. And we
5 appreciate their efforts on our behalf to secure
6 some more resources.

7 The one downside of this, the letter
8 itself, no problem with it, but subsequent days
9 there are a number of news articles that -- the tone
10 of which was that hey, the environmental group is
11 beating the Mid-Atlantic Council because the Mid-
12 Atlantic Council isn't doing its job.

13 And I was contacted by a number of
14 reporters about that; and I said, hey, that's just
15 not true. You know, I said we're a poster child
16 Council when it comes to our performance related to
17 preventing overfishing and rebuilding stocks. And
18 the way it was categorized in those articles is that
19 we weren't doing that.

20 And so I took exception to that, and
21 Bill and I had a telephone tag. We never did get
22 together, but we've talked since, and Bill, you're
23 welcome -- you know, at the conclusion here, to make
24 some comments as you see -- you know, appropriate.

1 Moving on from that, point out that
2 Gene Kray has reduced his workload somewhat on the
3 Surfclam/Ocean Quahog Committee but picked up an
4 additional workload with the New England Council
5 with their Habitat Committee.

6 Another issue here relates to email
7 exchange with Clay Heaton, who had a number of
8 complaints about how the Research Set-Aside Program
9 was operating in New York, and in particular the
10 fact that a number of people up there have a
11 perception that they're being disadvantaged by that
12 program, and that people were breaking the laws.

13 And my comment was hey, if you've got
14 names, give it to law enforcement. Let them do
15 their job. And then have that individual contact
16 either Greg or Danny Cohen to learn how the NFI
17 program is operating in terms of their auction.
18 I never did get any conclusion on that.

19 Following is a slide show that I
20 presented to an outfit called Save the Summer
21 Flounder Fishery Fund. I was requested to talk
22 about summer flounder and where we are in that, and
23 those slides kind of tell you what I said up there
24 at that meeting.

1 I was really surprised. It was like
2 \$75 a head to go to that dinner, and they easily had
3 200 people -- you know, at this dinner, so -- and
4 they had a lot of raffles. I didn't win a damn
5 thing. Cost me 40 bucks in chances; didn't win a
6 thing. So, I made a contribution to that group in
7 addition to the cost of the dinner. So, that was a
8 costly night out.

9 The next one is an email exchange
10 with the New England Council about our schedule.
11 You'll see down there at the bottom half of the
12 email that the dates for the 2010 year were
13 highlighted there, and basically it's the second
14 week of even-numbered months. So, 2, 4, 6, 8, 10,
15 12.

16 You know, they're the months, and
17 we'll be in there in the second week, but for Jan's
18 response, which indicates that hey, our August
19 Council meeting we try to have it before August the
20 10th so that sitting members have the opportunity to
21 be involved with the specs. So, that would push
22 that August meeting back to the 4th through the 6th.
23 So, it's still kind of out there, what they're going
24 to do with that.

1 And I think the final thing in all
2 this is Gary Stoller, who's an editor with USA
3 Today, wrote to me and had a number of questions. I
4 think I go through nine questions. And we made a
5 response, but I think it's interesting to see the
6 interest area of this editor for USA Today.

7 That was about two weeks ago, and I
8 sent him an email the end of last week said: Hey,
9 did you ever use this stuff?

10 And he wrote back, he says: No, I
11 didn't make my deadline, he says, but the
12 information is great and I'm going to use it
13 sometime in the future.

14 So, that's just everything I've got
15 behind Tab 8. I would point out that I did hand out
16 after lunch our annual brochure. This is a summary.

17 It's a trifold that gives an indication of our
18 rules. And I would always point out that this is
19 just information and that we've got a little
20 disclaimer there, check the final rules as published
21 in the Federal Register, and we also talk about
22 check with state agencies to obtain complete copy of
23 current state regulations, especially when we talk
24 about conservation equivalency.

1 But you've see this brochure before.
2 It's a good summary. It's a quick-and-dirty, tells
3 you -- you know, what the rules are that have gone
4 final. That's the F prefix on the species, that's a
5 final rule, a P is a proposed rule, which means it's
6 in the system and it's still perking at this time.

7 We try to time the release of this so
8 that everything's gone final. Doesn't always work
9 that way, especially with the recreational stuff.
10 But otherwise, it's a good summary.

11 I also provided you a rules of
12 conduct. I haven't got the 209 -- the 2009 version
13 yet. They don't change much, but just remember that
14 the more ethics the better. And I say that inasmuch
15 as I've had a couple inquiries from third parties
16 and environmental groups about members, especially
17 as it relates to our disclosure forms.

18 It's obvious that -- you know, with
19 the passage of the Reauthorization, we as a Council
20 have to put up those financial disclosures about
21 you, and people -- because you're public figures,
22 people take a look at that information. And if they
23 think they've got a gotcha -- you know, then they
24 call me up and say hey, so-and-so isn't up to speed

1 on this thing, or we've got a question. And so, you
2 know, it's always best to get this information out
3 there.

4 And finally, after years of trying to
5 find the best deal, we got two dollar hats. So,
6 these hats are -- you know, two dollars a pop, and
7 they're really good. They're nice hats and -- you
8 know, keep you from getting -- you know, burned when
9 you're out there fishing off the stern of your
10 boats.

11 And with that, I'll say -- I'll take
12 any questions or any issues, and I would again
13 invite Mr. Wolfe, if you'd like, to talk about your
14 charge of -- you know, coming here and being a
15 positive contributor and making sure that things
16 work -- you know, between the Pew Environmental
17 Group and our Council.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Dan, thanks for contributing to the stimulus package
20 and thanks for your presentation.

21 Any questions for Dan at this point?

22 Ed.

23 EDWARD GOLDMAN: Yes, thank you, Mr.
24 Chairman. Dan, you mentioned about the disclosure

1 form being put up. Exactly where are they being put
2 up at?

3 DANIEL FURLONG: They're on our
4 website. If someone wants to --

5 EDWARD GOLDMAN: So they can be --

6 DANIEL FURLONG: Yeah, and you can
7 review your stuff. There's -- over in the left
8 scroll bar there's an option to go to Council
9 members, and you click on that option and then you
10 get Council members and it has their names.

11 And there's a little block in there
12 and it will say -- click on that person and you'll
13 see the financial disclosure form.

14 So, it's out there in the public, and
15 as I say, as a public figure -- you know, people
16 will look at -- you know, why you do what you do,
17 and they might see some conflict there.

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Gene Kray.

20 EUGENE KRAY: I didn't get a hat.

21 (Laughter.)

22 DANIEL FURLONG: I'll get you -- but
23 you also get an ethics briefing book, so we'll give
24 you that, as well.

1 COUNCIL CHAIRMAN RICHARD ROBINS: You
2 haven't been stimulated yet. All right. Any other
3 questions for Dan?

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS:
6 Bill, did you have any response to Dan's comments?

7 BILL WOLFE: Sure, I'll bite. I've
8 been invited. It's now on the record. The concern
9 I had I shared with -- probably very similar
10 concerns that we heard from the enforcement people,
11 that there was some media interpretation of what
12 went on in terms of the release of our letter and in
13 terms of what ended up in the newspaper.

14 And I took exception to that. We
15 talked -- Dan and I spoke. My role here is to be --
16 again, a positive contributor. PEW is a very
17 rational science-based organization. We advocate
18 conservation. I expect that to be the expectation
19 here.

20 Anything you hear about PEW that
21 you'd like to clear, please give me a ring. We do
22 not -- the earlier proposal yesterday about -- we
23 did not fund that initiative. That was
24 misinformation that was bandied about. We're not a

1 membership organization, so we don't use media to
2 propagate membership and revenue. So, that's
3 another myth that I heard today.

4 So, take those myths to me and I'll
5 either confirm them or rebut them. I appreciate the
6 work with you. Thank you.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you, Bill. Let's take a ten-minute break and
9 then come back to Rich's report. And we'll have
10 Jessica's presentation on risk. Thank you.

11 (BREAK, 3:21 p.m to 3:40 p.m.)

12 RICHARD SEAGRAVES: If you look
13 behind tab 9. The first item is the matrix of
14 current progress on Council specifications. The
15 second matrix is the status of FMPs, amendments and
16 frameworks. That's followed by our Annual Work
17 Plan. The one note on the Annual Work Plan, you'll
18 note that Tuesday, the 28th of April in conjunction
19 with the Northeast Fish and Wildlife Conference,
20 we're hosting a symposium looking at impacts of
21 Magnuson Reauthorization, particular the
22 requirements for ACLs and AMs.

23 And we put together a program -- Gene
24 Kray -- since Pennsylvania's hosting that Northeast

1 Fish and Wildlife Conference, and they're not
2 exactly -- their forte is not marine fisheries, so
3 we were asked to put together a program for the
4 marine fisheries part.

5 And given the timeliness of the MSRA
6 at the time we didn't have a final rule published
7 for the guidelines -- thankfully, we do now, so
8 we've got a good opportunity to look at various
9 perspectives on Magnuson Reauthorization with
10 respect to ACLs and AMs, and we're going to have a
11 national perspective from Mark Milliken, Regional
12 perspective for the Northeast Region from George
13 Darcy, Council perspectives from both New England
14 and Mid-Atlantic, Jessica will be presenting our --
15 what we're doing relating to the omnibus and other
16 issues that the Council's taking up related to ACLs,
17 AMs, and then we'll have the scientific perspective
18 from New England and the Mid-Atlantic SSC chairs.
19 Steve Cadrin and Brian Rothschild. And then some
20 industry perspective, commercial, recreational and
21 NGO.

22 So, that is in Lancaster,
23 Pennsylvania in morning of April 28th.

24 The next item in the report is a

1 Small Entity Compliance Guide dated February 17th,
2 which is a sea scallop permit holder letter which
3 summarizes the sea scallop management measures for
4 the 2009 fishing year. An FYI.

5 The next item is instructions,
6 basically, on how to use vessel monitoring systems
7 in the Northeast Region. It was updated March 1st,
8 2009. And that's a fairly lengthy document, but I
9 put it in there just to give the Council a flavor
10 for -- and also -- you know, FYI, if anybody's
11 interested or needs this information, gives you a
12 favor for what's involved, using VMS systems in the
13 Northeast.

14 The next item is a Small Entity
15 Compliance Guide outlining the 2009 specifications
16 for Atlantic mackerel, squid and butterfish. March
17 3rd.

18 And also a like Compliance Guide
19 outlining the 2009 specifications for sea herring.

20 And finally, is another Small Entity
21 Compliance Guide dated March 16th, basically putting
22 the industry on notice that the -- effective March
23 19th, 80 percent of the Winter 1 commercial quota
24 for scup has been taken, and it will be 1,000 pound

1 trip limit for federal vessel moratorium permit
2 holders in the scup fishery, continuing through
3 April 30th. And that concludes my report.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thank you, Rich. Questions for Rich?

6 (No response audible.)

7 COUNCIL CHAIRMAN RICHARD ROBINS: All
8 right. What I'd like to do, if you all don't mind,
9 is go ahead and take a few more committee reports.
10 I think Jessica's presentation's going to take about
11 half an hour.

12 Most of you were here for the ACL/AM
13 discussion this morning, and her presentation on
14 risk, but we'll move that back a little bit and go
15 ahead and keep taking some of the committee reports
16 to save ourselves some time tomorrow.

17 But John Boreman, would you be able
18 to give us a brief report on behalf of the SSC at
19 this point?

20 _____
21 SCIENTIFIC AND STATISTICAL COMMITTEE REPORT

22 JOHN BOREMAN: Thank you, Mr. Chair.
23 First of all, I want to thank the Council for
24 nominating me to the SSC. It continues a long and

1 -- a long relationship I've had with the Mid-
2 Atlantic Council going back to 1980 or so, when we
3 were working with the Council on striped bass regs,
4 trying to save the stock from extinction, which I
5 think we did.

6 Right now it's an exciting time to be
7 on the SSC. We have a chance now, as I was telling
8 Jessica over lunch, that we have a chance to do some
9 cutting-edge applied fisheries science. This is new
10 territory for all of us. So, right now the major
11 activity of the SSC membership is brainstorming. A
12 lot of ideas are floating around. We had some good
13 discussions yesterday and today, and I'll be taking
14 those discussions back to the SSC.

15 But there's a lot of territory that
16 we need to cover. New responsibilities, new
17 mandates for the SSC, and we'll do our best and
18 we've got some great people on the committee, and
19 I'm sure that what we come up with will be at least
20 as good if not leading the other -- the other
21 Councils.

22 It's important, though, that the SSCs
23 do communicate among each other, because we all have
24 a -- not a common enemy, but a common group called

1 the National Marine Fisheries Service we have to
2 deal with. And making sure that what we do is we
3 have a full understanding that's consistent with the
4 Service's understanding of what's gone out in the
5 National Standard 1 Guidelines.

6 We had a meeting in January, and at
7 that meeting the major accomplishment I guess then
8 is we formed a scientific uncertainty subcommittee
9 to start scoping out some ideas, looking at what
10 other SSCs are doing, what other countries around
11 the world are doing in dealing with uncertainty.
12 And they've been interacting with staff here on the
13 Council.

14 We are going to have a meeting in
15 May, on May 19th, where we're going to be looking at
16 specs, Squid, Mackerel, Butterfish I believe are
17 going to be the focus of that. We're also going to
18 again address the scoping document and try to get
19 our comments together to give feedback to the
20 Council.

21 We also figured that it's probably
22 worthwhile to spend a couple of days as a group and
23 totally focus on scientific uncertainty. And right
24 now we're tentatively planning to have a workshop, a

1 two-day workshop in July or so where we can put our
2 thoughts together and try to get something that's
3 more solid into the process, which is for the
4 omnibus amendment -- get something timely that we
5 can make a significant contribution at this stage.

6 So, that's about all I had. I don't
7 know if you want to talk a little bit about the
8 meeting that we had last week, but we did -- Brian,
9 the Chair of the SSC and I did meet with the Chair
10 of the Council and the Vice Chair and Dan Furlong,
11 just to discuss issues so we all understand each
12 other's expectations of how we're going to interact
13 between the SSC and the Council, and communications,
14 protocols and what's expected and make sure we all
15 have the same understanding of what lies out ahead.

16 I thought it was an excellent
17 discussion that we had, we put a lot of things on
18 the table, and I think we all came away with a good
19 and common understanding of what needs to be done.

20 So, we're here to serve. Just again,
21 remember that most of the members are volunteers and
22 we've got to do our best -- Brian and I are trying
23 to do our best to keep the spirits up and the
24 committee moving forward.

1 And as I said, the main way to keep
2 the spirits up is to keep them challenged, and we
3 definitely have that, because this is going to be a
4 challenging time in the next few years. So, thanks.

5 And that's my report.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 John, I appreciate your report. Also appreciate
8 your excitement about the process, and want to thank
9 you for your contribution to the SSC.

10 We do have lot of work in front of
11 us, and we very much appreciate the SSC's
12 partnership in that plan development aspect as we
13 move into the development of the omnibus.

14 As Jessica said earlier, and we
15 discussed in committee, I mean we have much to do in
16 the development of these risk policies and control
17 rules. And as you begin to consider these things at
18 the species specific level, I think you get a feel
19 for just how much work there is in front of us.

20 But as a result of that meeting, we
21 will have a -- I think a stronger relationship
22 between the Council, the FMAT and the SSC. And I
23 think that was a very constructive discussion. So,
24 I appreciate you bringing that up.

1 But thanks again for your report.

2 Are there questions for John?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS: I
5 don't see any. If we could move on -- Pat, would
6 you be able to do Highly Migratory?

7 PAT AUGUSTINE: Yes, Mr. Chairman, I
8 can do that.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Thank you.

11 _____
12 HIGHLY MIGRATORY SPECIES COMMITTEE REPORT

13 PAT AUGUSTINE: I'd refer you to Tab
14 13 and a couple of documents back there. One was
15 NMFS announced the decision to extend the exempted
16 fishing permit to conduct pelagic longline research
17 in the east Florida coast and Charleston Bump area.

18 There was a problem there the way the
19 area had been delineated and allowed for a very
20 sharp angle on a corner, and the currents were so
21 tough to deal with that the fishermen went back and
22 asked if they needed an extension on this.

23 So, what it will do is this will
24 increase the area authorized research in that area

1 by ten nautical miles, which will now include the
2 area that historically was fished by pelagic
3 longliners. And as of the date, it was only 59 of
4 the 289 sets were authorized under it. And it will
5 allow the actual keeping of undersized species of
6 fish and prohibited species for scientific purposes.

7 So, it would be a worthwhile experiment.

8 The next page was just an update on
9 Atlantic swordfish landings, commercial and
10 recreational. Not a lot taken. Again, gear
11 restriction, gear limitations, by that you don't
12 have a lot of pelagic longline activity going on,
13 the areas are so large and closed that what
14 basically is being fished are buoy gears and some
15 rod and reel type fishing. So, I think we're just
16 coming into the full swing of the season.

17 The report on ICCAT spring meeting,
18 which was April 5th through 7th, Silver Spring,
19 Maryland meeting included an abbreviated review of
20 ICCAT, the advisory panel fishery process, followed
21 by a bluefin tuna special session with Drs. Secor,
22 Lutcavage and Graves.

23 They presented results of recent and
24 ongoing studies that included major tagging

1 programs, predictability of stock travels,
2 intermixing, major spawning aggregates, Gulf of
3 Mexico stock implications and impacts of longline
4 fishing activities.

5 The advisory committee chair, Dr.
6 Graves, will include a more complete brief in his
7 report out to the committee. We have not received
8 that yet, so there's some information that I'm not -
9 - I cannot present.

10 The 2008 ICCAT 16th Special Meeting
11 results in Morocco were discussed in some detail. A
12 total of 11 hard recommendations that were
13 addressing bluefin tuna, the BAYS, swordfish and
14 sharks, were passed and will become requirements for
15 all contracting parties.

16 Two new parties have been added to
17 the ICCAT family. There were 46, there are now 48.
18 To that you have the EC, which is 27 more
19 countries. So, you have a very large family on the
20 ICCAT group.

21 The ICCAT special -- 16th Special
22 Meeting resulted in some other things. The report
23 that was due in March, the ICCAT Compliance Meeting
24 was quite successful. New York was -- the U.S. was

1 effective in implementing the compliance program and
2 the report showed there were six or seven --
3 actually, seven countries that didn't come up to
4 muster that were identified with aggressive and
5 unusual I/U/U activity.

6 However, rather than embarrassing
7 them at that point in time, there was a change in
8 the terms of reference language so that those seven
9 countries will not have to report in in November for
10 whatever action is going to be taken against them.
11 Next steps will be major addressing of those
12 countries in the fall.

13 The U.S. has developed measures that
14 are similar to other regional fishery management
15 organizations. The proposed rule was published in
16 the Federal Register on January 14th of 2009 to
17 implement identification and certification
18 procedures to address illegal unreported and
19 unregulated fishing activity and bycatch of
20 protected living marine resources, they're called
21 PLMRs. That's in line with the Magnuson-Stevens Act
22 and we're going to submit that -- or submit to the
23 public with comments due by May 14th.

24 Here's some of the things that are

1 involved in it. I won't drag it out. This
2 publication is available if you need it.

3 Prohibit entry of listed into port
4 except for enforcement purposes. An I/U/U vessel
5 would not be allowed into a port. Listed vessels
6 not authorized to land, transship, refuel, resupply
7 or engage in commercial transactions.

8 I/U/U vessels will prohibit
9 chartering of a listed vessel. The U.S. refused to
10 grant U.S. flag to any listed vessel, with the
11 exceptions were adequate paperwork to show that the
12 ownership was legally done above-board with all the
13 documents open for -- and transparent.

14 Further one, ensure that fishing
15 vessels support vessels mother ships or cargo
16 vessels flying U.S. flags do not participate in any
17 transshipment or -- actually resupplying those
18 vessels.

19 To encourage traders, importers and
20 transporters from transactions of covered species
21 from listed vessels. No transfer whatsoever. If
22 you identify a vessel that is a bad apple, an I/U/U,
23 you're not allowed to do anything with them.

24 Report and exchange, collect

1 information with the aim of searching for,
2 controlling and preventing false certification.

3 And there's a note here that says the
4 I/U/U vessels can include fishing support, cargo
5 vessels and mother ships. So, that's a wide, wide
6 range of vessels that will be looked at for
7 conducting I/U/U activities.

8 Now, written comments on this action
9 must be received no later than 6 p.m. Eastern
10 Standard Time on May 14th, 2009, and it's identified
11 by an RIN number which is 0648AV51.

12 Incidentally, the EC -- the European
13 Communities are under much much pressure by the
14 various emerging countries to actually adopt new
15 certification for all their seafood products to meet
16 the standards that are required out there by the
17 world that eats seafood.

18 The EC is also working on
19 implementing the new controls, the 27 pages that the
20 EC said they were going to implement in order to
21 limit and control their out of control fishing.

22 As you may recall, last year they
23 were supposed to -- with a quota of 29,000 metric
24 ton, they actually landed in excess of 60,000 metric

1 ton. So, we're trying to bring that into line.

2 And a major initiative in November of
3 2009 will be to address the recreational tuna
4 fishing around the world, all these countries, and
5 developing terms of reference will be driven by our
6 Chairman, Ray Bogan, will be a part of that.

7 And it's an EC-driven issue. There's
8 been an initiative to literally eliminate
9 recreational fishing from those countries. So,
10 we'll see where that's going to go.

11 And I'll submit the expanded report
12 after I receive the ICCAT Report from Dr. John
13 Graves, which is a version that allows him to tell
14 you some other things, and there are some that I
15 can't -- so, if you have any questions, I'll be
16 happy to try to answer them for you.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Thank you, Pat. Are there questions for Pat on HMS?

19 (No response audible.)

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Thank you again for the HMS.

22 DENNIS SPITSBERGEN: Thank you, Mr.
23 Chairman.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Indeed. Thanks for the report.

2 The last time I called on Red Munden,
3 Frank Blount had to go out and use a life line and
4 call the New England Council, but -- so I'll
5 carefully call on Red and ask that he deliver the
6 spiny dogfish report.

7 RED MUNDEN: That was the time before
8 last. That was monkfish and we made it through
9 snapper/grouper. Thank you, Mr. Chairman.

10
11 SPINY DOGFISH COMMITTEE REPORT

12 RED MUNDEN: Behind Tab 1 is
13 information concerning our Mid-Atlantic Council
14 Spiny Dogfish Committee that met yesterday. And
15 this was a follow-up meeting to a joint meeting with
16 the New England/Mid-Atlantic Council Spiny Dogfish
17 Committee on the 19th of March in Philadelphia.

18 And I have several action items here
19 that are recommended both by the joint committee and
20 the Mid-Atlantic Council Committee.

21 However, when we started to meeting
22 and discuss these items at the joint committee
23 level, we decided that we really didn't know if we
24 wanted to recommend -- it would initiate Amendment 1

1 to the Spiny Dogfish Fisheries Management Plan.

2 Several of the committee members said
3 well, we may not have enough items to justify a plan
4 amendment. So, the joint committee recommended
5 actions and the Mid-Atlantic Council Committee
6 yesterday also recommended the same items.

7 So, Mr. Chairman, what I would so is
8 I would start by kind of reserving the process that
9 the joint committee and the Mid-Atlantic Council
10 meeting went through, I would move that we initiate
11 Amendment 1 to the Spiny Dogfish Fisheries
12 Management Plan, and this is motion for both the
13 joint committee and the Mid-Atlantic committee.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Okay. Thank you, Red. The motion is to move that
16 Amendment 1 to the Spiny Dogfish FMP be initiated.

17 The motion's on behalf of the
18 committee, does not require a second. Discussion on
19 the motion? Red.

20 RED MUNDEN: Thank you, again, Mr.
21 Chairman. The reason for amending the FMP is that
22 when the fisheries management plan was being
23 developed back in 1998, 1999, the best science
24 indicated that the stock would not recover until

1 2018, 2022.

2 So, at that time we said we don't
3 need to worry about some of these things, such as
4 research set-aside, which was a new concept back in
5 late '90s and early 2000. And other things such as
6 making the permit a limited access permit.

7 And over time, as the stocks have
8 improved, we've seen a need to go ahead and move
9 forward with an amendment to the plan. A number of
10 these things are like housekeeping items. So, if
11 the motion on behalf of the joint committee and the
12 Mid-Atlantic committee passes, then I will also
13 offer as a block items to be included in the scoping
14 document.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Thank you, Red. Questions or discussion on the
17 motion?

18 (No response audible.)

19 (Motion as voted.)

20 {Move that Amendment 1 to the Spiny Dogfish FMP be
21 initiated.}

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Seeing none, is there any opposition to the motion?

24 (No response audible.)

1 COUNCIL CHAIRMAN RICHARD ROBINS: Any
2 abstentions on the motion?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:
5 Seeing none, the motion carries. Thank you. Red.

6 RED MUNDEN: Thank you, Mr. Chairman.

7 Now I'm going to offer six motions as a block that
8 were approved -- were recommended by the joint
9 committee, and also these were items that the Mid-
10 Atlantic Council committee agreed to recommend to
11 the Mid-Atlantic Council for inclusion in the
12 scoping document.

13 The first one is to add a research
14 set-aside provision to the spiny dogfish scoping
15 document to include no limit or up to three percent
16 of the quota for research set-aside.

17 The second is to investigate
18 commercial quota allocation alternatives. And what
19 that one means is that currently the spiny dogfish
20 quota is allocated 58 percent to the harvest period
21 May 1 through October 31st, and 42 percent from
22 November 1 through the end of April. This is in the
23 federal plan.

24 The Atlantic States Marine Fisheries

1 Commission has allocated the spiny dogfish quota on
2 a geographic basis, and so we have a disconnect
3 between the way that the Council plan reads and the
4 ASMFC plan.

5 So, we would recommend in the scoping
6 document we would look at various alternatives for
7 allocating the quota.

8 Number 3, is allowance for specifying
9 quota and/or trip limits by sex for the spiny
10 dogfish scoping document -- in the spiny dogfish
11 scoping document.

12 When the Spiny Dogfish FMP went into
13 place in May -- went into place in 2000, the
14 National Marine Fisheries Service established a four
15 million pound quota and the Secretary of Commerce
16 added an additional half million pounds to that for
17 a male-only fishery.

18 Even though the quota was available,
19 I'm not aware of anyone that prosecuted the male-
20 only fishery, but every year we have people come
21 back up and request that they be allowed to harvest
22 males to reduce the skewed sex ratio, and they try
23 to utilize fish that are the male portion of the
24 stock, which is apparently in high abundance.

1 The current FMP does not allow that;
2 so this recommendation will be that the scoping
3 document allow for setting aside a portion of the
4 quota or trip limits for sex specific fisheries.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Red, excuse me. I'm just going to interrupt you and
7 ask -- you're making a motion and I would ask if you
8 would complete the motion and then we'll get into
9 the rationale.

10 RED MUNDEN: Okay.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 I'll come back to you for that. Okay? Thank you.

13 RED MUNDEN: I'm sorry. Thank you,
14 Mr. Chairman.

15 Okay. So, this is a motion by Red
16 Munden, because it's somewhat different than the
17 five individual motions that came from the Mid-
18 Atlantic Committee or the Joint Committee.

19 And so, Mr. Chairman, I'll offer the
20 following five items in the motion to be included in
21 the scoping document. And if this motion passes,
22 then I will provide the rationale for each of the
23 six items -- rather, not five.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thank you. Second to the motion by Lee Anderson.
2 Discussion on the motion?

3 RED MUNDEN: Okay. I've already
4 covered Item 1, 2, 3. Item Number 4 is to include
5 smooth dogfish in the Spiny Dogfish FMP.

6 And the reason for this is that we
7 have received information from highly migratory that
8 they intend to include smooth dogfish and the
9 amendment -- I believe it's Amendment 3 to the Shark
10 Plan. When we were developing the Spiny Dogfish
11 FMP, there was discussion about including smooth
12 dogs at the time. They had been not been declared
13 overfished. They still have not been. And we felt
14 like that we needed to address the spiny dogfish
15 fishery and we could address smooth dogs later.

16 And the joint committee recommended
17 that smooth dogs be managed by the Councils. Our
18 Mid-Atlantic Council Committee made the same
19 recommendation, and the Atlantic States Marine
20 Fisheries Commission has included smooth dogfish in
21 its Coastal Shark Plan.

22 The fifth recommendation is to
23 require that the open access permit that we
24 currently have for spiny dogfish become a limited

1 access permit. So that it would require a limited
2 access permit requirement for possession of spiny
3 dogfish in the EEZ.

4 And Number 6, we would recommend that
5 the spiny dogfish recreational fishery be included
6 in the Spiny Dogfish FMP.

7 Mr. Chairman, that's a summary of the
8 items that we recommend to be taken to scoping.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you, Red. And just so the record's clear,
11 when you started out you said you were going to six
12 motions, and that's one motion of six items. So, I
13 just wanted to clarify that's one motion, not six.

14 RED MUNDEN: That's correct, and I
15 can't see Number 6 through Mr. MacDonald's head, so
16 -- you're correct. One motion for six different
17 items.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thanks again, Red. I had Rick Cole.

20 RICHARD COLE: Thank you, Mr.
21 Chairman. Red, I was just wondering about the
22 smooth dogfish issue. I know the Commission got it
23 in their plain.

24 I guess my first question is is there

1 any data, any assessment data or any kind of
2 scientific data out there that suggests that yes, in
3 fact this stock needs to be managed at this time?

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Red.

6 RED MUNDEN: I'm not the one to
7 answer that question. However, it is being proposed
8 that it come under HMS, and it is being managed by
9 the Atlantic States Marine Fisheries Commission.
10 And so the members of the committee, both the joint
11 committee and the Mid-Atlantic committee, felt like
12 it would just be appropriate to manage smooth dogs
13 under the Spiny Dogfish FMP as an amendment to the
14 plan.

15 RICHARD COLE: Okay. And I guess --
16 has anybody looked at what portion of the annual
17 landings for this particular species in fact occur
18 in federal waters? Because that would -- that would
19 -- you know, that kind of criteria is used as a
20 requirement in development of FMPs by various
21 Councils.

22 So, has that already been done? Does
23 the majority portion of the harvest come from
24 federal waters for this particular species?

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Red.

3 RED MUNDEN: I'm not aware of whether
4 or not any work has been done, but the information
5 that's been presented by the industry advisors and
6 the fishermen is that they do catch smooth dogfish,
7 and this is one other reason for including smooth
8 dogs in the Spiny Dogfish Plan. They do catch
9 smooth dogfish when they're fishing for bluefish,
10 and they catch bluefish in both state waters and
11 federal waters.

12 The fishermen have said sometimes
13 they catch pure spiny dogfish -- I mean smooth dogs
14 when they're out fishing in federal waters.
15 Sometimes there's some mixed catch of large bluefish
16 and smooth dogfish. And I think Jack Travelstead
17 has some comments on that, also.

18 COUNCIL CHAIRMAN RICHARD ROBINS:

19 Thank you, Red. Jack.

20 JACK TRAVELSTEAD: In partial answer
21 to Rick's earlier question that I think the thinking
22 of the committee was not so much that smooth dogfish
23 were in immediate need of management and we had a
24 whole host of measures that we thought needed to be

1 implemented. It was simply that the smooth dogfish
2 fishery is so similar to the spiny fishery.

3 I mean, it's the same fishermen, the
4 same processors, the same gear, just a different
5 time of year. And that for those practical reasons
6 we thought the smooths should be included in the
7 spiny dogfish plan here at this Council.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thank you, Jack. And also in the committee
10 discussion it was pointed out that as Red mentioned,
11 HMS proposing to include it in Amendment 3 to the
12 Shark Plan which would put it under management with
13 the small coastal shark complex, which is basically
14 a deep southern and Gulf fishery, the overlap is
15 much closer between the spiny and smooth dogfish
16 fisheries, they're just separated temporally by
17 water temperature.

18 Other comments or questions on the
19 motion?

20 (No response audible.)

21 (Motion as voted.)

22 {Move that the scoping document include the
23 following:

24 1. Add a Research Set-Aside provision to the Spiny

1 Dogfish scoping document to include no limit or up
2 to 3%.

3 2. Commercial quota allocation alternatives.

4 3. Allow for specifying quota and/or trip limits by
5 sex for the spiny dogfish scoping document.

6 4. Include spiny dogfish in the spiny dogfish FMP.

7 5. Requiring a limited permit requirement for
8 possession of spiny dogfish in the EEZ.

9 6. Include spiny dogfish recreational fishery in
10 the spiny dogfish scoping document.}

11 COUNCIL CHAIR RICK ROBINS:

12 COUNCIL CHAIRMAN RICHARD ROBINS: Is
13 there any objection to the motion?

14 (No response audible.)

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Seeing none, is there any abstention on the motion?

17 (Response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: One
19 abstention. The motion carries. Thank you. Lee.

20 COUNCIL VICE CHAIRMAN LEE ANDERSON:

21 As part of that discussion, the committee was
22 talking about having a letter from you to whoever
23 it's important to have that the Council is thinking
24 of moving on the smooth and back that up with a

1 meeting of you and the Committee Chairman to go down
2 and talk to the people.

3 And I would like to make that a
4 motion that that letter be prepared and that that
5 visit be requested.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Lee, thank you. That letter would seek management
8 authority for the Mid-Atlantic on smooth dogfish?

9 COUNCIL VICE CHAIRMAN LEE ANDERSON:

10 Correct.

11 COUNCIL CHAIRMAN RICHARD ROBINS:

12 Thank you. Is there a second to the motion? Second
13 by Red Munden.

14 RED MUNDEN: Yeah, I'll second the
15 motion. We already have a motion ready for
16 projection on the screen, Mr. Chairman, but I'll
17 second Dr. Anderson's motion.

18 COUNCIL VICE CHAIRMAN LEE ANDERSON:

19 I'm sorry.

20 DANIEL FURLONG: Lee's stealing his
21 thunder.

22 COUNCIL CHAIRMAN RICHARD ROBINS: All
23 right. There's a motion on the board now.

24 COUNCIL VICE CHAIRMAN LEE ANDERSON:

1 Anticipated; I didn't steal it.

2 COUNCIL CHAIRMAN RICHARD ROBINS:

3 Okay. Motion by Dr. Anderson, second by Red Munden:
4 move that the MAFMC staff draft a letter to the
5 Secretary of Commerce requesting management
6 authority for smooth dogfish.

7 Discussion on the motion? Jack.

8 JACK TRAVELSTEAD: I also thought it
9 was the interest of the committee that there be a
10 face-to-face meeting, I think, which Lee just
11 mentioned, in addition to the letter.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 There was.

14 JACK TRAVELSTEAD: I don't know that
15 it needs to be part of the motion, but that was
16 expressed by the committee.

17 COUNCIL VICE CHAIRMAN LEE ANDERSON:

18 Right. That's implicit in my motion. I think we
19 can --

20 COUNCIL CHAIRMAN RICHARD ROBINS:

21 Okay. Any -- Red.

22 RED MUNDEN: Thank you, Mr. Chairman.

23 And I don't think it needs to be in the motion, but
24 I would ask the Executive Director to make sure that

1 the staff provides the rationale for this request or
2 -- yeah, this request in the letter.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thank you. Further discussion on the motion or
5 action?

6 (No response audible.)

7 (Motion as voted.)

8 {Move that the MAFMC staff draft a letter to the
9 Secretary of Commerce requesting management
10 authority for smooth dogfish.}

11 COUNCIL CHAIRMAN RICHARD ROBINS: Is

12 there any objection to the motion?

13 (No response audible.)

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Seeing none, are there any abstentions on the
16 motion?

17 (Response.)

18 COUNCIL CHAIRMAN RICHARD ROBINS: One

19 abstention. Thank you. The motion carries with one
20 abstention.

21 Is there any further business of the
22 smooth dogfish -- or the Spiny Dogfish Committee?

23 (Laughter.)

24 RED MUNDEN: Not for Spiny Dogfish.

1 I would like to just add one thing after we finish
2 with dogfish.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Thank you. Pete.

5 PETER HIMCHAK: Yes, thank you, Mr.
6 Chairman. During the recess, believe it or not, we
7 had a caucus here of five states to discuss
8 potential problems that might be encountered May 1st
9 when the spiny dogfish season opens.

10 And again, it refers to -- I don't
11 know if you want to discuss this today -- now or
12 fresh in the morning, but regardless we can broach
13 the topic now.

14 Yes, the AMSFC when they adopted
15 Addendum 2 took the seasonal quota of the National
16 Marine Fisheries Service and essentially
17 superimposed area percentages so that you have 58
18 percent in the northern region, 26 percent from New
19 York through Virginia and then 16 percent allocated
20 to North Carolina.

21 Now, that is a percentage, but it
22 does not specify -- you know, that's not restricted
23 to state waters -- state/federal waters.

24 So, we -- what -- I was disappointed

1 in Addendum 2 being adopted by the ASMFC at its
2 annual meeting because we had public hearings that
3 took two addenda out to public hearings and the
4 focus was to ultimately get state-by-state
5 allocations. And that didn't happen.

6 So, as a consequence of that, it
7 appears that we may have a dirty fishery come May
8 1st.

9 And I had a couple questions, and I'm
10 glad Joel is here, because again -- and don't take
11 any offense by North Carolina -- I'm fully
12 supportive of you getting 16 percent, and I told you
13 that before the Board meeting -- you know, as far as
14 16 percent of the coastal quota, so -- but it brings
15 up the issue of the Montauk meeting when we talked
16 about one state being a region. And that's one
17 issue that it begs some discussion -- all right,
18 that's one topic.

19 The other topic is -- and Harley and
20 I have been talking here -- we -- I don't know the
21 details of Maryland, but in New Jersey we don't have
22 a state spiny dogfish fishery. Everything is out in
23 the EEZ. You have a federal permit, the season's
24 open, et cetera, et cetera.

1 Now, the ASMFC has -- they plan -- I
2 guess they sent a letter out today to the states
3 reminding us of all of these percentage allocations
4 by area effective May 1st, and I guess the question
5 is -- from New Jersey to Joel in particular, is can
6 we prohibit the landings of -- say we exceed the 26
7 percent that's allocated from New York to Virginia.

8 If we exceed that 26 percent and
9 North Carolina has not gotten their 16 percent of
10 the fish, can we prohibit landings in New Jersey
11 that are legally caught in the EEZ during an open
12 season?

13 Because the ASMFC is telling us that
14 we have to shut down the fishery and prohibit
15 landings.

16 COUNCIL CHAIRMAN RICHARD ROBINS:
17 Joel.

18 JOEL MACDONALD: Now, when you say
19 we, are you talking about the Commission or --

20 PETER HIMCHAK: I'm talking about --

21 JOEL MACDONALD: -- the states?

22 PETER HIMCHAK: -- the State of New
23 Jersey, essentially the ASMFC is assuming that the
24 states have the power in their regulations to do

1 this and would hence, say, no landings regardless of
2 where you caught the fish.

3 JOEL MACDONALD: That's an
4 interesting question. There's a lawsuit on the
5 books. It was off of Florida, and I think Florida
6 banned the landing of a certain fish that were
7 allowed to be caught in the EEZ. Southeast
8 Fishermen's Association versus Mosbacher, maybe, and
9 the court said that the state couldn't do that.

10 I don't think there's been any
11 judicial pronouncements following that. Whether --
12 we didn't agree with that specifically. It might be
13 interesting -- I mean if there's an overall
14 conservation objective to be served there, I mean
15 when it's fairly important, then it might behoove
16 the state to try that and maybe establish a test
17 case to see if in fact their regulation would
18 withstand judicial scrutiny. I don't -- I wouldn't
19 want to say that you are totally precluded from
20 doing that as a state.

21 I'd have to go back and look at --
22 that case, I believe, was probably in the '80s,
23 thereabouts. So --

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thanks, Joel. I have Pat Kurkul. Go ahead.

2 DENNIS SPITSBERGEN: I think those
3 fish were caught in state waters, but they were
4 caught in Louisiana is my recollection, and then
5 hauled back to Florida. That's my recollection on
6 it.

7 JOEL MACDONALD: That I -- you know,
8 as I said to Pete, I'd have to go back and look at
9 the case. But the issue was fish caught legally in
10 some other jurisdiction being landed in Florida --
11 you know, in contravention of their prohibition.
12 And I believe they -- the Court had said in part
13 that it was probably an unlawful fetter on the
14 commerce clause.

15 But again, I'd have to go back and
16 look. But I would -- you know, I mean personally I
17 would like to see that -- I don't like the holding
18 in that particular case because if the state has a
19 definite conservation goal that they want to -- you
20 know, serve, that historically they've been allowed
21 to put in size limits, landing limits, all sorts of
22 conservation measures that have been upheld by --
23 you know, by the courts until this one decision.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Pete, to that point?

2 PETER HIMCHAK: Yes, and again I'm --
3 you know, I'm anticipating a worst case scenario.
4 If the market conditions can't support this volume
5 of spiny dogfish coming in in a short period of
6 time, particularly where we are where there's no
7 processing, then it's a non-issue.

8 But if the market will take the fish
9 and process them, then essentially we have a fish
10 grab between New York and Virginia, and possibly
11 even infringing on North Carolina's percentage if we
12 can't keep federal landings from coming in and the
13 season's open.

14 JOEL MACDONALD: One of the
15 complicating factors may be if you're trying to
16 preserve landings that are allowable to North
17 Carolina through this prohibition on landing legally
18 caught fish in New Jersey, courts may not take the
19 same view of that particular objective as one that
20 would definitely be conservation-based and more of
21 interest to the state.

22 Like there's a -- you know, that
23 there's a definite nexus between the goal that you
24 want to serve in the interest of the state. You

1 know, I harken back to the -- you know, the
2 Skiriotis case, which was a 1949 case, I believe.
3 And it had to do with the states controlling the
4 activities of their citizens beyond their
5 jurisdiction.

6 Skiriotis was a sponge fisherman who
7 was fishing for sponges in contravention of the
8 state's laws -- I think it was Florida -- out nine
9 miles in the Gulf of Mexico, and he landed them.
10 And the state busted him for illegal possession of -
11 - you know, sponges.

12 And the court -- I think it may have
13 gone all the way to the Supreme Court, and the court
14 said -- you know, the state law served a legitimate
15 state interest in regulating its -- you know,
16 citizens, that they were trying to preserve sponges
17 for the benefit of all of their citizens.

18 So, those -- you know, that's why I
19 say the courts may differentiate between the
20 objective of allowing North Carolina to catch what
21 it's been allocated and a more precise conservation
22 objective for the state. Something to think about.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thanks, Joel. I think the derby that Pete speaks of

1 really stems from the fact that the ASMFC in its
2 addenda action dropped the November 1 start date for
3 that second fall season, and that -- that's what
4 creates the potential in part for the derby that
5 works against the allocation.

6 But I don't think here at the Council
7 we can take any action that would preclude that
8 scenario from happening. I think the dealers may
9 take some action to try to prevent that from
10 happening, but we -- at the Council level, I don't
11 think we can cure it. In the short term anyway.

12 But Pat Kurkul had her hand up, so --

13 PATRICIA KURKUL: I think -- excuse
14 me -- that Joel covered it. I was just going to say
15 that I'm fairly certain that the states have done
16 that. I just can't think of any examples off the
17 top of my head. And maybe it's just that they
18 haven't been challenged, but it's certainly landing
19 restrictions have been key to the effectiveness of
20 the Commission and the state management programs.

21 So, I would suspect that it would, as
22 Joel suggests, be worth a try.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thanks, Pat. I have Red and then Harley Speir.

1 RED MUNDEN: Thank you, Mr. Chairman.
2 Just briefly, at our joint committee meeting we had
3 the ASMFC staff person who's responsible for the
4 Spiny Dogfish FMP. And when this issue came up, he
5 made the statement that the Atlantic States Marine
6 Fisheries Commission did an addendum to the FMP, and
7 it requires the states to close whenever their
8 allocated portion of the quota is harvested. And a
9 state -- should a state not close, then they will be
10 found out of compliance with the FMP.

11 And either that's the North Carolina
12 16 percent or the regional allocation for the other
13 two regions.

14 COUNCIL CHAIRMAN RICHARD ROBINS:
15 Thanks, Red. Harley.

16 HARLEY SPEIR (No microphone):
17 (Inaudible.)

18 COUNCIL CHAIRMAN RICHARD ROBINS:
19 Mind turning your microphone on, please.

20 HARLEY SPEIR: There has to be a
21 number of issues over the past couple years because
22 of the difference in management. And I'm wondering
23 if we can put out something like a compliance guide.
24 There was a lot of telephoning back and forth about

1 whether or not our fishermen had to give up their
2 permit or -- yeah, give up their permits in order to
3 fish in state waters and whether or not they could
4 get them back.

5 And I think this regional approach
6 that the Commission has taken has raised some other
7 questions about what can you do. Will there be
8 regional transfers? Are those allowed?

9 Anyway, I've got a whole list of
10 stuff. What I would like to see is that sometime in
11 the next month or so that the Commission and the
12 Council decide on some kind of frequently asked
13 questions and answers to those, because I think that
14 this really -- this new regime really does demand
15 that. And I'd be willing to put -- provide a list
16 of what I see as kind of basic issues. Some of them
17 may not be an issue at all.

18 Some of the folks think well, that's
19 already covered by law. Well, if it is, I'd like
20 for all of us to have a common understanding. Just
21 like someone said well, that's already covered in
22 the amendment. Good, then we all need to know that
23 so we know what to tell the fishermen.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Harley, thanks for your suggestion. If you can come
2 up with a list of items, why don't you send them to
3 Dan and copy me with them and we'll go from there.
4 Thank you.

5 Other comments? Pete.

6 PETER HIMCHAK: One last question.
7 Red's correct with Addendum 2. Again, we're
8 thinking -- again, this is worst case scenario, this
9 may not happen, but suppose we exceed and they find
10 New Jersey out of compliance on spiny dogfish, so
11 they shut down our spiny dogfish fishery in state
12 waters, which we have none, and the federal
13 permittees out in the EEZ if the season is open -- I
14 guess at that point there would be a legal test of
15 can we prohibit them from landing?

16 So, yeah, we'll shut down our fishery
17 in a minute. We don't have one. We're linked
18 specifically to the federal -- you know, permit,
19 dealer report, trip limit, seasons and everything.

20 COUNCIL CHAIRMAN RICHARD ROBINS:
21 Pete, as I understand it, the ASMFC's constraints
22 though are on your landings. And even though
23 they're occurring in federal waters.

24 PETER HIMCHAK: That's a good

1 question, and Jack was referring to that under a
2 declaration of a moratorium, if it would get that
3 far. But there could be a legal challenge before
4 that. I don't know.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 Thank you very much. Why don't we move on. Gene,
7 can you give us a concise -- I'm sorry?

8 Okay. You have one more comment on
9 that, Jim? Go ahead.

10 JAMES GILMORE: Thank you, Mr.

11 Chairman. Just to Pete's first point, and if this
12 is a long answer, we don't have to do that, but you
13 did -- at December, Joel, you did say that you can't
14 have a one-state region.

15 JOEL MACDONALD: Right.

16 JAMES GILMORE: And we have a one-
17 state region with spiny dogfish. So, how did we do
18 that if you can't have one?

19 JOEL MACDONALD: Well, the
20 regulations contemplate that regions be a number of
21 two or more states. And you can't call a state a
22 region.

23 But by the same token, I was telling
24 Steve about this, it is more a procedural thing, or

1 semantics. You can have regions and you can have
2 states. I think the regulations allow that. You
3 just can't call a state a region. It's not -- it's
4 still a state.

5 COUNCIL CHAIRMAN RICHARD ROBINS:

6 And just to follow up Jim, I think -- I mean
7 ASMFC is operating under ACFCMA. That's an ASMFC
8 region, not a Council region.

9 JOEL MACDONALD: I mean that was the
10 issue. You know, you can't really have a state as a
11 region. But it's not impermissible to have a blend
12 of both regions and states. I think that's where
13 the confusion arose.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Pete.

16 PETER HIMCHAK: Yes, to that point,
17 Joel, I looked at Addendum 2 -- and I thought this
18 was going to come up tomorrow. But anyway, right in
19 the beginning of Addendum 2 it is defined as a
20 regional management approach for spiny dogfish. So
21 from that, I'm interpreting three regions.

22 JOEL MACDONALD: Yeah. I'm talking
23 about the federal regulations which allow the
24 combination of states in the regions. It doesn't

1 require that all states be regions for -- you know,
2 management purposes. As I said earlier, you can
3 have a blend or a mix of regions and states in any
4 one year.

5 Now, it may be more semantics than
6 anything if Addendum 2 says -- you know, you have
7 three regions and one region happens to be a state.

8 I don't think -- you know, I don't
9 think that's impermissible under the law. It's just
10 our regulations needed a bit of clarification.
11 That's the sole point of this.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Thanks again, Joel.

14 Gene Kray, if you could give us a
15 brief report of the Ecosystem and Ocean Planning
16 Committee and ACLs.

17 _____
18 ECOSYSTEM AND OCEAN PLANNING COMMITTEE REPORT

19 EUGENE KRAY: Thank you, Mr.
20 Chairman. The Ecosystems and Ocean Planning
21 Committee met yesterday. The major presenter was
22 Dr. Jason Link, and Dr. Link comes to us from the
23 Northeast Fisheries Science Center, where he is
24 essentially the keeper of the database which has the

1 analysis of stomach contents of a variety of
2 species.

3 He was here, obviously, to talk about
4 the predator/prey relationships and how that might
5 work its way into an ecosystem approach to --
6 ecosystem-based approach to management.

7 And he talked about the variety of
8 types of models that are being put together or are
9 put together, and that it was his thinking that it
10 would probably take another three to five years to
11 work it's way into the process where it could be of
12 -- it could be used for management decision-making.

13 In the course of that discussion --
14 it was a pretty darn good discussion I thought -- we
15 got to talking about the M1's and M2's and Dr.
16 Boreman suggested there may be an M3 which could be
17 the habitat assessment, which would also be part of
18 the overall ecosystem based approached to fishery
19 management. And that may be soon on the radar. And
20 be given the same consideration -- you know, as we
21 develop the fishery management plans.

22 Following that, there was a very
23 brief discussion on LNG facilities off -- or
24 proposed LNG facilities off New York and New Jersey,

1 and we agreed that there would be a larger
2 discussion of this at our June meeting in New York
3 so that geographically it's more central to the
4 subject that we're discussing.

5 And in the course of our discussion,
6 we thought that it probably we should consider all
7 non-fishing uses of the ocean at that meeting,
8 including things like wind farms.

9 And Rick Cole and I had a discussion
10 earlier today as to the status of the wind farms off
11 of Delaware. And each of the state representatives,
12 I indicated that I would be sending them an email
13 asking them to give us some outline of the kinds of
14 things that they would like to have discussed at
15 this meeting.

16 And Tom Hoff is going to talk to
17 Karen Green who works out of the Barnegat facility,
18 I believe. He had been talking with her, I know,
19 and continue those discussions and see if possibly
20 she can come up -- and we could take -- look at all
21 of these kinds of things that are going on in the
22 ocean that are within the EEZ.

23 So, that's the plan for June.

24 In addition to that, we are having

1 Dr. Ned Cyr give a presentation on the progress
2 report that was submitted to congress last week,
3 which is a compilation of reports from the various
4 eight councils on progress in ecosystem based
5 approaches to fishery management. And that's my
6 report, Mr. Chairman.

7 COUNCIL CHAIRMAN RICHARD ROBINS:

8 Thank you very much, Gene. Do you have a report on
9 ACL/AM Subcommittee as well?

10 EUGENE KRAY: I was going to answer
11 any questions. Everybody was probably there, so
12 it's not necessary.

13 COUNCIL CHAIRMAN RICHARD ROBINS: Go
14 ahead.

15 EUGENE KRAY: I'll go on to ACL's.

16
17 ACL/AM SUBCOMMITTEE REPORT

18 EUGENE KRAY: First of all, we had
19 the scoping hearings last night and with pretty good
20 attendance and many comments by NGO groups, Oceana,
21 PEW, NCMC, and as well as the Garden State Seafood
22 Association, the United National Fishermen's
23 Association.

24 When we met this morning, Jessica

1 gave us an update on the progress toward the omnibus
2 amendment and things that are coming down the
3 pipeline and hopefully we are still on schedule and
4 I believe we are.

5 Jessica gave a PowerPoint
6 presentation on the introduction of the concept of
7 risk philosophies. One item of discussion was
8 whether we should consider going the South Atlantic
9 route, which was having one approach for all species
10 or one percentage point approach to all species.

11 There seemed to be consensus that we
12 would probably need to go to a species-by-species
13 approach with these risk policies for a variety of
14 reasons, not the least of which was the joint
15 fishery management plans as well as with the New
16 England Council, as well as the complimentary plans
17 with the ASFMC.

18 So, at the conclusion, there was a
19 lengthy discussion period, and it was generally
20 agreed that this was going to be an iterative
21 process -- and that's John Boreman's words -- and
22 that the engagement of our SSC as we move this
23 through the process.

24 The SSC will be meeting on May 19th

1 and we hope they will discuss this concept. And we
2 will continue to discuss the concept of risk
3 philosophy as it approaches -- as it deals with our
4 work toward this omnibus amendment.

5 And that is my report, Mr. Chairman.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Gene, thank you very much. Appreciate your service
8 on both of those committees, but also -- if you
9 don't know, Gene is now serving also as our liaison
10 to the New England Habitat Committee.

11 So they're busy with the development
12 of that vulnerability model that we talked about
13 earlier. And I know you had a busy month, and I
14 appreciate that.

15 Are there any questions for Gene?

16 (No response audible.)

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Seeing none, we'll go on to Jessica. Jessica has a
19 presentation on risk analysis.

20 Those of you that were on the ACL/AM
21 Subcommittee and were here for that discussion this
22 morning have seen this presentation. This is for
23 the benefit of the full council.

24 And so Jessica, if you would go

1 ahead. And this is going to be a more streamlined
2 version than what we saw this morning. Thank you.

3
4 -----
5 REPORT ON RISK CONSIDERATIONS

6 JESSICA COAKLEY: Yes. Well, I'll
7 try to move through this a bit more quickly. And
8 who knew that the -- just about the full council was
9 going to show up for an 8:00 a.m. committee meeting.

10 We hadn't quite planned that, but --

11 I'm going to move quickly for the
12 benefit of those Council members that weren't here
13 this morning. I'll be in my office tomorrow and
14 Friday. If you have questions about the
15 presentation, you can call me. I'm going to email
16 it to everyone tomorrow. I'll send it out to the
17 full Council so you've all got that.

18 So, in terms of developing a risk
19 policy: Uncertainty is the lack of complete
20 certainty that is the existence of more than one
21 possibility. So we know we have uncertainty in a
22 lot of the things that we deal with in our estimates
23 of stock biomass, fishing mortality rates, estimates
24 of our biological reference points, FMSY thresholds;

1 all of those types of values have uncertainty in
2 them.

3 So, measurement of uncertainty is
4 treated as a set of probabilities assigned to a set
5 of possibilities. So, using the lower example in
6 this slide, there's a 25 percent probability, one-
7 in-four chance, of overfishing at a specific level
8 of ABC. So, you've the probability and what the
9 possibility is.

10 So, risk is the possibility of loss
11 or injury. Technically, the notion of risk is
12 independent from the notion of value; and as such,
13 eventualities may have both beneficial and adverse
14 impacts.

15 So, really it -- while risk is often
16 presented in terms of a loss, really you could have
17 -- it's not unidirectional. You could have both
18 beneficial or adverse consequences.

19 So, measurement of risk is a set of
20 possibilities, each with quantified probabilities
21 and quantified losses. So, 25 percent probability
22 that the stock will not rebuild, that's your
23 possibility resulting in long-term economic losses
24 of \$1 million, that's your quantified losses in

1 terms of risk expression.

2 So, the level of acceptable risk to
3 managers is sometimes denoted as -- you know, the
4 probability of X of whatever X may be, something
5 happening. Or a P-star which is a term that was
6 presented by Shirtzer in 2008.

7 So, what level of risk is acceptable?

8 Well, that depends on what you stand to lose. So
9 let's consider flipping a coin. Let's pick heads.
10 So our P-star is .5 or 50 percent chance of losing
11 the bet. Would you bet \$10 on heads? Would you bet
12 a million dollars on heads?

13 Well really, it depends on your value
14 of the dollar. To a billionaire, maybe a \$1 million
15 bet isn't that big of a deal. So, value factors
16 into your perception of risk.

17 Traditionally, risk is discussed in
18 terms of loss of injury. But as I pointed out,
19 clearly tolerance for risk is not a unidirectional
20 decision. And really it's a combination of waiting
21 the risk versus the reward.

22 Now there really is a third R in
23 this. So risk, reward and responsibility. This
24 highlights an example out of the April 2009

1 Smithsonian magazine. Wall Street bankers took the
2 risk they did because they got paid millions of
3 dollars to do so and they knew there'd be few
4 negative consequences for them personally if things
5 failed to work out.

6 The responsibility fell to someone
7 else. It fell to the taxpayers. So really, it's a
8 balance of the three taken into account.

9 So, when you deal with risk, there's
10 two general stages to deal with this. The first is
11 risk assessment. The second is risk management.
12 So, in risk assessment, you're going to evaluate
13 what the consequences of uncertainty are and where
14 the expected affects to management.

15 The risk management component is how
16 do you take this uncertainty into account in your
17 decision-making process. So, this is a two-stage
18 process in terms of dealing with risk.

19 So, what is a fishery management risk
20 policy? Well, it's the statement of the kinds of
21 risks managers are willing to take in pursuit of the
22 fishery management objectives. And there are a lot
23 of objectives to be considered.

24 The fishery management risk policy

1 could be very simple. We talked earlier this
2 morning about the South Atlantic Council example
3 where they looked at an approach -- a tolerance for
4 risk across all species, or it could be something
5 very complex where you consider individual species
6 independently and take multiple factors into account
7 in developing your risk policy.

8 You could treat this informally
9 through a simple motion in terms of what you'd like
10 to do or take a more formal approach and have a
11 documented policy for how you'd like to deal with
12 risk.

13 So, there are multiple objectives to
14 consider in forming this risk policy and the
15 objectives are not necessarily mutually exclusive.

16 The multiple objectives could be --
17 they could meet legal requirements, such as
18 achieving optimum yield, achieving BMSY, preventing
19 overfishing, or they could be objectives that are
20 just desirable. Maybe you want to maximize revenues
21 or maximize CPUE or minimize impacts to habitat.

22 There are also objectives that are
23 just practical; develop regulations that will
24 clearly be enforceable. So, that's just a practical

1 objective.

2 So, in developing your risk policy,
3 really you're wrestling with these multiple
4 objectives and how to reconcile those.

5 So, why develop a risk policy? Well,
6 it will ensure your decisions with respect to risk
7 are well-documented and quantitative. It gives you
8 an opportunity to sit down and think about what your
9 objectives are, think about what the uncertainty is,
10 and an approach to dealing with that uncertainty
11 through your risk policy.

12 It essentially forces you to sit
13 down, write these things down and think about them
14 comprehensively. So, that it is an advantage of
15 developing a risk policy.

16 So, first steps, identify sources of
17 uncertainty, identify the risks and realize that
18 risk and uncertainty are not independent of one
19 another.

20 So, an example is uncertainty in our
21 FMSY estimate which is the over fishing threshold.
22 On the left example I have an FMSY estimate and that
23 narrow probability distribution shows lower
24 uncertainty.

1 On the right-hand side, I have the
2 exact same FMSY estimate, which would be about .5,
3 but under a higher uncertainty situation. So you've
4 got the broader spread in terms of probabilities.

5 Under both circumstances, 50 percent
6 of the time you will be overfishing. So, half of
7 the time you will be above your FMSY.

8 So, for example, one common control
9 rule we've used in our plans for butterfish and
10 Atlantic mackerel is a 75 percent offset from FMSY.

11 So, that purple line is the -- the F at the ABC
12 level that's used to specify that.

13 Now again on the left, you've got
14 lower uncertainty; on the right, you've got higher
15 uncertainty. So that purple area is the area in
16 which if you're fishing mortality comes in at that
17 rate, you're not exceeding that ABC level.

18 So, we know that everything seems to
19 have a distribution around it. So, ABC has a
20 distribution as well. And assuming that if we have
21 low uncertainty in FMSY, we'll have lower
22 uncertainty in ABC on the left-hand side. And the
23 same thing on the right-hand side.

24 So, the question is what is the

1 probability of overfishing? Under each of these
2 circumstances, the point estimate of FMSY is
3 identical and the point estimate of FABC is
4 identical.

5 However, under the lower uncertainty
6 situation, you've got a lower probability of
7 overfishing. Under the higher uncertainty
8 situation, you've got a higher probability of
9 overfishing. In this example it's about 30 percent.

10 So, it's about 20 percent higher.

11 So, really this is the crux of what
12 the proposed guidance is trying to get at when
13 dealing with scientific uncertainty. It's because
14 the uncertainty and risk are not independent of one
15 another. They are coupled. And higher uncertainty
16 can lead to a higher likelihood of overfishing.

17 So, in determining how to deal with
18 control rules, that's something that needs to be
19 taken into account.

20 So, in this case, higher uncertainty
21 in ABC led to the higher risk of overfishing. There
22 are a lot of things that could cause uncertainty in
23 FMSY. It could be uncertainty in the underlying
24 data, the sampling methods, the methods applied to

1 analyze the information, or just inherent
2 variability.

3 You could have highly certain
4 estimates of highly variable data. And as pointed
5 out earlier today by John Boreman -- you know,
6 nature is variable. It's stochastic. It's changing
7 over time. So, we've got that variation built into
8 the system that we're trying to work with.

9 So, what are the consequences of not
10 considering uncertainty? Well, what are the
11 consequences of exceeding the overfishing level?
12 Well, there's quite a few. Potentially reducing
13 yields, reducing the stock. A lot of this will
14 depend on stock status and recovery time. I'm going
15 to skip this one.

16 So, in terms of considerations for
17 risk policy: again, risk, reward, responsibility.
18 Recall that penny example in terms of how you think
19 about risk. And what are the consequences of a
20 riskier policy, high stock sizes versus low.

21 So, this is just an example I've put
22 together in which on the Y axis, you've got the risk
23 of over fishing. P-star .5 is the upper bound,
24 that's a 50 percent probability of overfishing based

1 on NRDC v. Daley. We can't go above that level.

2 On the lower axis I've got biomass,
3 from 10 percent biomass to one and a half percent
4 BMSY. So it's 10 percent, 50 percent, either at the
5 BMSY target or one and a half times that.

6 So, obviously at different stock
7 sizes there are different consequences for treating
8 risk equally.

9 So, one way to think about risk is
10 maybe it's appropriate to treat risk differently at
11 different stock sizes. So, when you're between 10
12 percent and 50 percent of BMSY, that the
13 consequences of being riskier are great. You have
14 the potential to cross a threshold at which you
15 might collapse the stock.

16 Whereas, when you get up above BMSY
17 or at one and a half BMSY, the consequences are
18 different. You may decrease the stock size, but you
19 may not trigger a rebuilding plan or collapse the
20 stock.

21 So, when you think about risk, stock
22 status is going to be important to take into
23 account.

24 In addition, you might want to

1 consider the control rule shape in developing your
2 risk policy. In this example, fishing mortality is
3 on the Y axis. Again, BMSY biomass is on the X
4 axis.

5 It might be appropriate to look at a
6 control rule that deals with fishing mortality in a
7 certain way once you're at BMSY and above that may
8 be treated differently at BMSY and below.

9 In this example, there's a ramped
10 fishing mortality rate that would decrease as the
11 stock size decreases below BMSY. And then when it
12 hits some threshold population size -- in this
13 example it's 10 percent BMSY where you're concerned
14 that any fishing on the stock might risk stock
15 collapse or potential of crossing that threshold
16 where the stock won't be able to recover, maybe you
17 want to go to zero. So, this is one way to think
18 about risk and dealing with it.

19 So, other considerations for risk
20 policy. What about stock vulnerability? Clearly
21 butterfish and dogfish are very different animals.
22 They have different levels of productivity, and that
23 may be something important in considering risk with
24 respect to fishing.

1 So, vulnerability, stock
2 vulnerability, is a combination of two things. It's
3 productivity, which is the capacity of the stock to
4 produce MSY and recover; it relates to life history
5 characteristics, and susceptibility, which is the
6 potential of the stock to be impacted by fishery.

7 And this could include direct capture
8 or indirect effects, like effects from trawling --
9 you know, and how it might impact a specific
10 species.

11 Now, there's a tool that was
12 presented in the 2007 Lenfest document called PSA
13 analysis, productivity susceptibility analysis. And
14 it considers all kinds of factors. There's a whole
15 list of them under productivity. And a whole list
16 of them under susceptibility. And they're given a
17 series of rankings. And basically those rankings
18 are combined to come up with a PSA value.

19 Now, the PSA value -- in this example
20 I'm showing it on a single axis, sometimes they show
21 it on double axis, on a graph -- you know, there's
22 lots of different ways you can look at this.

23 But the idea is that you consider
24 vulnerability on a continuum. You rank your stocks

1 and figure out where they sit in these PSA ratings.

2 So, the idea of using this PSA
3 analysis when you're considering vulnerability, you
4 know, it seems like vulnerability might be important
5 to consider in developing a risk policy. But
6 there's a couple of issues with it.

7 Productivity is already something
8 that's implicit in a lot of our stock assessments.
9 Productivity is imbedded in the natural mortality
10 rate estimates, the growth rates, a lot of those
11 other parameters that are built into the
12 assessments.

13 So, if these things are going to be
14 considered, you don't want to be redundant. So, you
15 want to make sure that if it's being considered in
16 one place it's not being necessarily considered in
17 another.

18 The other issue is how to translate
19 these PSA rankings to offsets or buffers -- from the
20 overfishing level. And I think this is going to be
21 a big issue not just for translating PSA ratings,
22 but translating anything -- you know, in terms of
23 scientific uncertainty, how are we going to
24 translate that into buffers. Making it

1 quantitative, basically. So, that's something that
2 might need to be sorted out.

3 So, where do we go from here in terms
4 of considering a risk assessment? We could look to
5 develop a risk assessment. We could consider
6 management program evaluation techniques to other
7 approaches that could be used to pull together this
8 information and inform the Council on how they might
9 want to handle risk and what management options
10 might be appropriate to meet their objectives.

11 Consider bringing in additional
12 expertise. There was some talk by the SSC about
13 maybe a risk analyst or an environmental
14 statistician might be worth adding to the SSC
15 roster. And there may be other experts that might
16 be worth bringing in.

17 In addition, and these are my
18 recommendations, I think the Council could and
19 should consult with its SSC. They may help identify
20 some of the steps to do a risk assessment and/or
21 develop a more formal risk policy.

22 I think the risk policy should be
23 considered as a complimentary framework to the ABC
24 at ACL products. And that if -- there may be a need

1 given workloads and resources to consider bringing
2 in additional expertise.

3 And given that you've all hung in,
4 most of you, for the second time around, I'm going
5 to end with just a little light commentary on our
6 government.

7 (Laughter.)

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Thank you, Jessica. Thanks again for an excellent
10 presentation. It was good the first time, and it
11 was better the second time. So thank you.

12 Earlier today we had quite a bit of
13 discussion about this in the ACL/AM Committee, but
14 at this point, I would open it up for questions, if
15 there are additional questions or comments from the
16 whole Council. Are there any comments? Jeff?

17 JEFFERY DEEM: I've got a question
18 for Jessica. I take it that National Standard 1 is
19 suggesting that we have some sort of a formula to
20 calculate the risk that we're taking when we take
21 these -- or make these projections; is that correct?

22 JESSICA COAKLEY: Well, I think it
23 was suggested in the (brief power outage) biological
24 catch levels or annual catch limit levels, so what

1 your tolerance is for overfishing.

2 And that's something, you know, when
3 we talked about making this complementary to this
4 ABC ACL framework that that would fit together
5 basically with the control role to come up with
6 ultimately -- you know, an ABC level that the
7 Council could consider bringing forward for a
8 species.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thank you, Jessica. Additional comments or
11 questions?

12 (No response audible.)

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Okay. With that, I'd like to welcome and
15 acknowledge Gordon Colvin. Gordon will be
16 presenting to us tomorrow and we look forward to
17 having him with us for the MRIP discussion.

18 We have hospitality upstairs
19 immediately following this meeting, and I would
20 invite you all to join us there.

21 Is there any additional business to
22 come before us this evening?

23 (No response audible.)

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Seeing none, we're adjourned.

2 DANIEL FURLONG: We start tomorrow at
3 8:00 with an Executive Committee meeting, followed
4 at 9 o'clock by the Council convening.

5
6 WHEREUPON:

7
8 THE MEETING WAS SUSPENDED AT 4:53 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 16th, day of May, 2009.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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

COUNCIL MEETING

15-16 APRIL 2009

at

The Sanderling Resort and Spa
1461 Duck Road
Duck, NC 27949

THURSDAY, APRIL 16, 2009

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1 [8:50 a.m.]

2 _____
3 INTRODUCTIONS AND ANNOUNCEMENTS

4 COUNCIL CHAIR RICK ROBINS: All
5 right. Let's go ahead and get started. We'll
6 welcome Gordon Colvin. Gordon's going to be
7 presenting the latest update on the MRIP program.

8 _____
9 UPDATE ON MARINE RECREATIONAL INFORMATION PROGRAM

10 GORDON COLVIN: Thank you, Mr.
11 Chairman.

12 It's always a pleasure to be back
13 home with the Mid-Atlantic Council, and I appreciate
14 the invitation and look very much forward to our
15 discussion this morning.

16 I'm going to talk for a few minutes
17 here about the status of the MRIP program, and where
18 we are now, a bit of a snapshot, and a little bit
19 about some of the upcoming projects and things that
20 we're planning to do in the coming year.

21 And then hopefully we'll have time
22 for what I'm sure will be many questions the Council
23 members will have.

24 Now, let's see if we can make this

1 work. Where do I point? You?

2 (Pause.)

3 GORDON COLVIN: Currently there are
4 quite a large number of surveys that can collect
5 recreational fisheries catch and effort data in
6 place around the country. And the current surveys
7 generally in many regions differ in methodology.
8 They differ in the precision and the timing of their
9 delivery of catch data.

10 The NRC review recommended survey
11 improvements that cover essentially all of these
12 current surveys.

13 What we're working on and kind of the
14 general vision we have with the MRIP program is to
15 achieve a system of regional surveys, to maintain
16 the regional identity of the regional surveys and
17 produce data that meets each region's unique
18 regional needs while at the same time developing
19 survey sampling and estimation methods for
20 implementation across the country that address
21 National Standards and conform to best practices
22 that will be established via the MRIP program.

23 We do expect that the MRIP program
24 and the system of regional surveys that will embrace

1 -- will provide recreational catch estimates that
2 are more accurate, they are more complete, and they
3 are more timely than the estimates that we've had in
4 the past. That the MRIP program will, however,
5 consist mainly of sample-based rather than census-
6 based surveys, with some exceptions, such as some of
7 the for-hire surveys.

8 But we will not get a real-time
9 accounting of every fish that's been caught. We
10 will continue to develop improved estimates. And
11 they will be estimates of catch based on sample
12 data.

13 Last fall the Executive Steering
14 Committee issued an implementation plan for MRIP,
15 and in general the plan described a three-phased
16 implementation approach.

17 In the first phase, or the evaluation
18 phase, current survey methods are fully documented
19 and described and the results -- and the results of
20 those descriptions are evaluated by experts. This
21 is what we refer to as the evaluation phase, and a
22 lot of the initial year's work has been in this
23 phase.

24 In phase two, the innovation phase,

1 new survey methods are developed and tested in a
2 series of pilot projects. And the results are
3 compared to the current methods.

4 In the third phase, we'll establish
5 survey standards and best practices based on the
6 results of the projects in the first two steps.
7 We'll implement improvements in survey design and
8 management and expand sampling as necessary and
9 possible to achieve improved spacial and temporal
10 resolution of catch estimates in consultation with
11 our regional data collection partners.

12 This is the activation phase and this
13 is the phase that will bring about and implement the
14 new survey methodology around the country.

15 We will sequentially implement survey
16 improvements in the activation phase as the results
17 of innovation step projects are completed and we and
18 our partners are able to confidently determine what
19 survey changes we should implement.

20 Let me give an example of this kind
21 of sequential implementation. One of our very
22 earlier projects, and it will come up on a future
23 slide here, was a project to evaluate as the NRC
24 Panel recommended, the estimation methods,

1 essentially the math that's used to develop the
2 estimates from the intercept survey data.

3 That project is nearly complete and
4 we are now able to begin the process of -- for
5 those parts of the country in which the basic MRFSS
6 methodology was used, we will be able to complete
7 revised estimates based on the new estimation
8 methodology this year. And that process is
9 underway.

10 And sometime later this year, we'll
11 be able to provide revised estimates for about the
12 last five years or so of MRFSS data. We don't, by
13 the way, expect that to result in big changes. We
14 don't expect it to involve unidirectional changes,
15 which is an important thing to point out. But we do
16 expect that at the end of that process, we'll have a
17 more accurate series of estimates beginning with the
18 most recent year and working back about five. And
19 then henceforth, we'll be employing that improved
20 methodology on a continuous basis.

21 We provided, I think in your briefing
22 books, you have -- and we have in the back of the
23 room on the table extra copies of a new project
24 update that we're going to be issuing quarterly to

1 update the world on our implementation progress and
2 on the projects that are planned for the upcoming
3 period of time. You'll note that this report is
4 organized under the three primary teams that the
5 MRIP program has organized.

6 The operations team, the registry
7 team, and the communication/education team. And
8 particularly the technical workgroups that the
9 operations team is working with to do the technical
10 work.

11 You'll also note that as I indicated
12 previously, most of our current work up till now is
13 in the evaluation/innovation phase, as we are
14 starting -- we only started really the
15 implementation work last year.

16 The projects under development listed
17 in the report are some of the projects we hope to
18 initiate this year with FY '09 funding. I should
19 point out that the operations team last week
20 submitted its recommendations to the Executive
21 Steering Committee for project funding for FY '09.
22 And that the projects that will be selected for
23 funding and implementation should be announced
24 before the end of this month.

1 What I'll do is briefly review the
2 project update information and then respond to your
3 questions.

4 The design analysis workgroup has
5 probably got the biggest and most challenging
6 workload of all of the workgroups. They're the
7 folks that are really working on a great deal of the
8 necessary improvements to survey design, survey
9 methodology, estimation methodology, that really
10 heavy technical lifting to come up with improved
11 survey methods and survey designs.

12 A couple of the highlights of their
13 first year's work and probably a really significant
14 one that may not be so obvious in terms of outputs
15 but will drastically affect the quality of the
16 outputs is that they were able to put together a
17 team of expert consultants that is truly world-
18 class. They have a group of folks they're working
19 with that are as good as they can be, including
20 three of the members of the original NRC panel that
21 conducted the review a couple of years ago.

22 I mentioned the re-estimation project
23 earlier, and that's one of their big projects that
24 they've been working on, responding to the NRC's

1 advice that our current survey design and estimation
2 methods are not appropriately matched and need to be
3 re-evaluated and redesigned.

4 There's another piece of that. In
5 addition to the estimation methodology is a piece
6 that addresses the intercept survey sample design
7 which is also -- has resulted in recommendations for
8 revisions as to how we assign people sites and how
9 they select candidates for interview from among the
10 sites they're assigned to. That will be a pilot
11 project in North Carolina in the coming year to
12 pilot that work which is likely to then be
13 implemented in the future, changes in how we
14 actually deploy the intercept interviewers.

15 Folks are also working on a number of
16 multi-frame survey pilots using angular registry,
17 side-by-side with traditional telephone survey
18 methods to get experience and comparability between
19 registry-based and directory-based survey methods.

20 Pilots have been conducted in the
21 Gulf of Mexico, North Carolina. They will continue
22 in Louisiana, North Carolina. And we'll initiate
23 pilots in all probability in the State of Washington
24 this year.

1 Some of the other work that's going
2 to really get underway this year will be additional
3 work on piloting methods of improving accounting of
4 discards, recreational fishery releases, developing
5 methods for estimation of the potential bias
6 associated with the undercoverage of private access
7 in night fishing, which is I know a matter that's
8 well-known of concern to the Councils.

9 We're going to do a pilot project
10 involving a mail survey as compared to the telephone
11 survey at the recommendation of our expert advisors
12 to see if we can come up with approaches that will
13 address some of the problems we have with
14 telephones, including cell phones.

15 And we're also looking to experiment
16 with some local telephone-based surveys in Hawaii to
17 see if we can get better response rates by using
18 local contractors.

19 Data management standards workgroup
20 are the guys that are going to develop and maintain
21 our databases for us. In the last year they
22 completed an inventory of current survey programs
23 and databases, which was a very big kind of down-in-
24 the-weeds technical project but it was a major

1 effort to undertake.

2 And it will lead to in the coming
3 year the development of the requirements and design
4 of the National Recreational Fisheries Database.
5 Another big project.

6 They also did a project last year of
7 funding support for the Pacific RECFIN program's
8 website to see if that -- improvements to that
9 website could then be a model for others in terms of
10 a manner in providing partners with access to the
11 data -- web-based access to data.

12 Another important project that will
13 be done by this group this year will be an
14 independent detailed review of quality assurance and
15 quality control measures in current recreational
16 survey designs with initial emphasis on the MRFSS
17 and for-hire survey work on the east and Gulf coast.

18 HMS workgroup has a smaller workload
19 than some of the others focusing primarily on the
20 HMS and some of the work that they do will also be
21 applicable to other less-frequently encountered,
22 less-frequently caught groups of fish. They've been
23 doing pilots of survey -- new surveys in the South
24 Atlantic, Gulf of Mexico, and Caribbean and have

1 expanded the current LPS into Florida in the current
2 year.

3 Next year we expect additional pilots
4 for HMS will be initiated on the west coast and some
5 of these current programs will be continued and
6 expanded.

7 The for-hire workgroup, its primary
8 work in the current year was to complete a detailed,
9 very detailed, inventory and characterization of all
10 the existing for-hire surveys in place all around
11 the country. And a team of consultants conducted an
12 evaluation and recommendations for improvements of
13 those surveys that I'm going to spend a few minutes
14 talking about this morning is an example of the kind
15 of where-we-go from the first year with a lot of
16 these different kinds of projects. They also
17 piloted electronic reporting in Puerto Rico and that
18 project is still ongoing.

19 But let me come back to the report of
20 the review of for-hire recreational surveys. This
21 report was very recently concluded, accepted by the
22 for-hire workgroup, and the operations team. It's a
23 good example of how the evaluation phase of MRIP
24 works.

1 We began with a very thorough
2 detailed documentation of existing survey
3 methodologies. We brought together a team of
4 experts to review those methodologies
5 comprehensively, consider them in the context of the
6 state of science, of the NRC recommendations, and to
7 build a series of recommendations for where we
8 should go from here.

9 The goal was to provide us with
10 precise actions that need to be undertaken to ensure
11 that in the future we'll get accurate, precise
12 unbiased data. And we'll have some consistency, not
13 necessarily using identical methods around the
14 country, but we'll have some general consistency and
15 survey results, and that we'll be confident that the
16 practices used are essentially the current state of
17 science.

18 The group bundled their
19 recommendations into two groups. There were
20 national recommendations broadly applicable for best
21 practices for-hire surveys, and then very detailed
22 critiques and recommendations for each of the
23 individual for-hire surveys around the country that
24 were recommended.

1 Some of the most important of the
2 best practice method recommendations included
3 completing and maintaining a directory of for-hire
4 vessels. No different, if you will, then the NRC
5 Panel's recommendation for a complete, accurate, and
6 well-maintained directory of anglers to support
7 effort-based surveys.

8 They concurred with the NRC's
9 recommendation that logbooks would be the best
10 approach to developing catch and effort data for the
11 for-hire fisheries. But they also went on to point
12 out that it's not simply a matter of saying we will
13 have logbooks, that in order for a logbook program
14 to be effective, a number of components of the
15 program would need to be added, and these would
16 include essentially the need to implement measures
17 to independently validate the self-reported data in
18 the logbooks, that a local program would have to be
19 complete within a region, that there couldn't be
20 gaps in coverage. And that in order for it to be
21 complete, it would need to be mandatory in all
22 jurisdictions. And that that mandatory requirement
23 would need to be enforced.

24 And the panel was very emphatic on

1 the need to take follow-up actions to ensure that
2 that log book reporting by the captains was complete
3 and timely.

4 There are also unresolved questions
5 about the affordability of logbooks and those will
6 have to be worked out and we'll need to learn more
7 in the pilot work.

8 And the other point is that in order
9 for logbook data to be useful, it also has to be
10 timely. So, paper logbooks and mail-ins and long-
11 term data takeoff from paper logbooks is not the way
12 to go; that electronic reporting would need to
13 accompany a successful and viable logbook program.

14 They also recommended establishing
15 and maintaining a very complete inventory list of
16 landing sites for for-hire vessels. And this is a
17 particular issue in certain parts of the country
18 where there are a lot of operations that are
19 trailered. And charter operations that are
20 trailered so that needs to be -- you know, thought
21 through carefully.

22 And another issue that's going to
23 come up a lot, I think you're going to see not just
24 in for-hire but in some of the other stuff including

1 what I mentioned earlier about the intercept survey
2 sample design work, is that the sampling units need
3 to be based on probability-based selection or
4 probability proportionate to size is a term of art
5 that keeps popping up with the expert statisticians.

6 And what this sort of means is what -
7 - and we've heard this from constituents and we've
8 heard it from some of the Councils -- that there is
9 a concern that perhaps sample units, whether it's a
10 site to be sampled or vessels to be sampled within a
11 site or anglers to be sampled within a site, are not
12 necessarily selected randomly and they are not --
13 and the distribution of that sample effort is not
14 necessarily proportionate to the actual distribution
15 sampling effort.

16 So, a lot of the recommendations that
17 are coming from experts address how we select sample
18 units in order to address those underlying
19 statistical problems and issues. And they're very
20 important. And I think when we figure out how to
21 put them in lay language, they will also be very
22 important to the credibility of the surveys with the
23 constituents.

24 As I said, there are very detailed

1 recommendations for individual regional surveys.

2 Because the other basic conclusion that flows from
3 the report is that logbooks may be the best way to
4 go, but it's subject to all of these caveats.

5 Surveys can still produce acceptable
6 estimates if we can't get to logbooks, but we need
7 to improve the current surveys. So, there are a
8 very detailed set of recommendations on how to
9 improve the current surveys including the for-hire
10 surveys in use in this region.

11 The next step, where we go from here
12 now, is that having completed that part of the
13 evaluation phase, we now move smack to innovation.
14 And we have received and are considering funding a
15 number of pilot projects with the 2009 money that
16 will work to develop the methods and to pilot the
17 methods associated with the recommendations that
18 this report has made, including:

19 The survey design for a mandatory
20 logbook program. Testing the overall feasibility
21 and cost of logbook programs and pilot work. To
22 develop -- to identify validation methods and to
23 pilot test them in the field. And importantly to
24 develop and pilot test electronic reporting and data

1 entry methods so that we can address that timeliness
2 question.

3 When we get the results of these
4 pilots, we will be able to more effectively evaluate
5 and come to intelligent decisions region by region
6 about where we want to go with logbooks among other
7 things. And if we want to begin to move in that
8 direction, if we want to roll out changes either to
9 move to logbooks or to retain existing surveys and
10 improvement, with that data we will be able to go to
11 the activation phase and implement the changes that
12 need to be made next year or the year after.

13 Recent progress on the angler
14 registry. The final rule became effective in
15 January of this year. It enabled us to begin the
16 process of designating those states who have
17 adequate coverage of their license holders or -- and
18 their charter boats as exempted states for those
19 programs that process of working with the states on
20 exempted state designation is ongoing and underway.

21 The requirement for anglers in non-
22 exempted states to register with NOAA Fisheries has
23 been set at January of 2010. That's a year later
24 than the proposed rule. The final rule moved it

1 back because a number of the states who do not yet
2 have complete licenses requested that we give them a
3 year to put those in place before we went forward
4 with the mandatory federal registration.

5 And there has been some progress
6 along those lines, and it may or may not be
7 something you want to discuss in the questions.

8 In 2009 we're going to primarily
9 focus on completing the federal registration
10 interface, the computer interface, whereby folks
11 will register with us and it will be integrated with
12 NOAA's national permit system. And we will
13 establish the registry database and make it ready
14 for sample generation for survey sampling.

15 Communication/Education Team. This
16 is pretty much an ongoing effort; and it will
17 continue, as it has, to develop the electronic
18 newsletter. I think we're overdue to get one of
19 those out. I think we've been calling it MRIP
20 newscast and all the Council members are on the
21 distribution list for that.

22 There's been a large number of media
23 articles that we thought we're able to generate.
24 We're maintaining the website and getting out to

1 meet with folks in meetings like this wherever
2 possible.

3 A couple of changes upcoming in the
4 coming year, there is a desire to do some instate
5 stakeholder meetings that we're going to begin to be
6 doing this year. We're certainly not going to get
7 to all the states, but we'd like to get to a number
8 to begin to. And this will be done in collaboration
9 with the state natural resource agencies, so that
10 we're working together in a common message with our
11 partners and our joint stakeholders.

12 And as I mentioned, the project
13 update reports will be a new program coming out
14 about quarterly. And I think as soon as we have
15 final decisions on the '09 projects, it will be time
16 to do an update and volume two of the project
17 updates will be out.

18 We remain committed to actively
19 involving our partners and the states and the
20 Councils and the stakeholder community as we move
21 forward with MRIP. We're appreciative of your
22 support and we want to thank the Council for your
23 efforts in communicating the program and for making
24 Jason available.

1 As you may know, Jason Didden is an
2 extremely valuable member of our Operations Team and
3 our Communication/Education Team. And has been
4 very, very helpful and we very much appreciate, Mr.
5 Chairman, Dan and Jason, your willingness to work
6 with us in this regard.

7 We intend to remain engaged with the
8 Council. We're glad that you invited us and we'll
9 come back whenever you'll have us.

10 Our time line -- I guess it's time to
11 actually move that red dot over a little bit -- but
12 it generally does illustrate the shift from planning
13 and program design to our entering the phases for
14 implementation beginning this year. And we look
15 forward to continuing to report to you all as we
16 move through the innovation and on towards the
17 activation phases.

18 Mr. Chairman and members of the
19 Council, that's pretty much what I have for you this
20 morning. I'll be delighted to address your
21 questions as best I can.

22 COUNCIL CHAIRMAN RICHARD ROBINS:
23 Gordon, thank you very much for that presentation.
24 I would just ask can you give us an idea of what

1 percentage of the coastal states are going to have
2 or would you expect to have compliant licensing
3 programs versus those states where the anglers will
4 have to come on and register with the program?

5 GORDON COLVIN: Well, when we -- when
6 we adopted the rule, we had I think an expectation
7 that all of the Pacific coast states, Alaska through
8 California, and all of the Gulf coast states except
9 Florida, and in addition Georgia and North Carolina,
10 would all qualify at the outset of the program.

11 Florida, South Carolina, Maryland and Virginia
12 had licenses, but had some gaps in their license
13 coverage that would prevent them from being
14 designated.

15 Both Florida and South Carolina have
16 legislation being actively considered as we speak to
17 move in that direction. I think they're pretty
18 confident in South Carolina. Florida, it's
19 controversial. It's also part of a budget issue
20 down there. And we'll see. We're very hopeful.

21 We recently had a meeting with folks
22 in Maryland. And I think probably from what they
23 said the likelihood is that legislation to address
24 the Maryland gap would occur not this year but in

1 2010. And I think that's probably the same in
2 Virginia, Jack? That seems to be where we are.

3 And on the Northeast states, from New
4 Jersey to Maine, where there are presently no
5 licenses -- I think we're very close to having a
6 license in New York. It was signed. We have a
7 license in New York.

8 COUNCIL CHAIRMAN RICHARD ROBINS:

9 Breaking news.

10 GORDON COLVIN: Okay. And there's
11 license legislation under active consideration in
12 Maine and New Hampshire. I'll let Frank report on
13 Rhode Island. And there is legislation pending in
14 Connecticut. And I think that's as much as I know
15 at the moment about things.

16 There's virtually no action ongoing
17 in Hawaii. That's the other one. Puerto Rico, I
18 should say, there is no license, but there is
19 apparently the natural resources agency has the
20 ability to adopt licensing through a rulemaking
21 process. And they are engaged in that process and
22 expect to be done by the end of the year.

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Thank you, Gordon. Questions? I have Pete Himchak.

1 PETER HIMCHAK: Yes, thank you, Mr.
2 Chairman. First I could say on a positive note that
3 at least in New Jersey the agency staff is allowed
4 to go out and talk to the sportfishing groups and
5 promote the concept of a saltwater license.

6 GORDON COLVIN: Well, that's a step
7 ahead of where it was when I was there two months
8 ago, Pete.

9 PETER HIMCHAK: This is a major step
10 for us. We can't give any specifics, but we can
11 promote the concept.

12 Gordon, I had a -- this caught my
13 attention where you talked about the re-estimation
14 of MRFSS data for the last five years. You said
15 that it was a subtle adjustment, not unidirectional.

16 Could you be a little more specific
17 as to what -- what triggered the -- or I guess there
18 was something in the formulation that came up with
19 the estimate that gave you a better estimate -- and
20 then why would you limit it to five years?

21 GORDON COLVIN: Well, A, this is way
22 over my head. Okay. This is essentially an
23 exercise in -- among the expert statisticians in how
24 best to calculate estimates from the kind of data

1 that we have.

2 And, you know, as we said, we have a
3 world-class gang advising us. And I think that the
4 data that is immediately available for the re-
5 estimation work is limited to a series of years, but
6 ultimately we'll be able to go back and do others as
7 well. It has to do with the -- the state of the
8 data that we're working with.

9 And in terms of the magnitude of
10 changes, I can't say. I just don't know. I don't
11 think they've completed enough of them to say.
12 There is some desire -- and I don't know if it will
13 happen or not -- upcoming is a presentation will be
14 made at the Northeast Fish and Wildlife Conference.

15 And folks were hoping to have a little bit more to
16 say about that project in the context of that
17 presentation, Pete, but that hasn't been developed
18 yet.

19 So, I'm sorry I can't give you better
20 information. As soon as we can, we will. I don't
21 expect to see big changes. You might see a change
22 in a year's data that looks kind of significant.
23 But then when you look at a longer time series, I
24 don't think it will. Nobody's thinking that it's

1 going to have any major implications, for example,
2 for stock assessment.

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Pete, on that point?

5 PETER HIMCHAK: Well, just one last
6 comment and then I'll be quiet for the session. I
7 see -- I'm looking into the future here with MRIP.
8 And what I see presently going on within a number of
9 states is that recreational anglers, in venting
10 their frustration with the MRFSS data, are
11 subscribing at a tremendously accelerating rate to
12 volunteer angler surveys, web-based volunteer angler
13 surveys.

14 And while we certainly welcome the
15 data, it may -- you know, it may include some biases
16 one way or another.

17 And my fear or my -- I don't know,
18 maybe it's a hope -- but I hope that these databases
19 in the future do not end up being as competing
20 databases with what comes out of the MRIP. And I
21 hope that they're complementary, because they are
22 developing at a rather quick pace. That's just a
23 comment. Thank you.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Thanks, Pete. Howard King. Then Red.

2 HOWARD KING: Gordon, first of all, I
3 think the Service has really benefitted from your
4 involvement in this process. You're the right
5 person for this job.

6 My question is what would be an
7 example of independent validation of a for-hire
8 logbook database?

9 GORDON COLVIN: Yeah. Let me give
10 you an example that came to my attention within the
11 last year. Because one of the things we got to do
12 was go around the country and visit the other
13 Councils. And while we were in Alaska, we all took
14 a day off and went halibut fishing. It was kind of
15 a busman's holiday and we kind of talked a lot to
16 the captain about how it worked.

17 And the way the charter boat fishery
18 works in Alaska -- it's the only really validated
19 survey that's in place now, but it's all paper --
20 you fill out a logbook before you go out. The
21 captain does. He can't leave the dock until it's
22 all filled out, with every angler's name and their
23 license number on it. In Alaska, you have to have a
24 license even to fish on charter boat.

1 And then at the end of the trip, that
2 charter logsheet is filled out very completely and
3 carefully. And then about weekly, they bundle them
4 off and send them off to Anchorage.

5 And what will happen there is that a
6 random group of anglers will be selected by the
7 Alaska fish and game guys from those logbooks --
8 from their -- they'll get their contact information
9 from that license number and they'll send a mail
10 survey out to them. And they'll be asked questions
11 about where they fished and what they caught that
12 can then be used to compare against what the
13 captains have reported. So that's one way it's
14 done.

15 What they're talking about in one of
16 the pilots that's being discussed for the Gulf of
17 Mexico now is -- because they're also looking at
18 electronic reporting -- is the prospect conceptually
19 -- and they're not ready to go in the field with
20 this just yet, they've got a lot of development work
21 to do -- but conceptually the idea is a little bit
22 similar to some of the commercial logbook stuff
23 that's in place, for example, in the Northeast where
24 the captain would be required to complete the

1 electronic logbook on the vessel before it lands and
2 transmit the report electronically before the vessel
3 lands; at which point, a randomly selected group of
4 trips could be intercepted and the interceptors
5 could compare what's actually landed with what the
6 captain's reported. That's another one.

7 So there's -- there are probably
8 other ways of doing it and those will emerge from
9 the brainstorming that will go on this year as we
10 develop these pilots.

11 GORDON COLVIN: Red Munden.

12 RED MUNDEN: Thank you, Mr. Chairman.

13 Gordon, early on in your presentation you said
14 there'd be a pilot program in North Carolina. Can
15 you elaborate on that?

16 GORDON COLVIN: I think the one I was
17 referring to -- and again, there's not a final
18 decision on this yet, Red, but I think it's probably
19 going to go -- there are -- this gets back to that
20 business I was talking about, about probability
21 proportionate to size and distributing of samples,
22 how you distribute your intercepts among sites a
23 little differently than the way we've done it in the
24 past. That that group has come up with a series of

1 recommendations on a different approach to assigning
2 the interviews.

3 And without going into the details,
4 which I can't recall anyway, the idea is that that
5 different approach would be piloted probably in
6 North Carolina. And the results compared to the
7 more traditional, the historic way, of deploying
8 MRFSS intercepts to see how the results compare.

9 But the belief of the statisticians
10 is that this new approach is superior and will
11 generate more accurate reliable results.

12 GORDON COLVIN: Ed Goldman.

13 EDWARD GOLDMAN: Thank you, Mr.
14 Chairman. I've got a few questions and comments.
15 First of all, I don't know if Pete's allowed to
16 mention this, but there has been legislation
17 introduced in New Jersey for a registry. And that
18 would just be a registry, and there would be no
19 money for other things, which the Division is trying
20 to push a license so they can do two birds -- kill
21 two birds with one stone.

22 But anyway, you had mentioned
23 regional surveys, and I had talked to Jason earlier,
24 a few months back on the subject, and he had

1 mentioned state surveys. And I was just wondering,
2 hopefully you guys have money for this, because I
3 don't think New Jersey has any money to do any of
4 that. That's my first question.

5 GORDON COLVIN: Hopefully, we have
6 money to do it.

7 EDWARD GOLDMAN: Thank you. One of
8 the things that I was wondering about listening to -
9 - you know, it's been bothering me about MRIP, going
10 back to the ASMFC where I served as a proxy a few
11 years ago, was your guys from New York were trying
12 to point out one of the inadequacies of MRFSS is it
13 seems that they didn't take into account things like
14 really bad weather and hurricanes and things like
15 that.

16 And, you know, they had bait and
17 tackle retail sales, wholesale sales, and they all
18 showed a 25 percent dip that year -- I think it was
19 like 2005 maybe -- and MRFSS just never picked that
20 up.

21 And if you remember, we -- the
22 Commission wrote a letter to MRFSS asking to explain
23 that. And the answer was well this is our methods.

24 But they really never explained those anomalies.

1 Is there anything in the new MRIP
2 program that will look at -- take into account other
3 factors, non-fishing factors, such as weather and 4
4 or \$5 a gallon for gasoline and things like that?

5 GORDON COLVIN: Well, Ed, I don't
6 know where we'll end up. There is interest in
7 trying to come up with an analysis of kind of
8 independently derived industry indicators of fishing
9 effort as -- you know, not as an alternative but as
10 kind of a way of also looking at our effort trends
11 and how they might compare to that.

12 And the difficulty is coming up with
13 something that is completely reliable and -- you
14 know, that isn't subject to some form of
15 manipulation or what have you. As you can imagine,
16 it's not easy to do that. So we're continuing to
17 try to look at that. At the end of the day, we
18 don't think that we're going to come up with some
19 magic silver bullet that we can use to just say,
20 well, okay, we're going to multiply this number
21 times our estimates to adjust them. It's not likely
22 to work that way.

23 What we need to do is is to develop
24 these survey methods that we're working on that will

1 -- that will at the end of the day we'll be
2 confident are developing accurate and unbiased
3 estimates of fishing effort. You know, moving to
4 the registry-based approach rather than a telephone
5 directory based approach is the number one
6 initiative in that regard.

7 And I think -- in the for-hire
8 fishery, I think we've already made headway with the
9 current method by moving away from the MRFSS
10 methodology and using the for-hire survey where we
11 talk to the captains.

12 If we end up going to logbooks, it
13 will be another step towards improvement, but even
14 the current method is much better than it used to
15 be.

16 EDWARD GOLDMAN: If I may, one more
17 question and a quick comment. When you were talking
18 about the for-hire survey and the captains, it
19 occurred to me that if charter party boats are
20 exempt, the fishermen are exempt from the license,
21 but let's say a shore-bound angler isn't -- you
22 know, we have people that fish from the shore and
23 party boats so would they be -- they wouldn't be
24 counted twice in the survey; would they?

1 GORDON COLVIN: No. Because what
2 will happen is generally speaking when surveys are
3 done, whether it's the phone surveys that we do now
4 or the phone surveys that we might do in the future
5 based on a registry or even if we go to a mail
6 survey, based on the results of that pilot, we'll
7 ask people about the fishing trips they took and
8 we'll ask information including what mode of fishing
9 the trip was.

10 So that if they're reporting for-hire
11 mode trips, those will be pulled out and we won't
12 use those to generate that -- you know, those
13 estimates for those individuals.

14 It's useful information to get
15 because it also helps us to validate what we're
16 hearing from the independent for-hire survey in
17 terms of looking at the trends. But we don't -- we
18 don't use -- we don't use them now. The for-hire
19 survey now generates the trip estimate from the
20 captains. We still get -- in the MRFSS we get for-
21 hire trips reported by the people we call on the
22 phone, but we subtract those out.

23 EDWARD GOLDMAN: And my last comment
24 is, I hope that MRIP is not going on record to

1 support catch and release. Because I went to your
2 website last week, the home page, and it had on
3 there a little fact that 468 million fish were
4 caught by anglers in 2007. And 272 million, or 58
5 percent of those, were released alive and I kind of
6 went nuclear when I read that, because it kind of --
7 I was wondering are you promoting catch and release?
8 And if so, why?

9 GORDON COLVIN: I think that's just a
10 fact. That's just what emerges from the data.

11 EDWARD GOLDMAN: That's what I was
12 wondering. And I think that the fact that it -- one
13 thing that was missing was a probably a lot of
14 that's regulatory discards.

15 GORDON COLVIN: Might be. Size
16 limits, I'm sure it is.

17 COUNCIL CHAIRMAN RICHARD ROBINS:
18 Thank you, Ed. Any additional questions for Gordon?
19 Pete.

20 PETER HIMCHAK: I'm going back on my
21 word. I have one other comment. Gordon, you know,
22 I really think it's unfortunate that the state
23 resource agencies are in such bad shape. Because if
24 we had more interaction with the contractor and the

1 selection of the field intercept sites, I think that
2 would greatly improve the representation of the
3 sampling in the field. And also, we as an agency
4 get the feedback from the fishermen and we have to
5 deal with the complaints or the lack of coverage, et
6 cetera, et cetera, et cetera.

7 So, you know, it's like we can't take
8 on any more than we can actually do. But boy, there
9 has to be a good working relationship between the
10 state agency, the contractor, and the field
11 interceptors.

12 GORDON COLVIN: I can't agree more
13 with what you just said. You're a hundred percent
14 right. I mean, if -- I sort of felt that way before
15 I came to work for NMFS, but from what I've learned
16 about how the surveys work and how they're likely to
17 work in the future since I've been there, just has
18 underscored that a thousand percent.

19 There's little aspects to all of this
20 that people don't fully understand and appreciate,
21 including the importance of the information in those
22 site directories. Those site directories need to be
23 complete and they need to be pretty darn accurate in
24 terms of what they've identified as relative angling

1 pressure for those sites.

2 Because those pressures influence the
3 distribution strongly. They don't influence, they
4 determine the distribution of intercept sampling
5 effort. And if they're not right, then you're not
6 going to get your -- you're not going to deploy your
7 field interviewers where they should be. If those
8 sites aren't complete, then you're going to be
9 missing sites.

10 And I think the -- I absolutely agree
11 that the best people to work directly with the
12 contractors to maintain those site directories are
13 the state natural resource agencies. You're there.
14 We can't do it from Silver Spring, for heavens
15 sake. That's just not doable. So, we rely on the
16 contractors to do it; but I think we need the states
17 to be involved.

18 GORDON COLVIN: Thank you. Jeff
19 Deem.

20 JEFFREY DEEM: I've got quite a few
21 questions. But I'll do two or three and see after
22 everybody looks like they're falling asleep first.

23 First, Gordon, I'd like to thank you.
24 I don't envy the hole that you've got to dig this

1 group out of or this program out of. But I think
2 that like someone else has said, they've got the
3 right people to do it.

4 The first question is will there be
5 any intercept data accepted and the contractor
6 compensated for data when they go to the site and
7 find no one there?

8 GORDON COLVIN: Again, future survey
9 designs, Jeff, will be future survey designs. And
10 I'm not sure what they will all be. But in terms of
11 the way things are done now, the guys that do the
12 field interviews are paid by the hour. So, if
13 they're instructed to go to a site and there's
14 nobody there, they're still getting paid.

15 JEFFREY DEEM: Well, that's a big
16 discrepancy that I've heard from the contractor
17 himself, that the people are paid by the hour as
18 long as they turn in reports.

19 GORDON COLVIN: That's not true.
20 They're paid by the hour. They're --

21 JEFFREY DEEM: Yeah, but if they
22 don't -- excuse me --

23 GORDON COLVIN: They're employed by
24 site.

1 JEFFERY DEEM: If they don't do any
2 -- find anybody at the first site, they're sent to
3 an alternate site?

4 GORDON COLVIN: That's correct.

5 JEFFREY DEEM: And if they don't find
6 anybody there, I think sometimes they have a third
7 site.

8 GORDON COLVIN: That's correct.

9 JEFFREY DEEM: Okay.

10 GORDON COLVIN: And that's, by the
11 way, the methodology that we're going to be
12 exploring changes to.

13 JEFFREY DEEM: Okay.

14 GORDON COLVIN: With this pilot in
15 North Carolina.

16 JEFFREY DEEM: My understanding is
17 after the third site, they're sent home.

18 GORDON COLVIN: That could be.

19 JEFFREY DEEM: Okay. So they're not
20 paid a full eight-hour day. They're paid by the
21 hour --

22 GORDON COLVIN: Right, they're paid
23 what they work.

24 JEFFREY DEEM: -- if they turn in

1 papers?

2 GORDON COLVIN: I think they have to
3 report on what they did, but they don't --

4 JEFFREY DEEM: Well, they have to
5 report on going to three sites. But if they don't
6 interview anybody in those three sites, they don't
7 get an eight-hour day unless they falsify --

8 GORDON COLVIN: They don't get a full
9 day. That's correct.

10 JEFFREY DEEM: -- unless they falsify
11 the documents.

12 GORDON COLVIN: They get -- they get
13 -- I don't understand what you're saying, Jeff.

14 JEFFREY DEEM: Okay. All right. Let
15 me put it a little bit clearer. If they visit three
16 sites and don't turn in any papers, they go home.
17 If they say they visited three sites and turn in
18 eight-hours worth of papers, they get paid for eight
19 hours.

20 I'm a contractor and I consider
21 myself an ethical contractor and I know a whole lot
22 about unethical contractors. And if you tell
23 somebody he's going to be paid for turning in paper
24 and not paid if he doesn't turn in paper on a bad

1 day, that's not the way to deal with a private --
2 that's not the way to deal with anybody, in my
3 opinion, but --

4 GORDON COLVIN: Well, Jeff, let me
5 back up. Number one -- you know, I'm not sure what
6 you mean about turning in paper. The contractors
7 are paid by the hour. They're not guaranteed an
8 eight-hour day. If they -- if they visit their
9 three sites and there is no angling activity going
10 on at any of those sites in that day, they will need
11 to report the hours that they worked and they will
12 not be able to turn in any interview reports. And
13 that's it. They get paid the hours they work. And
14 that's how the program presently works.

15 If they turn in reports that they
16 fabricate, now that's something we call dry-labbing,
17 and it's probably fraud. And it may well be
18 illegal. And it's certainly totally inconsistent
19 and unacceptable under the terms of our contract
20 with any of our contractors.

21 Now, we do have measures in place in
22 the current contracts that are designed to enable us
23 to detect dry-labbing. And I know that Nancy
24 Thompson discussed some of those measures at the

1 December meeting in Montauk, and I don't have
2 anything to add to what she said. But what I will
3 say is that I think we recognized that it is
4 important that we continually address our own
5 concerns and public perceptions about the prospect
6 for survey fraud and for quality assurance and
7 quality control problems.

8 And to that end, there is a project
9 that will be done this year where we will bring in
10 independent review of our current QA/QC methods.
11 And that project will begin with a review of the
12 MRFSS and for-hire methodology on the Atlantic and
13 Gulf coasts. And in future years, it may well move
14 to other coasts. And independently review and make
15 recommendations on QA/QC improvements.

16 And I personally intend to be part of
17 the project team that's on that one myself, and I
18 have a great deal of interest in it. And I can
19 assure you that I'm going to do everything I can to
20 make sure that we turn over every rock and we look
21 at every prospect for problems and we address them.

22 GORDON COLVIN: Jeff, do you have
23 another question? And then I've Gene.

24 JEFFREY DEEM: Yeah. I've got a list

1 of them, but I'll stop at the next one if you'd
2 like.

3 COUNCIL CHAIRMAN RICHARD ROBINS: Go
4 ahead.

5 JEFFERY DEEM: When you go back and
6 you do your retrospective analysis of the last five
7 years, will you be looking at weather data? And let
8 me give you an example.

9 GORDON COLVIN: No.

10 JEFFREY DEEM: Okay. A few --

11 GORDON COLVIN: Not on that. Not on
12 that one that I spoke about. That is simply and
13 exercise in -- put it this way -- essentially, what
14 we're doing is changing the equations that we use to
15 estimate catch from the effort and the intercept
16 survey data so that the -- the nature of the math
17 produces an estimate that the statisticians tells us
18 is more accurate than the current set of equations
19 produces.

20 But that's all we're doing. It's
21 essentially -- it's a mathematics exercise.

22 JEFFREY DEEM: Okay. If I might
23 follow up, Mr. Chairman?

24 COUNCIL CHAIRMAN RICHARD ROBINS: Go

1 ahead.

2 JEFFREY DEEM: I've been trying to
3 get the actual interview data for -- the actual
4 interview sheets to compare them to the weather, and
5 I'll give you one example.

6 A few years ago when the hurricane
7 came up the Chesapeake Bay, MRFSS said that we had
8 the highest landing of rockfish in history.

9 Now, either rockfish are really
10 turned on by hurricanes, in which case I hope we
11 have another one soon, or somebody was making up
12 some reports because they couldn't find anything
13 else to turn in.

14 So, if you would consider that or
15 have somebody consider it, especially on the really
16 severe days, look at what happened -- or how many
17 reports were turned in on the day that the hurricane
18 came up the Chesapeake Bay and see if there weren't
19 some landings reported at that time. I'd appreciate
20 it very much.

21 COUNCIL CHAIRMAN RICHARD ROBINS:

22 Gene.

23 EUGENE KRAY: Tacking on to Jeff's
24 position, one of the criticisms that I've heard from

1 anglers down on the Jersey shores are that the
2 contractor would -- would intercept a -- someone
3 coming off the boat.

4 And if they said they didn't catch
5 anything, they weren't considered and they just went
6 on to somebody who caught fish.

7 And the criticism, of course, is that
8 that's giving a -- you know, people who don't catch
9 anything -- it has a tendency to inflate the figures
10 is what I think I'm trying to get at.

11 GORDON COLVIN: Yeah. And I should
12 share with you the long email exchange I had with
13 Jim Donofrio last month on that point.

14 No, that's not how it works. But
15 this is also a QA/QC issue and it's a probability
16 proportionate to size issue, if you will. The
17 interviewers are clearly instructed not to cherry-
18 pick sites and/or vessels within sites or anglers.
19 They are clearly instructed, including in the large
20 pelagic survey -- which is where this came up in the
21 discussion that I had with Jim -- to select people
22 at random.

23 And they are trained to understand
24 that it's as important to get trips that there

1 wasn't much catch on as it is to get trips where
2 there was. Whether that training needs to be
3 improved, and whether we need to change the specific
4 instructions are given, and whether we need to
5 change and improve the methods of supervision and
6 follow-up, will all need to be addressed in that
7 QA/QC program that I spoke of, Gene.

8 But it's absolutely -- I mean, you're
9 absolutely right. Anglers are right. A lot of that
10 is perception. I've certainly heard it
11 historically. And, you know, we have to do better.

12 I had a further thought about Jeff's
13 comment on weather. Sometimes it's hard to go back
14 too far with some of these things. But one of the
15 things that we do every year -- and I've
16 communicated with a number of you recently about
17 this -- is we have a series of meetings over the
18 course of a year, and at the end of the year, where
19 we sit down and we review the raw numbers.

20 During the fishing year, we have WAVE
21 meetings. During the WAVE meetings, our staff and
22 invited staff from the state agencies that are
23 involved in the surveys meet with the contractor and
24 review the tables very carefully and very thoroughly

1 that have been generated for -- usually done two
2 WAVES at a time, so there's -- there's several of
3 these meetings a year.

4 And then at the end of the year,
5 there is a constituent data review meeting -- and
6 some of you have recently been invited to that --
7 where we sit down with invited -- with the
8 constituents and do the same thing.

9 Those are the best times and places
10 for questions like Jeff raised about, gee whiz, did
11 reports get filed -- did intercept reports get filed
12 for the days where we know nobody was fishing
13 because of weather or some other factor to come up.

14 Because that's when it's fresh in everybody's mind
15 and we can sit there and we can, if necessary, make
16 adjustments then that we might be able to make
17 retrospectively a number of years down the road.

18 So, I would -- and I think we need to
19 make -- continue to improve the process of how we
20 address these things at the WAVE meetings and
21 particularly at the constituent data reviews. I
22 think the big problem with constituent data reviews
23 is we don't start planning them in time. By the
24 time we start inviting people, they're already --

1 it's hard for them to change their schedule to come.

2 So -- but that's the best time and place to do it,
3 Jeff.

4 GORDON COLVIN: Thanks, Gordon. Now,
5 Frank Blount.

6 FRANK BLOUNT: Thank you, Mr.
7 Chairman. Thank you, Gordon. A quick update on
8 Rhode Island. Rhode Island has been working for
9 about seven months now and had a very good program
10 going for it until last night from what I hear. I
11 got about 40 emails this morning. I'm not quite
12 sure what's going on, but --

13 One of the big things Rhode Island
14 was looking at was very simple, it's a registry as
15 cheap as possible, encompass everybody. Don't care
16 if you're from Hawaii, Florida, or wherever you've
17 got a license, it was going to be reciprocity.

18 One thing that I'm finding here --
19 and I hope it doesn't happen -- I'm seeing it
20 between the New England states and other states --
21 is where we're starting to pit fishermen against
22 fishermen, states against states, agencies against
23 the residents. There's money-grabs going on.
24 There's people saying out-of-state residents should

1 be paying more.

2 It's become a lot more than a
3 registry. It's people saying I'm shore-based, I
4 shouldn't be paying. And there's a lot of animosity
5 going on. You've got New Yorkers saying well, the
6 New Jersey boats, they'll finally have to start
7 paying for being here and the other way around.

8 And the data is very important. I
9 mean, I was one of the first people that asked for a
10 registry. I asked for it back in Amendment 7 to the
11 Groundfish Plan. And at the time, even the Service
12 was like why would we want to do that, and it didn't
13 go through.

14 But on the for-hire side, I can tell
15 you for several species, fluke, scup and sea bass,
16 in Rhode Island on the party-boat side, there
17 numbers are very, very accurate.

18 I've had problems with surveyors on
19 the boats. I call the contractors. We've resolved
20 everything. We've had people -- so, I mean, if
21 anybody has a problem, don't wait to get to a
22 meeting like this or some place, take care of it as
23 soon as you can. If there's an interviewer, you see
24 something going on.

1 Because I could tell you that the
2 for-hire survey knows better of the number of people
3 I'm carrying than the IRS does. It's scary. I
4 mean, when they tell me what I've had for
5 participation -- I mean for ridership and that --
6 it's been very accurate. For those species anyway.

7 There are some others that are a disaster. But for
8 those species, especially the ones that are
9 important to the Mid-Atlantic Council, it's been
10 very, very good.

11 So encourage people, if you hear
12 something, go after the surveyor right away. Ask to
13 speak to a manager. If you don't get -- call Silver
14 Spring. I've called everybody up and down the
15 ladder and every problem we've had has been
16 resolved. Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Thanks a lot, Frank. Additional questions or
19 comments for Gordon? Seeing none. Gordon, thank
20 you very much again for your presentation.

21 As Howard King pointed out, I think
22 we're all very glad that you're working on MRIP. We
23 appreciate your update today on your ongoing work,
24 indeed. Thank you very much.

1 Our next item is the South Atlantic
2 Council Snapper/Grouper Amendments 17 and 18. We
3 have a briefing from South Atlantic Council staff
4 and I'm pleased to welcome Rick DeVictor from the
5 South Atlantic today.

6 Their Chairman, Dwayne Harris, had
7 planned to attend but had a scheduling conflict.
8 But they give us every assurance that we'll have a
9 continuing dialog that began at the last council
10 meeting of the South Atlantic. So we look forward
11 to engaging their council on this issue.

12 But Rick, today, is going to provide
13 us with an update on the important elements of
14 Amendments 17 and 18 as they relate to the Mid-
15 Atlantic region protection.

16 Rick DeVictor from the South Atlantic
17 staff, and I got to meet Rick at the last Council
18 meeting when the South Atlantic was making some very
19 tough decisions on their snapper/grouper complex,
20 but I got a much better feel for the Amendment 17
21 and 18, and look forward to his discussion today.
22 So, thank you, Rick.

23 _____
24 UPDATE ON AMENDMENTS 17 AND 18

1 TO THE SNAPPER/GROUPER FISHERY MANAGEMENT PLAN

2 RICK DEVICTOR: Thank you, Mr.
3 Chairman. I'm pleased to be here. I think I met
4 most of you last night, or some of you. Like your
5 chairman has said, I'm part of South Atlantic
6 Council staff and I'm here to brief you on
7 Amendments 17 and 18, two very important amendments
8 that the Council is working on currently.

9 A couple of points I'd like to make
10 before I begin is one, we are in the process of
11 developing these two amendments. We have not gone
12 out to public hearings on these. The DEIS has not
13 been filed either.

14 Secondly, in your briefing material
15 there's a handout I put together, and it's called
16 background material for the Mid-Atlantic Council
17 meeting. And in that, you can see the Council's
18 regulations, some of the proposed actions in
19 Amendment 18 as it pertains to the FMU extension,
20 the timing for Amendments 17 and 18, and landings
21 information for snapper grouper species.

22 So, what I'd like to go through today
23 is, first of all, I think the action that you want
24 to hear about the most is the extension of the

1 fishery management unit northward for snapper
2 grouper species. So, I'll go through that first and
3 the justification for that.

4 Then I'll go through the stock status
5 of important species that the Council works on,
6 important in terms of landing and value. And what
7 I'd like to do with that is first go through the
8 deepwater species then move inshore and do shallow-
9 water and mid-shelf species.

10 So, here's the current alternatives.

11 Here's the current alternatives that's in Amendment
12 18. Again, the DEIS has not been filed on this.
13 There are no preferred alternatives at this stage.

14 The no-action alternative, which is
15 required by the National Environmental Policy Act,
16 as you know, it's a status quo alternative, and
17 that's to retain the current boundaries for
18 snapper/grouper. So, that goes to about the Dry
19 Tortugas down in the Florida Keys up to North
20 Carolina and Virginia border.

21 Alternative 2 would -- to extend that
22 unit northward to include the Mid-Atlantic Council's
23 jurisdiction. Alternative 3 would extend that to
24 include the New England and the Mid-Atlantic

1 Council's jurisdiction. So, there's three
2 alternatives, and the question is when you extend
3 it, what happens to the regulations.

4 And as we read it now, the
5 regulations would go northwards into these new
6 locations.

7 The second action would be to
8 designate Essential Fish Habitat and EFH/HAPC in
9 these new locations for these species.

10 So, there's two central actions, the
11 details of those actions are actually in the handout
12 if you want to see the detailed wording for those.

13 Now, it's important to note that this
14 would not apply to three species, black sea bass,
15 scup or golden tilefish, as Mid-Atlantic Council has
16 fishery management plans and regulations for these
17 species.

18 However, this would apply to 70
19 species of snapper/grouper. We currently have 73
20 snapper/grouper species in the fishery management
21 unit.

22 So, the question becomes what is the
23 justification for extending this? Well, there's no
24 evidence against the species not being a single

1 stock. Indeed, when a SEDAR assessment is done,
2 they include landings -- albeit low, but they
3 include landings of these species in the New England
4 and Mid-Atlantic area.

5 There has been increased harvest on
6 some species as you are very well aware, commonly
7 deep dropping is increasing off the canyons for
8 snowy grouper and blueline tilefish mainly. That
9 prompted the State of Virginia to put in pretty
10 stringent regulations for those species.

11 So, we see possibly a northward
12 expansion of some of these snapper/grouper species,
13 or these species are just being discovered now and a
14 fishery has developed.

15 Finally, our reading of National
16 Standard 1 Guidelines, the rule that came out, is
17 that the Council must account for all sources of the
18 death of the fish. So, this includes catches in the
19 northern regions. And those are documented in your
20 handout, the landings in these regions.

21 So, I believe this really gets to the
22 heart of it, that what the Council is doing in their
23 amendments, of course according to law is specifying
24 the annual catch limit for these species.

1 In developing this ACL it goes to the
2 SEDAR assessment. And the SEDAR assessment includes
3 landings throughout the east coast. So, the
4 Council's concern is that there is going to be an
5 ACL that is tracked but not including landings
6 northward in tracking that. So there's a fear that
7 the ACL will be exceeded and overfishing will occur.

8 So that's getting to the heart of why the Council
9 is looking at extending the fishery management unit
10 northward.

11 So this is not new. This has been
12 done before, certainly when the Mackerel FMP
13 included the Mid-Atlantic region and provided two
14 voting seats at the committee. Dolphin/wahoo, when
15 it was put together a few years back, included the
16 Mid-Atlantic and the New England areas and provided
17 one voting seat at the committee.

18 And Greg Waugh, the Deputy Director
19 of the Council, came up in February of '07 and gave
20 a presentation very similar to this. And from that,
21 two voting seats were put on the Snapper/Grouper
22 Committee.

23 Okay. So, that concludes my report
24 and I'll be happy to answer questions after

1 presentation on the Council's action which is in
2 Amendment 18 to extend the fishery management unit
3 northward.

4 What I'd like to do is go through
5 again some important species in terms of landings
6 and report on the stock status. And this would give
7 you, I think, a pretty good picture of what the
8 Council is dealing with with Amendments 17 and 18,
9 which are very important amendments coming through.

10 So, speckled hind and warsaw grouper
11 are caught in deep waters. They are undergoing
12 overfishing but the overfish is not known at this
13 time.

14 This is based upon a pre-SEDAR
15 assessment. SEDAR stands for Southeast Data
16 Assessment and Review. This was put into place
17 around 2000. It was modeled after the SAW/SARC
18 process mainly.

19 So, there has not been a SEDAR
20 assessment on the species, so Council and NMFS is
21 using pre-SEDAR data to come up with the status
22 determination.

23 The real kicker with this is that the
24 scientific advisors have come to the Council and

1 said the acceptable biological catch is zero of
2 these species.

3 So, the Council is in this box,
4 according to the law, they must ensure that the ABC
5 is zero. So, what they're putting forth in
6 Amendment 17 is an ACL, an annual catch limit, of
7 zero for the species.

8 So, if you're out there in deep
9 waters fishing for snowy grouper, you catch one of
10 these, you're automatically exceeding your ACL.

11 Moving on to snowy grouper, another
12 deepwater species. This species has been determined
13 through a SEDAR assessment to be undergoing
14 overfishing and overfished. Data was through 2002
15 in this assessment. So, there's been a whole series
16 of amendments put into place, Snapper/Grouper
17 Amendment 13C, which is supposed to end overfishing
18 of snowy grouper.

19 And I'll just stop there -- point
20 where some people might question, well, if you put
21 in regulations to end it why is it still on the
22 status report to congress as undergoing overfishing?

23 Well, the advice that we gotten that
24 you need another assessment to show that, indeed,

1 overfishing has ended. So, it's still listed as
2 undergoing overfishing in a report to congress even
3 though regulations have been put into place through
4 13C.

5 15A put in a rebuilding plan for
6 snowy grouper. 15B specified the allocations. And
7 now there will be regulations in 17.

8 Commercial ACL is 82,900 pounds
9 gutted weight and that includes a hundred pound trip
10 limit commercially. So what this is considered to
11 the Council is a bycatch fishery, where really you
12 want to avoid direct fishing on this species in deep
13 regions with the hundred pound trip limit. So
14 that's a bycatch trip limit.

15 Recreational catch limit is 523 fish
16 per year. That's pretty low, as you can imagine.
17 And then with MRFSS, in order to track that, it's
18 really tough. And the PFCs aren't really that bad
19 on the species surprisingly. Looking at it, it's
20 about 40 percent.

21 But still, this is a challenge to the
22 Council to monitor an ACL of 523 fish. So, right
23 now the limit is one per person per day and the
24 Council is proposing in Amendment 17 to go to one

1 per boat's recreational limit and put in an AM to
2 reduce the length of the fishing year if you go over
3 using a three-year average.

4 So, in the commercial side, if you go
5 over in one year, you close down the fishery.
6 That's the AM. On the recreational side due to the
7 uncertainty in some of the data, are looking at a
8 three-year average. So, that's snowy grouper.

9 Next is golden tilefish. I won't
10 spend too much time on this, as I said before. You
11 guys already currently manage the species, so this
12 stock status is for south of Virginia.

13 Species is undergoing overfishing not
14 overfished with data through 2002. Amendment 13C
15 put in regulations to end overfishing of this
16 species. Seventeen will have additional regulations
17 with this deepwater closure that I'll be talking
18 about in a second. And then there will be
19 regulations in Amendment 18, currently proposes a
20 LAPP program with golden tilefish.

21 You have your poster child for a race
22 to fish where the quota is met early in the year and
23 oftentimes those off South Carolina do not get a
24 chance to go golden tilefish fishing as that quota

1 is reached by those fishing off of Florida where the
2 weather is not so bad and they can go out and fish.

3 So the Council is looking pretty strongly at a LAPP
4 program for golden tilefish.

5 Your commercial ACL is 295,000 pounds
6 gutted weight. Your proposed AM is to prohibit
7 commercial/recreational harvest when the commercial
8 quota is met. I just point this out because this is
9 going in a different direction where you'd have the
10 commercial quota which would work for the
11 recreational side too, where you shut down
12 recreational fishing when just the commercial quota
13 is met.

14 So, that is the deepwater fish and
15 what we're dealing with. You can see that there are
16 species undergoing overfishing and overfished and
17 which is driving things is really the speckled hind
18 and Warsaw grouper ACL equals zero.

19 So, the Council is proposing actions
20 in Amendment 17 -- I hope you can see this -- but
21 the red line is at the 40 fathoms or 270 feet depth.

22 So, the Council is proposing to prohibit all
23 harvest retention and possession of six deepwater
24 species seaward of that line.

1 Those blue boxes are MPAs that
2 currently went into place -- are currently in place.
3 They went through Amendment 14. So again, no
4 possession of deepwater species seaward of that
5 line.

6 Now there's two yellow lines and that
7 would be called allowable golden tilefish fishing
8 area. Golden tilefish is commonly caught on mud
9 bottoms. We looked at the data. When trips that
10 had caught golden tilefish did not have extensive
11 catch as speckled hind/Warsaw grouper. Speckled
12 hind, Warsaw grouper, blueline tilefish, snowy
13 grouper are commonly caught in the rocks.

14 So when you longline for golden
15 tilefish or do some hook and lining, we feel that
16 there could be avoidance for speckled hind and
17 Warsaw grouper. Again, those two species are
18 driving things. So, this would be allowable golden
19 tilefish fishing location, which is between a
20 hundred meters and 30 -- sorry, a hundred meters and
21 300 meters.

22 So, these are current proposed
23 actions in Amendment 17 that the Council specified
24 as a preferred the last time they met in March.

1 Now moving inshore where speckled
2 hind and warsaw grouper are driving things into
3 deepwater, red snapper is driving things into
4 shallow water and mid-shelf areas. I don't know,
5 you may have heard stuff about the recent red
6 snapper stock assessment. It has been determined
7 they are undergoing overfishing and overfished.
8 There was a pretty recent SEDAR assessment. Data
9 was through 2006.

10 I thought about putting a couple of
11 graphs in here showing you to the extent or the box
12 that we are in with red snapper showing the biomass
13 levels; however, I just decided to put in the F
14 ratio and a B ratio. So, if you look at F current
15 over the MFMT, it's at 8.19. Whereas, if you are
16 over one, you are undergoing overfishing. So the
17 fishing pressure is pretty hard on red snapper.

18 As for the biomass, B current over
19 MFFT is 0.042. Whereas, if you are under one, you
20 are in an overfished status.

21 So, Amendment 17 will have management
22 measures to end overfishing of red snapper and
23 rebuild the red snapper stock.

24 Black sea bass, again, I won't spend

1 too much time on this, as you already have
2 regulations for black sea bass. Their boundaries
3 currently are Cape Hatteras, so this is pertaining
4 to the stock south of Cape Hatteras.

5 So black sea bass has been assessed
6 and been determined to be undergoing overfishing and
7 overfished with data through 2003. Again, Amendment
8 13C put in regulations to end overfishing of black
9 sea bass.

10 15A put in a rebuilding plan for
11 black sea bass and now there will be regulations in
12 17.

13 The commercial ACL's 309,000 pounds
14 gutted weight. The recreational ACL's 409,000
15 pounds gutted weight.

16 Gag, this was assessed, a fairly
17 recent assessment were dated 2004. This is gag
18 grouper. It was determined it was undergoing
19 overfishing but not overfished. However, when you
20 looked at the projections, it showed that it was
21 approaching an overfished status based on assessment
22 projections in 2007. So, we can be very well in
23 overfished status currently for gag grouper.

24 So Amendment 16, which the Secretary

1 of Commerce has approved, but we have not had the
2 final rule yet, so we do not know the implementation
3 date -- we are waiting on that -- has put in
4 measures and will put in measures to end overfishing
5 of gag grouper.

6 And what that is is a commercial and
7 recreational closure January, February, March and
8 April to gag in our shallow water groupers. And now
9 17 will have regulations -- and when I say 17 will
10 have regulations -- it's going to be the red snapper
11 regulations which are going to affect these shallow
12 water mid-shelf species, too.

13 So the commercial ACL is 353,000
14 pounds of gutted weight, and the recreational ACL is
15 340,000 pounds gutted weight.

16 Vermillion snapper. This was also
17 dealt with in Amendment 16. So, Amendment 16 was
18 basically a shallow water grouper and a vermillion
19 snapper assessment. It was determined that
20 vermillion snapper was undergoing overfishing but
21 not overfished. This included data through 2006.

22 So, Amendment 16, again, has been
23 approved and will put in measures to end overfishing
24 of vermillion snapper.

1 The commercial ACL has been split up
2 into two seasons. So, the first season, which is
3 six months, is 315,000 pounds gutted weight. And
4 the second season is 302,000 pounds gutted weight.
5 Then there's also recreational ACL of 307,000 pounds
6 gutted weight.

7 The last species that I want to deal
8 with in the shallow water are black and red grouper.

9 So continuing the trend of undergoing overfishing
10 for these species, the overfished status is unknown.

11 Now again, just like speckled hind
12 and warsaw grouper this is based upon a pre-SEDAR
13 assessment. It's what they call catch-curves, have
14 been used to made this determination.

15 So, Amendment 16 put in measures,
16 like I mentioned before with gag, the four-month
17 closure on shallow water groupers to both the
18 commercial and recreational sectors. There is a
19 SEDAR assessment scheduled to begin this year.

20 And this is a little different where
21 the Council is proposing to put in a group ACL. So,
22 this would be a gag, black and red grouper, where
23 these three species are commonly caught together, so
24 when you reach this ACL, it would shutdown harvest

1 of all three species.

2 Now, getting to the management
3 measures. Like I said, red snapper is driving
4 things in the shallow water and mid-shelf complex.
5 So, when the Council looks at the assessment and the
6 projections it shows that even if you prohibit all
7 harvest of red snapper, you will not end overfishing
8 within the mandated Magnuson-Stevenson Act time
9 frame.

10 So, the Council is looking to an
11 Amendment 17 to prohibit all red snapper harvest
12 possession retention throughout the South Atlantic
13 EEZ of red snapper. However, in addition, you have
14 to put in additional regulations to end overfishing
15 and rebuild the stock.

16 So red snapper is commonly caught as
17 bycatch on many trips. Indeed, for the recreational
18 sector, mortality is greater through discards than
19 it is through landings. So this really puts the
20 Council in a box on what do to. And what they're
21 looking at is an area where red snapper is commonly
22 harvested, or most likely harvested, which happens
23 to be off the coast of Georgia and North Florida and
24 closing an area to all snapper/grouper fishing to

1 both sectors and year round. They feel that this is
2 needed to rebuild the stock and end overfishing
3 within two years.

4 So, this is the smallest closure that
5 they are currently looking at. This -- the depth --
6 it's going to be by depth contour, and they're
7 looking at 30 meter depth going out to 270 feet. So
8 this is one alternative. As you can imagine, it's
9 going to be one of the hardest actions that the
10 Council is certainly dealing with at this time -- to
11 close a bottom to all snapper grouper fishing and
12 off a certain location off Georgia and North
13 Florida. So, that's red snapper to end overfishing
14 and rebuild the stock.

15 So bottom line, reduction in fishing
16 mortality has been required to end overfishing and
17 rebuild important snapper grouper stocks. So what
18 we are dealing with is lower ACLs than what we've
19 had in the past. So some actions have been taken,
20 mainly through 13C, 15A, and 16. There's indeed
21 more to come through Amendments 17 and 18. And the
22 Council -- they're reading of National Standard 1 is
23 you must include all sources of mortality in
24 specifying your ACL. So, this includes mortality

1 throughout the range and mortality through discards
2 and landings.

3 So, that concludes my presentation.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Rick, thanks for your presentation. I would just
6 ask if you could perhaps go back to Amendment 18.

7 As I recall, there were a number of
8 options related to EFH and HAPC designations that
9 accompanied the potential geographic expansion of
10 the managed range of the snapper grouper FMP. And
11 at the last meeting, one option was added that would
12 essentially track the Mid-Atlantic's EFH
13 designations. But there are other options in there
14 that would -- that would allow the South Atlantic to
15 establish and identify EFH and HAPC related to these
16 species throughout the -- throughout the Mid-
17 Atlantic jurisdiction and/or New England's.

18 Is that an accurate summary of those
19 EFH options?

20 RICK DEVICTOR: Yes, and there's
21 details -- the detail wording is in that handout.
22 But you are correct. There are two options,
23 currently.

24 COUNCIL CHAIRMAN RICHARD ROBINS:

1 Okay. And just to follow up. If you could give us
2 a sense -- in Amendment 17 there is a preferred
3 alternative right now that would prohibit fishing
4 for the snapper/grouper complex seaward of 40
5 fathoms. And we've already had some discussion at
6 this Council that -- and we have a letter in our
7 packet from Jack Travelstead indicating that that is
8 where -- in our region at least -- the fishery is
9 prosecuted, namely, deeper than 40 fathoms for
10 blueline tilefish, golden tilefish, groupers, et
11 cetera.

12 Can you give us a sense though of
13 some of the existing management measures in your
14 snapper grouper FMP that may come into play if the
15 management unit is extended throughout the range?
16 In other words, are there other restrictions on
17 gear, et cetera, that would be relevant?

18 RICK DEVICTOR: Yes, there are some
19 gear restrictions. Certainly there is restriction
20 to trawling that we have in the South Atlantic.
21 Trawling is not allowed. Bottom longlining is
22 required beyond 50 fathoms. You cannot bottom
23 longline within 50 fathoms.

24 We have restrictions on traps. Traps

1 aren't allowed but only black sea bass pots are
2 allowed, which is very specific size to that.

3 I'm trying to think. You can only
4 long line for deepwater species, there's six of
5 them. Really when you look at it, the devil is in
6 the details on what restrictions would go northward.

7 Would all of them go northward?

8 So, staff still has some work to do
9 about this and the Council is going to discuss this
10 more in detail when they meet in June, exactly which
11 restrictions go northward. I think the intent here
12 though is for these landings to be counted towards
13 the ACLs; so the ACLs is not exceeded and
14 overfishing is occurring.

15 COUNCIL CHAIRMAN RICHARD ROBINS:

16 Okay. And on that point, you mentioned in your
17 discussion that the way that SEDAR is operated it's
18 basically feeding fisheries dependent data into the
19 assessment process.

20 As to the catch data, even from the
21 Mid-Atlantic and New England areas would feed into
22 that.

23 But one of the issues with that
24 certainly is if you look at table 4.1.2, which

1 details the recreational landings for the Mid-
2 Atlantic, there are no landings of grouper for
3 example. So the number that's feeding into the
4 SEDAR process is a zero.

5 And we clearly have a grouper fishery
6 that's evolved in the Mid-Atlantic region and so we
7 have mortality occurring there, but it's occurring
8 on what is essentially an unassessed component of
9 the population.

10 So, while it does feed into SEDAR,
11 what's feeding into SEDAR is a zero, if I'm not
12 mistaken, based on this recreational landings data.

13 So that's one of the issues, as well, I think, that
14 we need to be aware of as we consider the assessment
15 relative to the potential landings. Because the
16 ACLs are being derived from the SEDAR assessment.
17 And again, we have in our region what's essentially
18 a non-assessed component of the stock even though
19 it's -- the limited data that do come out of the
20 region feed into SEDAR. So it's really an
21 interesting situation.

22 But let's see. I'll just offer an
23 initial remark and then we'll go to some questions.
24 But what I would like to see us try to do here is

1 work together collaboratively with the South
2 Atlantic Council to develop a solution that would
3 allow for full accountability of the fishing
4 mortality.

5 As Rick has pointed out, a lot of
6 what's driving this is the new accountability
7 requirement, the ACL/AM requirements in Magnuson, to
8 account for all the fishing mortality on the stock.

9 And I would like to see us work with him to develop
10 a solution that does keep everybody in compliance
11 with that requirement of the act. But I would like
12 at the same time to try to develop an action plan
13 that would preserve the fishery that we have in our
14 region without wiping it out.

15 If we're not able to do that, then
16 our existing fishery would be completely precluded
17 by these proposed actions. And those actions are
18 being developed in response to a history of
19 overfishing in the South Atlantic that now has to be
20 accounted for. By contrast in our region -- as you
21 know from Jack's letter in your briefing book -- at
22 the state level, Virginia moved fairly early on in
23 consultation with South Atlantic Council and Council
24 staff based on their advice.

1 We did not have detailed population
2 data at the time, but decisions were made and
3 regulations were put in place on a precautionary
4 basis, based mainly on life history of the species
5 given their extreme vulnerability to overharvesting
6 and based on the South Atlantic experience that
7 indicated that these fisheries have not withstood
8 directed pressure very well.

9 So, based on that information,
10 Virginia adopted a precautionary approach.
11 Virginia, as indicated in Jack's letter, has
12 advertised to take additional action in the month of
13 May at a public hearing whereby they would adopt
14 vessel limits to further restrict and prevent
15 directed fishing on these species and also to
16 initiate a data collection program.

17 But I think where the data collection
18 is significant is the fact that right now the data
19 is zero on landings. And the state can move very
20 quickly to begin to collect some data on landings if
21 they require a recreational landing license or
22 recreational license for fishing for these species
23 that's accompanied by a data collection and
24 reporting requirement. So, that's what's happening

1 at the state level back in Virginia.

2 Meanwhile, this issue when you first
3 looked at it on paper -- I admit it looks like a de
4 minimis issues because the landings are zero so what
5 is there to lose. Well, in fact, we know through
6 other data sources that, in fact, a significant
7 fishery has evolved. I think Rick alluded to that.

8 We know significant effort is
9 occurring on groupers and blueline tilefish. Most
10 of this fishery is in the Norfolk Canyon, but it's
11 not entirely exclusive to that area. And this could
12 -- this could evolve additionally in the future if
13 you accept the hypothesis that there's been some
14 northern movement of these fish.

15 So this is -- this has a potential to
16 become an ongoing issue, I think. But of concern
17 certainly if 18 goes forward and the range of the
18 fishery is extended and the South Atlantic is making
19 HAPC and EFH designations, then we effectively cede
20 our ability to make those designations within our
21 jurisdiction. That's one area of concern.

22 These other measures that are already
23 existing in their FMP are clearly at odds with our
24 existing regional fishery. For example,

1 prohibitions on trawling, prohibitions on
2 longlining.

3 So I think -- I think what would be
4 ideal at the end of the day is if we can develop an
5 option that allows us some flexibility and
6 management to develop regionally appropriate
7 management measures.

8 And I think one way to do that --
9 I've had a meeting with our staff and discussed some
10 ideas -- you saw in Jack's letter a suggestion that
11 we work with the South Atlantic to try to establish
12 a northern management unit that would be north of
13 the Virginia/North Carolina line and then allow that
14 -- allow that area to be managed by the Mid-
15 Atlantic. That would require establishing the plan
16 essentially as a joint plan.

17 We did discuss some other approaches
18 and certainly we can have a discussion here today
19 about what other strategies we might pursue. But I
20 think it's in the Council's interest to try to
21 develop an action plan that would allow us to have a
22 regionally appropriate management action that still
23 keeps everybody in compliance with the
24 accountability requirements. But that would --

1 ideally we would develop data for the region and let
2 that data feed into SEDAR or otherwise be used in
3 the assessment process. And use that to establish a
4 quota for the northern management area.

5 But with that, if there are questions
6 or comments for Rick, we'll go ahead and get into
7 those. Howard King.

8 HOWARD KING: Rick, thank you for
9 your informative and efficient presentation. It was
10 very good. Do you have any integration or
11 compatibility with any of the deepwater or shallow
12 water species that range into the Gulf?

13 I mean, what's going on in the Gulf
14 and how do you -- how are you compatible with those
15 fisheries being prosecuted there?

16 RICK DEVICTOR: The Gulf, that has
17 been determined to be two separate stocks. So,
18 there's really a line there and we don't have to --
19 two separate stock assessments for this species so
20 there's really no interaction in that way..

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Frank Blount.

23 FRANK BLOUNT: Thank you, Mr.
24 Chairman. Thank you for that presentation.

1 A couple of comments. One caught my
2 interest right off was the group ACL. And I'm
3 curious how you determined that. In New England we
4 have a groundfish complex and we catch a lot of
5 species together. So, when you're determining your
6 group ACL, is one stock favored over the other or
7 how do you come up with -- how were you able to do
8 that?

9 RICK DEVICTOR: The grouper ACL, that
10 really comes out of the stock assessment for gag
11 grouper because that species was assessed in the
12 SEDAR process. So we get a -- you know, you get the
13 OFL from your scientific advisors and then you get
14 your ABC. And then the Council sets the ACL from
15 that. But now for the data poor species --

16 FRANK BLOUNT: Not for the grouper.
17 For the group, when you grouped them together, for
18 the three different.

19 RICK DEVICTOR: Just summing up --

20 FRANK BLOUNT: How did you sum it up
21 and then determine? Is one stock being overfished
22 and the other not, as long as you're under the ACL?

23 RICK DEVICTOR: You can set it up
24 different ways. How it's set up currently right now

1 is that once you go over the individual -- you still
2 have the individual ACLs. Once you go over that for
3 each of those species, you are undergoing
4 overfishing.

5 But the group ACL will be monitored
6 and you would shut down the fishery when that group
7 one is met. So, I think -- the Council is still
8 going to monitor in terms of stock status each
9 individual ACL.

10 FRANK BLOUNT: Okay. The other
11 couple of comments. One was I'm very surprised in
12 the jagged lines that the Coast Guard hasn't said
13 much on your closure. I'm sure they'll be
14 commenting on that one.

15 I'm also reading the motion from the
16 Council meeting that says that zero possession and
17 all that seaward of 40 fathoms. Why wouldn't it be
18 zero possession everywhere? I understand it's a
19 deepwater species, but if I'm in 30 fathoms and I'm
20 in possession, wouldn't that still be illegal?

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Rick.

23 RICK DEVICTOR: There's still -- I
24 mean snowy grouper, especially juveniles, are caught

1 inwards of 40 fathoms. So, the Council doesn't want
2 to totally prohibit snowy grouper harvest within
3 that range.

4 Now, the question becomes, well,
5 speckled hind and Warsaw grouper are still being
6 harvested and how can you do that with ACL.

7 When I say the ACL equals zero, the
8 SSC is still going to look at that. Because if you
9 read the National Standard 1 guidelines, you're
10 really not supposed to do ACL of zero where catch is
11 total mortality. So, we are hoping that the
12 scientific advisors actually bump up their
13 recommendation from zero and specify a poundage
14 where some speckled hind and Warsaw grouper can be
15 killed if they're brought up as bycatch.

16 So, there still is going to be a
17 snowy grouper caught in this mid-shelf. When you
18 fish for vermillion, you're still catching some
19 snowy grouper. So when I say there's deepwater or
20 shallow water, it's really all mixed together on the
21 shelf edge. We can be fishing for sometimes red
22 snapper or vermillion and you catch a juvenile snowy
23 grouper. So, it's pretty complicated.

24 FRANK BLOUNT: And Rick's just

1 mentioned the fishery that's developing up here
2 that's not reported anywhere. If that gets reported
3 into, wouldn't that increase the stock size so you
4 could be looking at a bigger stock? So, it's
5 actually not a bad thing that there are unreported
6 landings -- for the stock, that is.

7 And just the other thing. Looking at
8 the tables of commercial landings, it looks like you
9 can skip over the Mid-Atlantic and go right to New
10 England, because we're catching three times as many
11 groupers as the Mid-Atlantic is.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Frank, it sounds like you've got issues. All right.
14 I have Gene Kray.

15 EUGENE KRAY: Thank you, Mr.
16 Chairman. Rick, on that last slide, again, Frank
17 picked up on the jagged line, that was one issue
18 that I had. The other is -- well, there are two
19 parts of the question. Number one, how do you
20 communicate that to your recreational anglers. And
21 number two, how do you enforce it?

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Rick.

24 RICK DEVICTOR: Thank you. First of

1 all, this alternative has not gone through the Law
2 Enforcement AP. So, I anticipate that jagged line
3 being modified somewhat. This was just a first cut,
4 where staff has put a couple of points together and
5 connected them.

6 I imagine where we have fewer points
7 more of a straight line. How do we relate this --

8 EUGENE KRAY: How do you communicate
9 this to your recreational fishermen?

10 RICK DEVICTOR: You're talking about
11 this future closure that is proposed? Through the
12 normal Council process. We work very closely with
13 the recreational community, in addition to the
14 commercial, through the regular series of our
15 Snapper/Grouper AP, coming in a meeting, through
16 public scoping, which we finished, and through
17 public hearings is how we communicate to the general
18 public. I'm not sure if that gets your question.

19 EUGENE KRAY: Well, I'm trying to
20 think of things we do here in the Mid-Atlantic, and
21 one of the biggest problems we have is communication
22 with the recreational fishing community, because we
23 don't know who they are.

24 And you know, put it in the

1 newspapers, but what newspapers print fishing
2 regulations? Very few now.

3 So, the question is how do you
4 communicate that. Now, I know ignorance of the law
5 is no excuse, but in the case of thousands and
6 thousands of recreational fishermen, you've got to
7 -- you have some method of getting to them. And
8 then, of course, the enforcement issue comes in and
9 is the Coast Guard going to enforce that, at sea?
10 Because you can't -- I don't think you can handle it
11 dockside.

12 COUNCIL CHAIRMAN RICHARD ROBINS:

13 Rick.

14 RICK DEVICTOR: Yeah. The
15 recreational community through the last five years
16 has become increasingly involved in the Council
17 process. There's groups, hundred Fathom Fishing
18 Club, CCA, they are at every meeting when stuff like
19 this comes on down the pike. The four-month closure
20 -- the grouper closure, you can imagine the
21 implications to Florida and South Florida.

22 So, recreational community is very
23 much tapped into the process. They know what's
24 going on very quickly.

1 As far as enforcement, and we just --
2 you saw those smaller boxes we put in the deepwater
3 -- pretty small, you see on the map -- enforcement
4 didn't like them at all because they were too small.

5 So, this is a larger closure that's
6 further inshore. I have a feeling that they're
7 going to like this a lot better than the smaller
8 closures we have pretty far offshore.

9 COUNCIL CHAIRMAN RICHARD ROBINS:

10 Thanks, Rick. I have Pat Augustine.

11 PAT AUGUSTINE: Thank you, Mr.
12 Chairman. Good presentation. It almost sounds like
13 if the enforcement people got involved, you'd be
14 looking at VMS on recreational vessels.

15 I don't know how you're going to go
16 ahead and enforce it. I think Gene's point was
17 right on. When the enforcement group finally
18 realizes -- you're right, the box is too small --
19 how in the heck do you tell a guy that you're at 40
20 fathoms and you cannot fish within this for those
21 particular fish? You're going to catch them as
22 bycatch anyway.

23 But there's going to be an
24 enforcement, major enforcement problem there. I

1 just see it going to VMS for all recreational
2 anglers. I suppose if we can afford a boat to go
3 out that far, we should be able to afford VMS.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thank you. Further comments? I would like to begin
6 to focus the discussion on developing a Council
7 response to this. And that is on our agenda. Jack.

8 JACK TRAVELSTEAD: Thank you, Mr.
9 Chairman. Rick, thanks for coming up. We
10 appreciate your presentation. It's obviously a big
11 subject in Virginia right now. Our fishermen are
12 just now getting familiar with the amendments and
13 there will be a lot of discussion, I'm sure, in the
14 weeks ahead.

15 Incidentally, the letter from
16 Commissioner Bowman in your package had a typo in
17 it, in which we note that our fishery for most of
18 these species is east of the 40 meter line and
19 should read 40 fathom line, so. The effects of
20 these amendments would be to entirely eliminate our
21 fishery for a lot of these grouper and tilefish.

22 The fishery in Virginia, as Rick
23 said, is relatively new and quite frankly it's a
24 world-class fishery right now. We've had almost two

1 dozen world records in the last three or four years.

2 It's not a big fishery. You know, dozens of boats,
3 not hundreds or thousands of boats, participating in
4 it, but it's growing and it has our attention.

5 And as you said, Rick, Virginia
6 implemented some regulations a year or so ago to how
7 to keep -- try to keep things where they are now. I
8 mean, a lot of people are enjoying that fishery and
9 we'd like to keep it that way.

10 And the Commission has recently said
11 -- you know, we're willing to do more if more needs
12 to be done. We're particularly interested in
13 getting a better handle on -- you know, landings
14 information. We're looking at potentially requiring
15 electronic reporting by everyone in the recreational
16 fishery who participates in that fishery.

17 We think it's small enough that we
18 can handle it. We have a system, a voluntary
19 electronic reporting system in place now, but this
20 would be something that we potentially could mandate
21 of our anglers.

22 We're also looking at permitting
23 vessel limits that are more in line with what you
24 all are looking at as opposed to angler limits.

1 So, I think my message is we're
2 serious in Virginia about how we manage the fishery.
3 We obviously don't want to see it eliminated as is
4 -- as some of your measures propose to do.

5 Rick has mentioned -- you know, one
6 option that the Mid-Atlantic could undertake. I
7 hope, to sort of maintain a little bit of control
8 here in the Mid-Atlantic for those fisheries. I'm
9 certainly open to other options, but I don't know
10 what they might be at this point.

11 But I would encourage the Council to
12 -- this Council to recommend to the South Atlantic
13 Council that they include an alternative in their
14 amendments to create a separate northern management
15 unit for these species with the Mid-Atlantic Council
16 having the lead on that northern unit.

17 And I think we should do that with
18 the understanding that we -- you know, the Mid-
19 Atlantic really doesn't have any interest in how the
20 South Atlantic Council manages those species off
21 your shores. I don't see us debating those issues
22 around this table.

23 But when it comes to managing the
24 species -- you know, here in the Mid-Atlantic, I

1 think we should have some say in that; and the best
2 way to do that is through a joint plan with the
3 separate northern management unit.

4 And Mr. Chairman, if you're ready for
5 a motion, I would be willing to make that a motion.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Okay. We have a motion from Jack Travelstead and
8 that would be to establish -- to request the South
9 Atlantic Council to include an option in Amendment
10 18 to establish a separate northern management unit
11 for the deepwater snapper/grouper complex with the
12 Mid-Atlantic having the lead on the northern unit.
13 That would have the affect of establishing it as a
14 joint plan.

15 Is there a second to the motion?

16 PAT AUGUSTINE: Second.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Second by Pat Augustine. Discussion on the motion?

19 Red.

20 RED MUNDEN: Thank you, Mr. Chairman.

21 After hearing Rick's presentation on
22 snapper/grouper, I'm sure everybody can understand
23 why it's difficult for me to follow monkfish because
24 all my brain cells are taken up by snapper grouper.

1 But the point I want to make is that
2 what Mr. Travelstead has put in formal motion is not
3 inconsistent with what we have for monkfish. One
4 stock in northern and southern management unit --
5 management area.

6 COUNCIL CHAIRMAN RICHARD ROBINS:

7 Thank you, Red. Additional comments from the board
8 and then I'll go to -- Council, and then I'll go to
9 the public. I have Harley Speir.

10 HARLEY SPEIR: Maryland hasn't taken
11 the time to develop the information the way that
12 Virginia has, but we also are very interested in
13 maintaining a little bit greater control over that
14 small fishery which is also off our coast. So, I
15 would be in full support of this motion.

16 COUNCIL CHAIRMAN RICHARD ROBINS:

17 Thank you Harley. I have Gene Kray.

18 EUGENE KRAY: Somebody will have to
19 help me out. I'm ignorant about management units.
20 When we speak about management units, are we talking
21 about a separate allocation of fish that we would
22 have which would have its own ACL and AM?

23 COUNCIL CHAIRMAN RICHARD ROBINS:

24 Gene, in my opinion, yes, we would want to seek

1 that. And again, if we're going to be in a data
2 development phase at the state level, and I would
3 hope that given the fact that MRFSS right now is
4 showing a zero, that we can do a lot better than
5 that and feed that data into the SEDAR.

6 But the expectation that I would have
7 if we establish a separate management unit, is that
8 we would seek a separate ACL for that management
9 unit.

10 EUGENE KRAY: But if we have no data
11 -- if we have no data now, how would we determine
12 what that allocation would be?

13 COUNCIL CHAIRMAN RICHARD ROBINS:
14 We'd be operating in a data-poor environment and I
15 think we'd look to our SSC for counsel on that.

16 Further questions or comments from
17 the Council?

18 (No response audible.)

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Seeing none, I'll go to the public. Could you state
21 your name for the record, please.

22 JEFF ODEN: My name is Jeff Oden and
23 -- Rich -- Rick knows me from -- former AP member of
24 the South Atlantic Council. Anyway. Interesting.

1 Today's paper, Virginia Beach, man's blueline
2 tilefish catch a state record. Today's paper.

3 Anyhow, I can understand your concern
4 here about -- you know, the Council coming into your
5 backyard and telling you basically that you're
6 fisheries overfished when you essentially -- as that
7 paper more or less indicates -- have a pretty virgin
8 fishery. And essentially, that's what's happened in
9 North Carolina unfortunately with the South
10 Atlantic.

11 And they're basically telling us, for
12 instance, when the plan went into place in 2006,
13 they were telling us that 50 percent of what we
14 catch is less than 5 pounds, when in fact less than
15 three percent of what I catch is under five pounds.

16 But they just encompass us all. It's
17 a thousand mile coastline from Florida -- the tip of
18 Florida, to -- you know, northern North Carolina.
19 And as I was mentioning to Rick today, there's a
20 blueline tilefishery that basically is along the
21 same line as sea bass line touches on that goes
22 north which is essentially without interactions with
23 snowy group which is a prime concern, a driving
24 force that's pushing this plan within the Council,

1 in the deepwater complex.

2 And it's a very -- it's an
3 exceptional fishery in our state too. And to see
4 this plan come down the pike and encompass us, I
5 mean, before you all make a motion on that line
6 where you all want to take over jurisdiction, I
7 would say that there needs to be discussion about
8 that very line, the sea bass line north, because the
9 fishery -- first off, Louis Daniel, who was Chairman
10 of the Council, was extremely critical of the plan
11 on snowy grouper. He criticized it from the day one
12 and fought Roy Crabtree to the end on that
13 particular plan.

14 And I mean, our state got a port
15 agent the year after we got shutdown. That's only
16 typical of this Council. And I can give you another
17 for instance -- you know. Beeliners, which was
18 facing a 61 percent reduction by this Council and
19 they were insisting on moving ahead with this plan
20 even though they knew age, length versus otolith
21 study in the Gulf had shown different results.

22 Well, had we not got congressional
23 support and forced this Council to move down this
24 road looking into the otolith study, this plan would

1 have faced a 60-something -- 61 I believe -- percent
2 reducing and it ended up taking a 35 percent
3 reduction instead.

4 So, I'm just hear to tell you this
5 Council shoots from the hip a lot. And anyway, with
6 this plan, the fishermen in North Carolina would
7 like the line reassessed too, because they've never
8 done a long line study in our state.

9 Am I wrong Rick? I mean, you all
10 have not done any longline data surveys in our
11 state.

12 I mean, you know, they've essentially
13 -- they're driving home -- the very year the plan
14 went into effect, my average catch, my average size
15 of snowy grouper was 15 pounds when they said it was
16 five. I mean, 40 pounders, the recreational
17 component in our state is very similar to
18 Virginia's. In my hometown of Hatteras, it is very
19 similar.

20 And so I would ask that there be
21 consideration for -- you know, that line being
22 considered further into North Carolina.

23 And as I said, there's very little
24 interaction with snowy grouper north of that sea

1 bass line which is Cape Hatteras. And I've
2 expressed a point to Rich today -- Rick or Rich, I'm
3 sorry --

4 Anyway, he's under the assumption and
5 so is the Council and -- I mean, they're learning as
6 they go -- but they're under the assumption that
7 blueline tile and snowy grouper both habitat
8 structure. Well, that's not so.

9 The little scallops that are out off
10 the Mid-Atlantic, those blueline tile are in that
11 area and that's not necessarily bottom. So, I mean,
12 we've got a very good fishery in our state that is
13 developed. And I'm not saying it doesn't need more
14 restraint, but -- you know, it doesn't need to be
15 flushed the same way Virginia's is. And anyhow, I'd
16 appreciate that consideration. Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Jeff, I appreciate your comments and it sounds like
19 your experience with bluelines is not dissimilar
20 from Virginia's and that we do have fish in 50
21 fathoms that are not unstructured. So we have a
22 similar situation, I believe.

23 But I think the question of the line,
24 and Red, if you could -- Red, if I could ask you to

1 speak on the issue of the line, I think that's
2 obviously an established -- been established for
3 quite sometime in the South Atlantic plan.

4 What we're trying to do today
5 primarily, is address developing a mechanism that
6 would allow us to have a regionally appropriate set
7 of management measures north of that.

8 But if there are specific concerns
9 from North Carolina constituents regarding the
10 effect of that 40 fathom contour as it relates to
11 the fishery north of Hatteras, between there and the
12 Virginia line, perhaps that could be addressed in
13 discussions at the South Atlantic.

14 RED MUNDEN: I think that's the
15 appropriate approach, Mr. Chairman. The line is
16 already established at Hatteras for black sea bass
17 and scup. And my feelings are if we can convince
18 the Council that this motion is worthy of
19 consideration, discussion, and hopeful adoption,
20 then we could also look at maybe trying to negotiate
21 with the South Atlantic Council to consider letting
22 Hatteras be the northern boundary of the southern
23 management area. But I think the most important
24 thing is to try to get this motion through.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Red. Appreciate your comments on that.
3 Again, even if the management unit line stays the
4 same, it seems that within those proposed measures,
5 they could be geographically specific.

6 In other words, they could -- they
7 could end at a certain point northward. They could
8 end at Hatteras, for example, if there were
9 prohibition deeper than 40 fathoms. That's an
10 option that could be explored through the committee
11 and its discussions with the South Atlantic Council.

12 RED MUNDEN: I think that we could
13 discuss that at the committee meeting.

14 COUNCIL CHAIRMAN RICHARD ROBINS:

15 Thank you. Additional comments from the Council.
16 If you'd speak to the motion, please, that we've
17 made.

18 DEWEY HEMILRIGHT: All right, I will.

19 Dewey Hemilright. I don't snapper grouper fish,
20 don't have a permit for it, but had a lot of
21 dealings with reading South Atlantic Council's
22 makeup when it comes to this type of stuff.

23 Most time when a motion gets before
24 all you all, you all don't get to hear the

1 underlying stuff working up to this. You just get
2 to hear what the results of the Council is.

3 I would hope that you all would
4 manage this fish and not let the South Atlantic
5 Council, because they're definitely the most biased,
6 anti-commercial Council that there is, without a
7 doubt, having to read and go through this stuff.

8 In North Carolina, I don't believe
9 there was much data used, if any, from port agents
10 or sampling in the makeup of this snapper/grouper
11 fishery.

12 He alluded to the fact of the CCA is
13 actively involved in different things. Well,
14 basically the CCA chairman was the last chairman for
15 the South Atlantic Council. And it's always been to
16 take away from the commercials on this stuff.

17 So, I'm asking you today to work with
18 North Carolina and make sure that the
19 snapper/grouper complex, that you all manage it
20 north of the region and don't let the South Atlantic
21 Council manage it. Because if it would, we won't be
22 here the fishermen today. I've probably got a lot
23 more I could say, but just they're without a doubt
24 the most anti-commercial council that there is.

1 Without a doubt.

2 And also, if we could move the line
3 from fishing boundaries where Red was talking about
4 from 35 north, that would help. That's off of Cape
5 Hatteras, just -- you know, just because a lot of
6 these fish go in the same areas.

7 And he talked about the increase of
8 snapper -- or the increase of grouper catch, as
9 well. If there ain't no grouper out there, how in
10 the hell can you have increased catches -- you know?

11 So, it goes hand-in-hand. But they
12 definitely, without a doubt, no friend to the
13 commercial fishing industry in the South Atlantic
14 Council through all their stuff. And you all don't
15 get to see it at the lower level when stuff is
16 working out, but you get to hear it when their
17 reports come out. And that's just a sad thing.
18 Thank you.

19 COUNCIL CHAIRMAN RICHARD ROBINS:

20 Thank you, Dewey. Additional comments? Jim
21 Fletcher. Jim, please address your comments to the
22 motion.

23 JAMES FLETCHER: To the motion, just
24 change the motion to reflect the same line as the

1 sea bass is and say that the Mid-Atlantic Council
2 request that they be allowed to manage above that
3 line.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thank you, Jim. Additional comments from the
6 Council?

7 Jack, just to clarify your motion,
8 your motion is in establishing the northern
9 management unit northward of the existing FMP
10 boundary; correct?

11 JACK TRAVELSTEAD: It is.

12 COUNCIL CHAIRMAN RICHARD ROBINS: For
13 the record.

14 JACK TRAVELSTEAD: It is, yes.

15 COUNCIL CHAIRMAN RICHARD ROBINS: All
16 right. Thank you.

17 Are we ready for the question? Is
18 there any opposition to the motion? Is there a
19 second -- well, Pat Augustine has second the motion.

20 (Motion as voted.)

21 {Move to request the SAFMC include an alternative
22 in proposed Amendment 18 to its Snapper Grouper
23 FMP for a northern Snapper Grouper Management Unit
24 for deep water species to be named by the MAFMC in

1 consultation with the SAFMC.}

2 COUNCIL CHAIR RICK ROBINS: Is there
3 any opposition to the motion?

4 (No response audible.)

5 COUNCIL CHAIRMAN RICHARD ROBINS: Are
6 there any abstentions on the motion?

7 (Response.)

8 COUNCIL CHAIRMAN RICHARD ROBINS: One
9 abstention. The motion carries with one abstention.
10 Thank you.

11 Rick, again, thank you very much for
12 coming up here today. And I have been in regular
13 communication with the Council leadership and look
14 forward to a continued dialog on this issue.

15 Our Council will send a
16 representative to the South Atlantic Council meeting
17 which takes place in June. At that point, I
18 believe, they'll be finalizing some of these
19 options. So it will be important that this -- that
20 one of our members represent our concerns to their
21 Council.

22 But we certainly appreciate the
23 hospitality they showed us last month at their
24 meeting and look forward to an ongoing dialog here.

1 So, thanks a lot. Thank you for the motion, Jack.

2 All right. Our next order of
3 business, Jeff Deem. You have the Bycatch/LAPP
4 Committee Report.

5
6 BYCATCH/LAPP COMMITTEE REPORT

7 JEFFERY DEEM: As most of the Council
8 members know, we were treated to a presentation by
9 Wes Erickson of the Limited Access Privilege Program
10 in British Columbia. Although they don't call it
11 that, and never knew what the words were; that just
12 goes to add to the confusion of the different names.

13 But it was well-received.

14 And I would like to add that before
15 the presentation, a couple of weeks ago, we
16 contacted numerous commercial fishing groups and
17 asked them to be here and asked them to have some
18 people here to listen and pay attention and give us
19 their feedback.

20 And I'll have to say that's probably
21 one of the most successful things we've ever asked
22 for, because as soon as it was over, they gave us
23 their feedback. And there weren't any doubt about
24 it; so, I think that worked pretty well, if not too

1 well. It couldn't have been too well because we
2 really did want their input.

3 There were a lot of objections to
4 that. If there's anybody here that wasn't here for
5 the meeting. My personal opinion is that some of
6 the objections were based on a lack of experience
7 with what flexibility we have in establishing a
8 LAPP.

9 And the other's reflected at least
10 the appearance that some people had been severely
11 burnt by LAPPs in the past. That kind of brings --
12 and underscores the light that we do have
13 flexibility and we do need to work with these things
14 so that we don't put deserving people out of
15 business when a LAPP is put into place.

16 We do have a lot of flexibility. We
17 are not required to install LAPPs. So I think --
18 two of the items that came up from the audience.

19 One was that there were now 200 fewer
20 licenses in the haddock fishery than when it first
21 became a LAPP. Which on the surface you could say
22 makes it look like it's forcing people out of the
23 business. But if you dig into it a little deeper,
24 you realize that those people had LAPP allotments

1 and they got out, apparently, voluntarily and earned
2 some profit from it.

3 So, it turned out to be a good thing
4 for those people, and it may have consolidated the
5 fishery somewhat, but it was something that had to
6 have been done voluntarily.

7 Let's see here. Okay. Wes, our
8 speaker, did stop and spend at least a half-an-hour,
9 probably an hour or more out in the audience talking
10 to some people. So whether we do LAPPs or not, I
11 think it planted the seed and it lets people
12 investigate what they can do. There are certainly
13 some good things for LAPPs, as long as you can do
14 them without hurting people.

15 To me, it sounds like the best way to
16 go, not being a commercial fisherman, we'll just get
17 the information out and let them make that decision.

18 We did, as I reported, try to get
19 some opinions from the other side of the issue in
20 British Columbia. Contacted, I think it was the
21 Salmon Trawlers Association or some group along that
22 line, and the National Fishermen group down in the
23 United States just below British Columbia, trying to
24 get contacts for some people that didn't agree with

1 the LAPP program.

2 Unfortunately, we didn't get a
3 response. If we do hear something from them, we'll
4 be sure to bring it up because there are two sides
5 to every issue.

6 Overall, I think it was well-taken
7 and I think it got some information out and I think
8 if the commercial sector became comfortable with
9 what flexibility they had, or if we can prove it to
10 them -- which I guess is what it would take to make
11 them comfortable with it -- I think they might want
12 to give this some more consideration. But that's --
13 that's just about all we can do.

14 I did note that if we go to LAPPs,
15 each of the species specifics subcommittees would
16 deal with the LAPP and their jurisdiction. That's
17 not the general committee's -- the general
18 LAPP/Bycatch Committee's method is we're there to
19 help if we can.

20 The other issue that we didn't quite
21 get to was our safe-release brochure. And if I can
22 talk -- it's a small enough audience, I should be
23 able to do this -- in the hopes that we would have
24 time to cover the brochure a little closer at the

1 committee meeting, which we didn't, there was one
2 issue that came up that I want to address.

3 I did print out a brochure that
4 doesn't require my reading glasses. This would be
5 the cover, for those of you that haven't seen it.
6 That's the cover page and some of the tools.

7 This will be on an 8-1/2 by 11, and
8 it shows the layout. Really, Jim Armstrong has done
9 a great job. We had an independent graphics artist
10 who helped with a little bit of it.

11 There is one issue on this sheet that
12 has come up. Our good friend, Vince O'Shea, with
13 the ASFMC sent me a letter Friday night about
14 apparently the National Marine Fisheries Service and
15 the South Atlantic Council has disapproved venting
16 as a method.

17 There are some -- apparently some
18 cases where it does not -- you don't have to worry
19 about saving it because it's going to be changed --
20 he sent me this letter from the Regional Director of
21 the South Atlantic Council, Roy Crabtree, and
22 there's a paragraph here where they disapprove
23 venting because in some cases it lowers the chance
24 or recovery of the fish and it appears that there

1 will be certain cases where it's a good thing,
2 certain cases where it isn't.

3 But for now they've taken the formal
4 opinion that it is disapproved and they will come
5 back with some better guidelines.

6 So we need to at least qualify our
7 statement about venting in there. And if not,
8 remove it completely. And my guess is at this point
9 -- and I'll talk it over with Jim -- and I would
10 like input from any of the committee or Council
11 members.

12 My impression at this point is that
13 we qualify it and then we direct them to a specific
14 website that will over more of that in the future.
15 It's fortunate that we found out before it went out
16 to print. Although, mighty close. Thank you.

17 COUNCIL CHAIRMAN RICHARD ROBINS:

18 Jeff, thank you. And again my compliments to you
19 and your committee and staff for doing a great job
20 in putting all that together.

21 I would suggest that we approve the
22 brochure subject to -- and delegate the authority to
23 you and your committee to finalize any of these
24 edits so that we can go ahead and get it to

1 production, rather than waiting until the June
2 meeting.

3 Is there any objection to that from
4 the Council or committee members?

5 (No response audible.)

6 COUNCIL CHAIRMAN RICHARD ROBINS: All
7 right. Why don't we do that. We'll let you -- I
8 know you've had some other suggested last-minute
9 edits -- and we had some comments from John Graves
10 that came in that I'll send to you too.

11 So perhaps those can be incorporated.

12 And you and your committee can work together to
13 finalize and go ahead and get the document produced.

14 But again, my compliments on a job well-done.

15 JEFFERY DEEM: Thank you. Jim
16 Armstrong did the most of it, so -- and staff, don't
17 get me wrong, they did a great job and I appreciate
18 it.

19 COUNCIL CHAIRMAN RICHARD ROBINS:
20 Okay. I'm looking over the remaining committee
21 reports. The only one that hasn't been given is the
22 executive.

23 EXECUTIVE COMMITTEE REPORT

24 COUNCIL CHAIRMAN RICHARD ROBINS: We

1 did meet this morning at 8 o'clock and received the
2 report of the Council Coordination Committee meeting
3 and also the NRCC. And I gave a brief update on the
4 meeting that the Council leadership had with the SSC
5 leadership and staff related to the development of
6 the ACL/AM omnibus and the fact that we've added an
7 SSC liaison to the FMAT.

8 So the CCC meeting, basically again,
9 we did secure funding for the SCC stipends at a rate
10 of \$250 a day. That was a result of the successful
11 negotiation that we had there.

12 And at the NRCC, among other things,
13 we discussed state and federal alignment. We also
14 got an update on the various SARCs and TRACs that
15 are upcoming. And so I don't want to dwell on
16 those, but if there are any questions, Dan or I
17 could answer those for you now.

18 (No response audible.)

19 COUNCIL CHAIRMAN RICHARD ROBINS: All
20 right. Seeing none. Thanks to all of you for --

21 Go ahead, Jeff.

22 _____
23 CONTINUING AND NEW BUSINESS

24 JEFFERY DEEM: One more thing or new

1 business or whatever. I'll take just a few seconds.

2 I understand that Laurie Nolan, this will finish
3 her term, she'll be leaving us because of her three
4 years. And I think as a recreational member, I have
5 -- it might be better if I asked this -- but I'd
6 like us to go to the National Marine Fisheries
7 Service and ask that they consider replacing her
8 with someone with true on-the-water commercial
9 experience.

10 We're really short of commercial
11 experience on this Council. And with Jimmy Ruhle
12 gone, we're down to a very few people. And it is so
13 critical to have their input as to what really
14 happens on the water that I don't feel we can make
15 the best regulations we can or improve things the
16 best we can without some real commercial experience
17 on the panel.

18 So I know there's a push from some
19 environmental groups to get an environmentalist in
20 there. Hey, if you can find one that's got real
21 commercial experience, that might be the way to do
22 it. But we need -- we need some real on-hands
23 commercial experience on here in order to do our job
24 right.

1 So, I would ask that we ask the
2 National Marine Fisheries Service to seriously
3 consider that request.

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Dan.

6 DAN FURLONG: We as a Council never
7 move in on that. And I would direct you to the Act
8 at Section 302, the subunit 2B. It says: The
9 Secretary in making appointments under this section
10 shall to the extent practicable ensure a fair and
11 balanced apportionment on a rotating or other basis
12 of the active participation or their representatives
13 in the commercial and recreational fisheries under
14 the jurisdiction of the Council.

15 So, he has a duty to balance. And
16 right now, we tend to be a Council that's five
17 commercial, five recreational and three other. And
18 as it moves around, they do try to respect that
19 balance. But we don't have the opportunity to weigh
20 in and say, hey Mr. Secretary, you need to do this.

21 Okay.

22 COUNCIL CHAIRMAN RICHARD ROBINS:

23 Jeff, we do join you in applauding Laurie for her
24 service. Thank you.

1 UNIDENTIFIED (No microphone):

2 (Inaudible.)

3 COUNCIL CHAIRMAN RICHARD ROBINS:

4 Yeah, that's right. That's right.

5 Additional new business to come
6 before the Council?

7 DANIEL FURLONG: Yes. I would like
8 to mention there has been a piece of legislation
9 introduced back on March the 19th. The bill is
10 entitled Flexibility in Rebuilding American
11 Fisheries Act of 2009. And this was sponsored by
12 Congressman Palone. He has a number of cosponsors.

13 I would just point out that the
14 concept of this bill was to extend the time period
15 for rebuilding certain overfished fisheries. This
16 is something that -- you know, could have an impact
17 on this Council, as well as all the other Councils
18 and I just want to give you a heads-up. If you can
19 just go onto Google and it's HR1584. HR1584. And
20 if it doesn't come right up, make sure you have the
21 111th Congress and you'll be able to get a copy of
22 that bill. And I just wanted to mentioned that
23 because of the significance it could have in
24 affecting our progress.

1 COUNCIL CHAIRMAN RICHARD ROBINS:

2 Thank you, Dan. Additional business to come before
3 the Council? Ed.

4 ED GOLDMAN: Thank you, Mr. Chairman.

5 To Dan's point, I was aware of this bill,
6 especially since Mr. Palone is from New Jersey, as I
7 am. And also being one of these people who's been
8 screaming for some flexibility, and I think we even
9 heard from the South Atlantic when they have -- you
10 now, annual catch limits of zero. And you know,
11 we're forcing ourselves by some of our regulations.

12
13 Fluke is another example where our
14 discard mortality is equalling our catch. And, you
15 know, flexibility, I think this bill is extremely
16 important and would make our job a lot easier and
17 really help a lot of the socioeconomic factors which
18 we've been pretty much ignoring, since I've been on
19 the Council anyway.

20 And I'm under the impression that we
21 cannot send a letter to congress -- which I would
22 like to do -- because that would be lobbying. But I
23 was wondering if we could send a letter to --
24 perhaps to NOAA and telling -- you know, advising

1 the head of NOAA that -- you know, we are in favor
2 of this bill. And hopefully they can take it from
3 there. Or if they're asked, at least they'll know
4 that this Council is in favor of this bill. If, in
5 fact, we are. I'm assuming we are in favor of it.

6 COUNCIL CHAIRMAN RICHARD ROBINS: Ed,
7 I think among other issues we do end up in a little
8 bit of a gray area legally here. But I think that
9 General Counsel has suggested that we cannot send a
10 letter to congress based on the prohibition against
11 lobbying.

12 And I guess you're suggesting that
13 rather than do that, we send it to NOAA. But we
14 still may be in a little bit of a gray area. John.

15 JOHN MCMURRAY: I just wanted to add
16 this is a very controversial bill. It's not cut and
17 dry. And there are a great number of people from
18 the scientific fishing and environmental community
19 that are greatly opposed to it.

20 So, I would strongly recommend
21 against a sort of letter of support until we have
22 presentations on both sides of the issue. Thanks.

23 COUNCIL CHAIRMAN RICHARD ROBINS:
24 Thank you, John. Additional comments. Pat.

1 PAT AUGUSTINE: Yeah. Thank you, Mr.
2 Chairman. There is not a sponsor on the other side
3 yet. It's all the same group that put it forward
4 before. So it went to some other committee for
5 review at this point in time. So it's just kind of
6 out there in limbo; right?

7 DANIEL FURLONG: It's been
8 introduced. I mean, that's all I know.

9 COUNCIL CHAIRMAN RICHARD ROBINS:
10 Yeah, I guess based on some of the comments, I don't
11 know that it's ready for Council action.

12 So is there any additional business
13 to come before the Council? Harley.

14 HARLEY SPEIR: We had talked
15 yesterday about spiny dogfish and aligning
16 management and advice to our fishermen as a result
17 of the new commission regional quotas. And the
18 continued management scheme for Council or the EEZ.
19 Anyway, I put together what I think is a compliance
20 guide. It's a draft. And I'm not quite sure where
21 to go with this. But this is my interpretation,
22 with a little help from Pete, of how the two plans
23 work together. It goes from the specific we have a
24 season. We have a total quota. It goes from the

1 general to the specific about how the regional
2 quotas would work.

3 What would happen if a region closes,
4 another one remains open. The EEZ remains open. If
5 total quota is not reached. Anyway, I think we --
6 what I would like to do is get a reading from the
7 Council and the commission on my interpretation on
8 how this thing operates.

9 Now, we can do this by email -- I
10 think would probably be the best way rather than to
11 try to wordsmith it now. But I'll leave that up to
12 you.

13 COUNCIL CHAIRMAN RICHARD ROBINS:

14 Harley, further to that, I think that this is
15 something that might benefit certainly from some
16 staff-to-staff communication between our staff and
17 the ASMFC, the plan development team, so that we can
18 clarify and make sure that what we have here is
19 accurate and then we could distribute it to our --
20 certainly to our state directors and get it around
21 that way, if that's acceptable to you. Pete.

22 PETER HIMCHAK: Yes, Rick, very
23 quickly. I think a resolution of this whole issue
24 would come about. I'm not sure when compliance

1 reports are due to the ASMFC on spiny dogfish. I
2 hope they were already in. So that the plan review
3 team would essentially review the compliance reports
4 and comment to the board in May.

5 I hope that's that timetable. But
6 I'm not sure when the reports are due. And then the
7 plan review team would report to the board as to the
8 state's ability or inability to close down the state
9 waters or federal waters.

10 COUNCIL CHAIRMAN RICHARD ROBINS: In
11 that case, would you want this item on the ASMFC
12 agenda for the May meeting?

13 PETER HIMCHAK: Yeah, I believe --
14 yeah, I think it will get thorough discussion.

15 COUNCIL CHAIRMAN RICHARD ROBINS:
16 I'll just say if you need a letter from us to the
17 Commission asking that they address this at the May
18 meeting, we can try to get that out also.

19 PETER HIMCHAK: Yes, it's on the
20 agenda and we'll discuss the --

21 COUNCIL CHAIRMAN RICHARD ROBINS:
22 Okay. Why don't we go forward then with some steps
23 to start communication and see if we can clarify
24 this. Dan.

1 DAN FURLONG: Harley, if you would
2 send me a copy of what you've put together, then
3 I'll make sure that we'll fashion it together and
4 get it out to the entire Council and make sure there
5 is a consensus view if we can get to one.

6 HARLEY SPEIR: Right. And I don't
7 think this is anything that needs action other than
8 someone saying yes, this is a correct interpretation
9 of how these two plans work together so that the
10 fishery can be prosecuted this year without having
11 people arrested. And without having the state say,
12 well, I don't know because it is -- it's complicated
13 the way this thing works together.

14 DAN FURLONG: Then it's going to go
15 beyond our Council. We're going to have to work
16 with the enforcement in Gloucester as well as the
17 Regional Office in Gloucester and make sure
18 everybody is onboard with the appropriate
19 interpretation.

20 COUNCIL CHAIRMAN RICHARD ROBINS: All
21 right. Thanks for bringing that to our attention.
22 I agree that should help get everybody on the same
23 page and it will help with the educational process.
24 Thank you.

1 Additional business to come before
2 the Council?

3 (No response audible.)

4 COUNCIL CHAIRMAN RICHARD ROBINS:

5 Thanks again to the Tar Heel State for its
6 hospitality, and safe travels to everybody. We look
7 forward to seeing you again in June. With that,
8 we're adjourned. Thank you.

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10 WHEREUPON:

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

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK

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

In witness whereof, I have set my hand and Notary Seal this 17th, day of May, 2009.

PAUL T. WALLACE. Notary Public
My Commission Expires

October 8, 2015

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