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

COUNCIL MEETING

13-14 OCTOBER 2010

at

Congress Hall
251 Beach Avenue
Cape May NJ 08204

WEDNESDAY, OCTOBER 13, 2010
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INTRODUCTIONS AND ANNOUNCEMENTS

COUNCIL CHAIRMAN RICK ROBINS: Good morning and welcome. Before we get started, I would like to just take an opportunity to thank Greg DiDomenico and our first order of business for the Council this morning is a presentation by Laura McKay on MARCO.

MARCO is the mid-Atlantic regional governor's agreement on the ocean. As you're aware, as a Council we previously passed a resolution expressing strong support for the work of MARCO, and we look forward now to some sort of ongoing engagement with them as they begin to work on issues that will contribute to the development of the regional ocean plan and in anticipation of the National Ocean Council creating a regional planning body.

But MARCO is already doing a lot of work in the area, as you'll see, and we're excited to have Laura McKay, who is the program manager with Virginia CZM with us this morning. So, welcome, Laura.

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OCEAN (MARCO) PRESENTATION
LAURA MCKAY: Thank you, Rick. This is a large council compared to what we have at MARCO. We're pretty small and really just getting started. But thank you for having me here today. It's really great, and we look forward to working with all of you. So I just have a pretty brief presentation, and I did want to leave plenty of time for discussion so that we can really talk about how we can collaborate. So MARCO was actually just formed less than two years ago really.

We started working, we being the CZM managers from Virginia up through New York, back in about July of 2008. And so we were realizing that we were the only part of the country that still didn't have any kind of regional ocean partnership and so thought that we really ought to get it together.

So New York State actually commissioned a white paper on what we thought the major issues would be for the mid-Atlantic, and then we all started working on a governor's agreement, which was signed in June 2009.

I just wanted to go over some of the guiding principles of the agreement. These were laid out pretty carefully. We wanted to protect and conserve
the ocean resources for the current and the future
generations. We felt strongly about bringing an
ecosystem-based management approach to the region,
which I believe is something that your Council is
feeling strongly about now, too. And we wanted to
promote a regional agenda at the national level. We
felt that working together as a region would give us a
stronger, larger voice than as individual states.

The priorities under shared actions, we
agreed would all evolve over time, but we laid out four
for the initial beginning of MARCO, and those are:
protecting the important habitats, promoting renewable
offshore energy, protecting water quality.

Oop. Thanks, Rick. I keep forgetting to
look to the right. Sorry. Keep telling me if I'm
missing a slide. There we go. So habitat, energy,
water quality, and adapting to climate change impacts,
especially sea level rise and ocean acidification.

We felt that each state it was very
important would have an equal stake in a successful
outcome and would strive toward consensus. The
partnership with federal and external stakeholders was
critical to our success. So the agreement looks a
little bit like this. When it was signed, we had five
democratic governors. We've had some changes in New
Jersey and Virginia since then, and we're still working
on some of that. This will be our first major
transition in our young organization. One of the first
things we did right when we held the summit in June was
to make sure that we had a website up and running, and
New Jersey was kind enough to host the site for us, the
CZM program there. So you can go to that site. And
we're trying to keep it updated as frequently as
possible.

There are various links to each of the
state programs as well on the site. At the June summit
we tried to layout some of what our next steps would be
in each of those four issues and then came up with our
first action document. Those all revolve, of course,
around those four major issues.

So habitat being the first one, there
are about four major items that we wanted to undertake
as far as habitat. And the first was protecting the 10
major canyons that occur along our coast from harmful
or damaging activities.

The second was to really identify the
key mid-Atlantic habitats. And some things are fairly
well know, and we rely on you all for a lot of the
fisheries habitat information, but we are lacking a lot of information on marine mammal, sea turtle, migration corridors, and bird migration corridors and also the cold water, deep sea coral beds, the locations of those features. It's amazing that we still don't know so much about what's out there.

The third item here was to create a regional internet mapping system so that we could put all these different data layers together in one place in a portal where everyone can see it and access it.

And finally, it's to begin to create marine habitat protection and restoration policies that will guide management into the future. The second one here is renewable energy, a very important topic for the mid-Atlantic.

We recognize that we are in one of the best locations in the country for offshore wind. We have really good wind resource. But there's also a lot going on out there that we need to coordinate with. So one of the things that we wanted to do here is work together to get shared research and monitoring protocols for the region. Another thing was to look at the regulatory steps and see what we can do to try to streamline the process and to make it more coordinated.
Again, we want to promote it, but, of course, in the right places and without damaging any other resources.

And then finally, under this topic, too, came up that need for mapping, again, to reduce use conflicts.

Under water quality, this one is one of the more difficult topics for us and probably not one of the first ones that we're really going to dig into. I think the energy and habitat ones are kind of our big topics.

But for water quality, we wanted to look at a number of things like greater federal investment in sewerage treatment outfalls toward the ocean. We all have a lot of water-quality problems near shore, and we're not totally sure how far out any of those problems go in terms -- usually it's nutrients that we're worried about near shore. Offshore it may be other things like pH and toxins.

I'm having trouble seeing my notes. You can see the screen better, though, right? So the other big topic under water quality is marine debris. There are a lot of small programs state by state that are going on, but we'd like to try to coordinate that and bring it all together in a larger regional effort to reduce marine debris and floatables especially. The
plastics out there are a huge problem. We also want to work on data and doing a better job of collecting that data in one place so that we can tell what's happening on a regional scale. And finally, looking at atmospheric sources of nitrogen and what's happening with that on the ocean.

And then the last topic is the climate change one. And, again, this is pretty tough, too. All states are looking at sea level rise and inundation and the problems that are likely to occur with the loss of wetlands and the loss of human infrastructure.

And so, again, it's just trying to look at it regionally and also coming up with consistent messaging for the region. That's one of the toughest things is to communicate climate change science to the public.

So, once we had laid out all of these four issues and the steps that we wanted to take and that the governors agreed to, we held a stakeholder conference in New York in December of '09 and went over all of those with our stakeholders. And, again, we apologize. I know that occurred right when you all were meeting, and it was tough for Fishery Management Council to get there. But we did have a good meeting there and
came up with this document, which is available on the website.

And since then we've been holding roughly quarterly management board meetings. And the first one that we really had was just last May in Delaware. And basically we just keep going over and refining our action plan and checking our progress.

We've been struggling with government structure and how MARCO should really operate on a day-to-day basis. It's pretty tough. We don't have any additional staff, so it's primarily just the five CZM officers in each state taking it on.

But one thing that we do have access to, which is really nice, under our coastal zone management funding we have match-free monies under Section 309, and that money is to be used for nine different topics to improve coastal policies in that area, and one of the nine topics is ocean resources. And so we're all working together to develop these five-year grant strategies on ocean resources so that we have some funding and some staffing hopefully to keep this effort going. And then, as you're all aware, in July President Obama issued his executive order, and the Council on Environmental Quality produced their final
recommendations of the Interagency Ocean Policy taskforce and their framework for effective coastal and marine spacial planning.

And I assume you've all taken a look at that. I have a copy of it here with me. It's a pretty lengthy document, but it really does emphasize coastal and marine spacial planning.

And one thing that is probably of particular interest to all of you is -- and this is on page 47 -- that it talks very carefully about existing statutes and laws and that nothing in this framework will really supersede any of those existing laws.

And it's intended just to provide a better framework for what's out there. And, of course, as Rick was mentioning, it does call for the establishment of regional planning bodies, and so the National Ocean Council is charged with setting those up. The framework calls for membership to include federal, state and tribal authorities. It talks about the various stakeholder types that should be included, and certainly fisheries management is one of them.

And it specifically says that the regional bodies will provide a formal mechanism for consultation with the regional fishery management
councils. So we just had another MARCO management board meeting again in Delaware, and we're trying to digest all of this and figure out what it will mean. One of the things that we worked on there is a highlights document for MARCO. Which I wish we had it all done and printed. I have a draft copy here if anyone wants to take a look. But hopefully that will come out soon.

One of the difficult things with a new organization is the structure for these approval processes. Because the Council is a creature of the governors, trying to get documents like this approved is time consuming, to say the least. But we are working on that.

In light of the executive order that came out in the final framework, we decided to restructure slightly from saying that we have these four topics to saying that we have these five action teams, and we actually created a fifth grouping that is coastal and marine spacial planning. We had sort of woven that into each of the four original topics, but now we've pulled it back out again because it is such a highlighted activity and needed its own team.

So it was a good meeting. We had
federal agency reps come, and Rick joined us, which was
great to get his input. So this is sort of what the
structure looks like. I had to pull from one of our
original diagrams here.

But basically you have the five
governors forming the Council, and then you have an
executive committee, which is really at the agency head
level or secretary level depending on your state.

And then we have this management board
which is basically the five CZM managers. And then
under that are the five action teams. And those are
listed out on the left. And we've all volunteered to
be heads of those various teams. And so, as you can see
-- I don't know if this was smart of me or not; it looks
like a big workload. But I will be leading the coastal
and marine spacial planning team. And you're all
probably interested, too, in the offshore habitats, and
that will be Mike Schneider from New York will be doing
that.

So the hope is that there will be twenty
million dollars available for regional ocean
partnership funding. This, of course, is up in the air.
Congress hasn't approved the FY '11 budget. Who knows
if this money will be available or not. We're hopeful.
The federal funding opportunity notice was published, and final applications are due actually December 10th I believe it is to NOAA, and the awards will be made by July 2011. So that money is a long ways off from our perspective even if it does materialize.

It is competitive, and anyone's allowed to compete for the money. It's quite open. But successful projects will have to have the endorsement of the regional ocean partnership.

So within MARCO we've worked out what we feel are the funding priorities, and we are putting all of this on our website. I don't believe it's up there quite yet but should be within the next few days. And we are asking that people send us proposals by I think it was November 1st to give us time to review them and decide which ones MARCO wants to endorse. It's going to be a tricky process.

The project size, NOAA was recommending between 250 and five million. There's no match, which is nice. There are two parts to the money. They say there's a Focus Area 1 and a Focus Area 2.

And I always forget which is which, but one of them is a smaller pot for administrative funding, and that's to allow the regional ocean partnerships to
get some staff and so forth.

And then the other part, the larger part of the money is the super competitive part that is really emphasizing the marine spacial planning and the development of those plans that are called for.

So here are what we're laying out for priorities for funding. And I really just covered the marine spacial planning and the habitat issues. So for marine spacial planning, what we're looking for are projects that would really help us develop and implement a really strong framework for engaging stakeholders, just setting up that structure, figuring out how we're going to get input from all of the stakeholders out there.

The second priority was -- and these are not in any particular order; these are all equal priorities -- but developing the planning tools and documents that expand our capacity to make decisions.

And basically that's going to have to be making decisions without the best data. We have to use the best available, and that's always frustrating. As I mentioned, we've discovered there's some pretty big holes in our knowledge.

The third thing was to develop new or
enhanced decision support tools. And that's a pretty exciting part of the marine spacial planning technology that's going on.

And what we're talking about is the ability to create marine use scenarios online, drawing your own pictures of what you want where, and then those become a data layer in a portal that others can see and react to. So that kind of technology is developing right now, and I think will be in the nick of time for us. And then we also have to develop a long-term plan for hosting our portal. So the priorities under habitat are pretty basic, just enhanced understanding of these habitats. Again, a lot of this is data that we need on migration pathways and cold water corals.

And then just opportunities to look at the habitat protection efforts on a regional basis and look for consistency out there. So one of the areas where we've made really, I think, significant progress -- I'm excited about it -- is in what we're calling -- what we were first calling it the GIS portal, but now we're calling it the MARCO mapping and planning portal.

My program funded the nature conservancy to create this for us, and it's looking pretty slick. There's five categories of data. We
have administrative, biological, geophysical, human uses, and eventually decision support.

And there's a lot of functions and features already. You can choose various base maps, topography, streets, or even satellite photography. You can pan and zoom and select layers, create your own customized map. You can adjust the transparency of the layer, which really helps when you're trying to see things that are overlain. And you can save them, print them as PDFs, search, identify, draw, measure. And then there's a fact sheet for each data layer.

So this is what it looks like right now. And I put that web address up there. TNC, The Nature Conservancy is hosting it for us at the moment. It's on their server. And we're very grateful to them for that, but that won't be forever. And so, as I mentioned, we need a long-term home for that portal.

But feel free to write down that address, and we would love to have you all look at the portal and let us know if there are -- if you have ideas for functionality of data layers or whatever. It's pretty slick. We're excited to have it.

It should go online this fall. It's actually ready. We've all been playing with it. But
we're trying to put together some kind of soft roll-out materials to get it going. But, again, we'd love for you all to be looking at it and giving us feedback. Here's just a few screen shots of the various things you can see. You can see some of those administrative boundaries there. You can see all the buttons for the tools. We have fishing effort, essential fish habitat. Colonial water bird layer is up there. There's also this amazing sea bed data.

The Nature Conservancy had done a grant previously that some of you might be aware of. It's the ecological marine units. It's a big assessment of the mid-Atlantic where they synthesized data from all kinds of federal agencies and sources to create some pretty amazing maps.

This is the last screen shot that just shows where to go to for the individual data layer fact sheets. So the last slide here was to just let you know that the National Ocean Council is going to be holding public meetings very soon about instituting the framework for CMSP.

And they expect to be in Norfolk. They had scheduled it for the 21st of October, but that's been changed. They don't have a new date. I just spoke with
Darlene Finch of NOAA yesterday. But I expect it will be coming up real soon. So there'll be that one in Norfolk, and then they do have the date of November 5th set for a meeting in Sandy Hook. So there's a lot of questions and things to unfold in the future to see how it's all going to work out, but I can assure you that my counterparts at MARCO are just really excited that you all have been so gracious and willing to work with us because we really are going to be relying on you for a lot of help with these habitat issues and the marine spacial planning issues to ensure that fisheries are protected and sustained and that we put things in the right places out there.

So that's all I have, but I'd love to talk more with you and ask for questions. I don't know how many I'll be able to answer, but I'll try.

COUNCIL CHAIRMAN RICHARD ROBINS:
Laura, thank you very much for the presentation. It was an excellent presentation. Laura gave us a quick look there at the portal. I would encourage members to go to it. It's actually highly developed, and there's a ton of information in there at finer resolutions than what you just saw. That was just a quick snapshot to give you a sense of what's there. They've already done
extensive work on the development of that portal. While it's clear to me that given MARCO's interest in offshore issues in federal waters that our paths necessarily will cross, and it's going to be in our interest to try to work effectively together. 

And as we anticipate the implementation of the National Ocean Policy and the establishment of the regional planning body, obviously we've already expressed an explicit interest in that, and we look forward to working very closely with you all as that process evolves.

Can you give us a sense, a more detailed sense perhaps, of as that transitions how MARCO may relate to the regional planning body, and what your workload or work plan is for the next year. Are you going to be working on the products that feed into the regional ocean plan over the next year?

LAURA MCKAY: I'm sure we will. It is kind of slow going, though, until we have a better sense of what's going to be expected. It doesn't appear at the moment that MARCO itself can actually be the regional planning body because MARCO is just an agreement amongst the five governors and does not have a federal seat on it. And so the big question is: Does
MARCO want to change to become really that regional planning body, or does it want to remain its own entity. And I have a feeling it's leaning toward that latter because the regional planning body has that one specific purpose, and MARCO probably has a more general and perhaps even longer term purpose.

I imagine MARCO somehow will be represented on the regional planning body. That's clearly the intent of the framework to do that. And we have set up this action team specifically for marine spacial planning, and we would just love it if the Fishery Management Council would offer up a staff person to sit on that action team.

That would be with the habitat and the marine spacial planning, whatever you all felt you had the staff resources for. Did you want to say something, Rick?

COUNCIL CHAIRMAN RICHARD ROBINS: Just to follow on that, so can you describe a little bit how the action teams would relate to the management board; is the action team going to develop a product that will feed into the regional ocean plan?

LAURA MCKAY: Yeah. I think that's probably the idea. And so that action team would
probably be the closest connection to the regional planning body. And because, again, we don't know exactly who's going to be on that regional planning body, the National Ocean Council will ultimately decided that in some consultation with the governors. But we don't know exactly who that will be yet, but what we do know is whoever they are they haven't even formed yet, whereas, MARCO has. So expect that we'll probably be doing a lot of that initial work. And, as I mentioned, we've got our Section 309 funding that we're trying to put in place so that we can help get all that started.

COUNCIL CHAIRMAN RICHARD ROBINS:

Gene.

EUGENE KRAY: Thank you, Mr. Chairman. This is probably an unfair question, a series of questions. The executive order creating these regional bodies includes Pennsylvania, and of course, MARCO does not. What role do you anticipate Pennsylvania playing in this, and would that structure be required in order for MARCO to become the regional planning body?

LAURA MCKAY: Yes, it would. Pennsylvania would need to be included. And, actually,
there have been discussions between MARCO and Pennsylvania. New York has been leading those discussions. And so there's interest in having them join MARCO. So that would help along those lines. And, so, yeah, that is a second thing, besides there not being a federal seat on MARCO, there's not the Pennsylvania representation yet.

EUGENE KRAY: Follow up, Mr. Chairman?

COUNCIL CHAIRMAN RICHARD ROBINS:

Gene.

EUGENE KRAY: Well, I can talk to you later, Laura, about who you would be talking with in Pennsylvania. I represent Pennsylvania on this board, so. Possibly if I knew who it was, I'd be happy to talk with that person.

LAURA MCKAY: Great. Thank you, Gene.

COUNCIL CHAIRMAN RICHARD ROBINS:

Other questions for Laura on the presentation? Jim.

JAMES GILMORE: Thank you, Mr. Chairman. Laura, great presentation. And this is sort of -- it's a direct question, but I don't expect an answer. I just wanted to know if recognizing the fact that the states are all in a fiscal nightmare right now -- and I keep hearing you say New York. New York
-- and I don't know if it's the same as the rest of the
states -- but New York has divided the East up into DEC
which is my agency in Department of State. And early
on when this started, we figured that Department of
State could take the lead because of the CZM
requirements they have, but we were going to be the
resource agency, and that linkage is becoming very
difficult that even our Department of State started
hiring outside contractors to get information.

And the problem is is that those
contractors are coming back to us because we're the
resource managers, and so a lot of the fisheries
information is coming back. It's the old argument that
don't hire a consultant because they're just going to
come back and ask you for the information. And that's
the difficulty of this.

I think this is a very important
initiative. It's something that we all are committed
to, but right now every time we talk to Department of
State and say you got to slow down because the seven
people I need to work on this I don't have yet, and we're
actually losing people, and what we get is: Sorry, the
deadline's next week; you got to do it. So my fear is
things are getting done and with lack of information,
lack of coordination just because of the reality of the fiscal situation. Now, is that a consistent thing through the other states? Is this unique to New York? And if it is a consistent thing, I mean, is there a way we can start -- you know, recognizing the reality?

If we're going to do this right, we got to slow down a bit. And, again, I don't really want to put you on the spot. I just want to see if that's a common thing that's going on among the other states. Thank you.

LAURA MCKAY: Certainly, the lack of resources is very much a common thing amongst all five states, and everyone is really, frankly, exhausted.

We have weekly conference calls with our management board. And, basically, I'm it for Virginia. I think New York has three or four people from the Department of State that get on the conference calls.

While I feel like we've made some progress, I wouldn't say we've been producing a whole lot left and right other than the portal is a reality, and that's a good one. But other than that, I'm trying to get through something like the highlights document. And I'm not sure what kind of data you've been asking for -- been asked for, but the Nature Conservancy had
done a survey trying to collect data from various stakeholders and was trying to hit people from the various agencies within the states.

In Virginia, CZM is a network of state agencies. Which I assume it is in New York, too. And sometimes those connections or those networks are stronger than in other states. But clearly it's going to take a lot more staff pulling together to make this happen. It is a daunting task.

And one of the things that I'm struggling with is how do we come up with a regional plan and a stakeholder process for such a huge area? It just involves so many people.

And I keep thinking that -- you know, well, maybe what we need to do is figure out what each state by state what we would like to see offshore as an initial step, and then we all come together and look at whether it's fitting or not and then kind of resolve amongst us. It's really hard to figure out how to -- as you say, cut up this beast, and get going on it piece by piece when it is such a huge region. But I think -- and I'm fearful if we don't even get the twenty million, how we can really keep the effort going because it's just -- none of us has enough staff or resources, and we're
going to have to rely pretty heavily on federal agencies, I believe, to pull it off.

COUNCIL CHAIRMAN RICHARD ROBINS: Laura, just to follow up on that point, I would guess that the federal funding in the long run will follow the policy, and that may have structural implications or organizational implications for MARCO as it relates to the regional planning body.

LAURA MCKAY: Right.

COUNCIL CHAIRMAN RICHARD ROBINS: If the federal funding is made available in support of the policy, then that money's going to be heading in the direction of the regional planning body, so.

I would suspect that that will have some implications through long-term discussions about how MARCO relates to that regional group. But, obviously, resources at the state level are limited. Pete.

PETER HIMCHAK: Mr. Chairman, I just wanted to comment from another state's point of view regarding coastal zone management regulations. When I came on this Mid-Atlantic Council a couple years ago, I also inherited a little ancillary duty, which was to work with the Department of Environmental Protection's land use regulation program.
And what they do is every single federal registered notice that comes out and every letter that comes out from the regional administrator's office regarding activity off of our coast they send me a copy. And I get a lot of faxes from them regularly to comment on federal actions from a marine fisheries management and conservation point of view, and then the land use regulation program which is a key partner in this MARCO I believe.

They examine everything as far as consistency with coastal zone management rules. So we have a pretty good process established. A lot of times, yeah, it's we got deadlines and here are eight things to read by Friday, so. But we'd like to have more resources, but we do have a pretty good process to make sure that everything is looked at. And then, I guess, our land use regulation folks comment back to the National Marine Fishery Service. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Pete. Other questions for Laura? Rick.

RICK COLE: From a habitat protection perspective, do you anticipate that assuming MARCO can get the funding it needs and it continues to develop, do you perceive that MARCO would be involved in any
LAURA MCKAY: In state waters? I think if it had regional implications, it might. Clearly, the coastal and marine spacial planning framework calls for us to be developing this plan amazingly to the mean high water mark, I believe.

And so that's another thing that we're really grappling with is: It's hard enough to think about the states having involvement in planning beyond the three mile territorial sea, but then they really are talking in that framework about the plan reaching out into Chesapeake Bay and Delaware Bay.

And so, I guess, the answer is that that is certainly potentially that could be. But, again, practically speaking, given the limited resources, how much we're going to get up into state waters. I just find it hard to imagine that a structure this big can really be looking at that. And, again, remember that the framework says that this plan developed under the National Ocean Council would not supersede any existing laws, federal or state I believe.

So I don't think there's really anything -- you know, to fear in terms of authorities being usurped. Of course, anything can happen. But I really
don't think that was the intent. I think the intent really is just to create a more coordinated framework that addresses the whole region.

RICK COLE: You mentioned that the acceptance of RFPs for research work. Is that strictly for work to be done in federal waters? In other words, if we had a resource protection, a habitat protection issue in state waters that we wanted to look at and we put out an RFP, would this be an avenue to submit an RFP for, or would it not be considered because it was in state waters?

LAURA MCKAY: I think they crafted it pretty carefully not to close the door too hard. I think technically, yes, you could apply for something that was occurring just within one state, but competitively it might not do that well unless it had a really clear transferability to the whole region. It's just not that much money to go very far.

COUNCIL CHAIRMAN RICHARD ROBINS: Peter.

PETER DEFUR: Thank you, Mr. Chairman. I thank you for the wonderful presentation. One of the questions that I've heard from a few members of our constituencies here is a concern about how will
different organizations, different committees, groups, MARCO and the planning councils be coordinated.

And I'm glad to hear that you already had that question on your agenda and would urge and request that you do everything you can to make sure that that coordination is public and make sure that people know because either the individual fishermen or the commercial fishermen or the organizations want to be aware of how information is going to flow and decisions are going to be made so they're suddenly not surprised one year when there's a change in fishing regulations that somehow originated with some other body that they don't know about. So just a concern to highlight now to avoid problems in the future.

LAURA MCKAY: Absolutely. And that's why for the federal funding opportunity notice one of our key priorities is for somebody out there to help us create the stakeholder engagement process and set up that communication network so that things are transparent and clear and people have a fair say in how we're going to resolve these conflicts and how we're going to make this run smoothly. But, yeah. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS: Lee.
LEE ANDERSON: Very nice presentation. I was somewhat disappointed when you said that you thought MARCO would not morph into the regional planning body. And the reason I say that is at least if we know if there's something there we can go to and work toward.

Now it's kind of it's out there in the whatever sphere floating around. Do you have any hints or notions or what are your plans as how this thing is going to be organized out of nothing if it's not going to be organized out of your organization?

LAURA MCKAY: Well, I think we'll all definitely be -- I'll definitely hopefully if I don't have a conflict with the date be anxious to hear what National Ocean Council folks say at the public meeting in Norfolk. They're the ones kind of driving that in terms of how the regional planning body will be structured.

I mean, they say in consultation with the governors, but some of the five governors are a little more involved than others at this point. And I share your disappointment in a sense because we all want clarity, and we want to march ahead, and it's frustrating when things are just sort of ephemeral like
that.

But I think we do just have to be a little patient and see what unfolds. I think MARCO will be very strong in it, but, again, so far MARCO is a small thing with no staff other than really these five CZM programs and whatever help we can get from our member state agencies.

Some of the regional partnerships are set up with federal representation on them already like NROC, the New England Regional Ocean Council, and so they may be good to go. But whether MARCO eventually will decide to change its structure in how federal agency heads on the executive council it's not really for me to say, but it would be nice if we didn't have to have multiple organizations. It gets mind boggling. So I'm with you. I'd like to have streamlining.

COUNCIL CHAIRMAN RICHARD ROBINS:

Jack.

JACK TRAVELSTEAD: Laura, earlier you urged the Council to provide staff at the technical level, and I think that's something that I would certainly support, Mr. Chairman, assume that the Council would do that.

But beyond that do you see a role where
the Council might actually sit as a member at the management board level? Is that a possibility, or what are your thoughts on that?

LAURA MCKAY: I think it's a possibility, and it's something that we've been talking about. And at the meeting in Delaware in August, we were trying to figure out how we could expand the management board without getting unwieldy. I don't think we're at the unwieldy stage yet. But I think we want to figure out are there some key stakeholder groups that really should have a seat on the management board. And that's under discussion now, and Rick and I have talked some about that. I think basically the management board would like to see it as long as we don't have 30 different organizations saying I want to be on the management board, too.

Again, it's that how do you keep a workable team going. But clearly the Fishery Council is a big one. I think we have interest from other groups, too, like MACORA, the mid-Atlantic Coastal and Ocean Regional Observing -- I think I said it wrong -- the ocean observing system folks and the wind energy folks.

I think it will be important, and, again
I think that's where we need some help in that stakeholder engagement structure, how to set that up and make it streamlined; but clearly you are key in the habitat and marine spacial planning stuff. And even we need your input, too, for the offshore energy because we want to be very careful.

And I don't know if you all heard on the news yesterday about Google investing I forget how many billion in this underwater offshore transmission line for the mid-Atlantic. So, I mean, that's exciting, but it's also, like yikes, let's make sure we've got everything in the right place.

COUNCIL CHAIRMAN RICHARD ROBINS: Jack.

JACK TRAVELSTEAD: Just a follow-up. Laura, how can we further a resolution to this question of whether the Council can sit on the management board? Is there something that we need to be doing here, or is it already in a process that's being considered?

LAURA MCKAY: We're definitely thinking about it, but maybe what would happen is probably our next management board meeting will be, I believe, in November; and so if you all would like to kind of put into words what you're willing to do, what
you would like, and if you have ideas for structuring.

One thing we talked about is maybe an ex-officio seat for key stakeholders and make sure that at least part of the agenda includes all of those players, or maybe it's one or two meetings a year where those people come.

I don't know if you'd want to come every quarter to our meetings or be on our weekly conference calls. That might be more than you want. But if you could lay out what you feel you all have the time and resources to put into it and -- you know, give some suggestions to react to, that would be very helpful.

COUNCIL CHAIRMAN RICHARD ROBINS:

Laura, I appreciate that. Just to follow up, I think it's going to be very important from a fisheries' perspective for the Council to have what's viewed publicly as an effective engagement with the regional planning body and in this case at least transitionally with MARCO, recognizing that it's not yet clear how MARCO is going to relate to the regional planning body in a year or two years or three years, but realizing that you are currently engaged in work that will probably be foundational for and contribute to the Regional Ocean Plan.
So I think it's essential that we have an engagement that's viewed as being effective. And so I think to Jack's point we do need essentially a two-pronged-type engagement that's both technical where, for example, if the work's being done in the action team, perhaps our staff can provide technical input as well as the Council perspective, but then the management policy perspective is also represented in a link directly from the Council to the management board.

So we look forward to exploring that and hopefully making and memorializing the request of your management body. But I think we have the opportunity to work together to work that out and look forward to that. Pete.

PETER HIMCHAK: Mr. Chairman, I have one follow-up comment. And I'm glad that the acronym for MACORA was brought up. I constantly confused the two. I'm on both mailing lists. The MACORA group is actually having a two-day workshop next week in Hoboken, New Jersey at Stevens Institute.

Again, it becomes a question of if there were some consolidation, or where does the Council latch on to have its most effective input? I think as marine special planning is becoming the buzz words -- they're
highly prevalent -- I'd like to see some consolidation of with the Ocean Policy to make it the most efficient because we can't go to all these workshops at all these times. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:

Pete, you raise a great point. I think that will be one of the outcomes of the NOC's work as they develop and establish that regional planning body and get it up and going. But I think MACORA has a slightly different mission than CMSP. Gene Kray will be at one of the workshops, and I think Tom Hoff will be at that, too. We are also interacting with MACORA. Additional questions at this point for Laura? Are there any questions in the public? Any comment? Okay. Laura, thank you very much. And you can look forward to some further communication and correspondence from us, and we'll try to formalize our request for consideration by the management board.

LAURA MCKAY: Great. Thank you all very much for having me today.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you.

LAURA MCKAY: Bye.

COUNCIL CHAIRMAN RICHARD ROBINS: Jim,
are you ready to go on for dogfish specifications? All right. Standing by for spiny dogfish.

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SPINY DOGFISH SPECIFICATIONS

JAMES ARMSTRONG: Mr. Chairman, I thought the way we did the committee meeting yesterday might help if we began, since the basis for -- ultimately the basis for the recommendations from the Council are the ABC recommendation from SSC that Dr. Tom Miller might be able to start things off with a brief discussion of the SSC's determination.

COUNCIL CHAIRMAN RICHARD ROBINS: Dr. Miller, if you could give us a summary of the SSC's ABC recommendation.

DR. THOMAS MILLER: Thank you, Mr. Chairman. Do you want me to go through the presentation of yesterday, or do you want me just to do so verbally?

COUNCIL CHAIRMAN RICHARD ROBINS: If you have the Powerpoint slides available, maybe we could do that. It was a very concise presentation. So it's not going to [inaudible] to the time. Jan, do you have that available? Tom, if you don't have it, we can do it verbally.

DR. THOMAS MILLER: Okay. So the SSC
met on September the 21st to develop the ABC determination for spiny dogfish. We followed our standard operating procedures. We considered all relevant material that was provided to us before the meeting. Nine of sixteen SSC members were present, which represents a quorum, and it was those and only those members who participated in the ABC determination. We requested public comments at both the September the 21st meeting and a subsequent October the 4th webinar, and we provided a report to the Council on October the 4th itself.

There are three stages to setting an ABC determination for any species. The first is to categorize the assessment into one of the four levels, what was included in the ACLAM omnibus amendment.

The four levels, just to refresh your memories, are: Level 1, which is the highest level, which is an assessment that provides a complete accounting of all levels of uncertainty, and the SSC is able to take the overfishing level and its distribution directly from the assessment; a Level 2 assessment includes most of the important sources of uncertainty, but the SSC feels the distribution is not fully characterized; Level 3 is one that provides a point
estimate of OFL, and we have to use our best scientific judgement of the distribution; and Level 4 provides no estimate of OFL at all.

Based on those four definitions, we've categorized the spiny dogfish assessment as a Level 3 assessment principally because there was no OFL distribution provided in the assessment and that considerable uncertainties existed related to the relationship between pot production, stock size, and sex ratio and female size. That's the first stage.

The second stage then is to develop the estimate of OFL and its distribution. We looked at projections that had been provided to us for three levels of fishing mortality rate.

The first and the highest was F.325, which is the MSY proxy, the current MSY proxy, for this stock. And in 20 years projection that level of F drove the female spawning stock biomass down to below the overfished definition.

And the SSC felt that that meant that the estimate of SMY proxy is not compatible with long term sustainability, and so we thought that that was not a suitable foundation for developing the OFL.

One of the other proposed projections,
the current F target of F.207 in 20-year projections does lead to BMSY biomasses in female spawning stock biomass, and so the SSC selected the F target as the basis for the OFL, and that produces an OFL of 20,267 metric tons. The third phase then is to calculate the ABC from the OFL, and that requires us to estimate a distribution of the OFL, which we did based upon estimates of uncertainty in the projected biomasses that were provided in the assessment, and we assumed a similar level of uncertainty in the estimated reference point, and that estimate wasn't included in the assessment material.

Based on those two assumptions, the OFL distribution would have a CV of 75 percent. And then we used the Council's risk pot policy for an a-typical life history to calculate the ABC as the 35th percentile of the OFL distribution, and that translates to an ABC of just over 15,000 metric tons, which is about 33 and a half million pounds.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you, Tom. Questions for Dr. Miller regarding the SSC report and recommendation? Are there any questions in the public? Yes, Jim.

JAMES FLETCHER: James Fletcher,
United National Fishermen's Association. Dr. Miller, as I asked you yesterday, you came up with these numbers based mainly on trawl surveys, which the Canadians have said could only be used as a minimum estimate for population. Could the science and statistical group, should they choose, make assumptions that using the numbers that you have as being a bare minimum -- and apparently there's nothing else to support anything other than the trawl surveys -- could you come up with a number that is above this and justify that number based on two or three assumptions?

In other words, if someone else had been on the committee and asked you to come up with a higher number based on legitimate assumptions, could it have been done?

COUNCIL CHAIRMAN RICHARD ROBINS: Dr. Miller.

DR. THOMAS MILLER: It could have been done, but it wouldn't have represented best available science.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you, Dr. Miller. Are there any additional questions? If you'd speak into the microphone if you have a question or comment. Any additional questions
from the public specific to Dr. Miller's report? All right. Seeing none. Jim.

JAMES ARMSTRONG: Thank you, Mr. Chairman. Let's go on to the next slide, please. Just a word about the process for specifying spiny dogfish, management measures begins with the stock status update that comes out of the Northeast Science Center. Dr. Paul Rago and Catherine Sorsby [phonetic] worked together to update the swept area biomass assessment every year based on the latest data from their spring trawl survey.

That gives F estimates and biomass estimates, and those are compared to the reference points. And they did a stock status. At that point the SSC reviews the updated stock status and makes a determination of overfishing limit and allowable biological catch, as Dr. Miller discussed.

Following that the ABC determination by the SSC provides the basis for any further consideration and the specification of TAL and other management measures. The monitoring committee receives the ABC recommendation and develops its recommendations.

Those recommendations are forwarded on to the joint committee who met yesterday. And the joint
committee is comprised of mid-Atlantic as well as New
England members because this is a joint plan with
mid-Atlantic lead. And then the joint committee's
recommendations are delivered by the committee chair
and vice chair to their respective councils.

Stock status for spiny dogfish, the
stock is not overfished. Overfishing is not occurring,
as you'll see in a couple of the figures. SSB and fish
mortality rate have been stable above and below
respectively the reference points for several years.

Biomass in 2010 is essentially about
664,000 metric tons compared to about 160,000 metric ton
BMSY proxy. The fishing mortality rate -- and this is
the fishing mortality rate on exploitable size female
spiny dogfish -- was estimated to be .11, and that's
quite low compared to the other fishing threshold and
also about half of the fishing mortality target that's
specified in the FMP.

Here's the modal estimate of the
stochastic estimate of SSB. That illustration shows
the distribution in the model for SSB in 2010. A fairly
tight distribution. That does not, of course, account
for all the various sources of uncertainty in the
assessment. If we compare this with 2010 at the top,
'09 in the middle and '08 on the bottom, we can see that SSB has been fairly stable the last three years. '08 really is the greatest SSB estimate in this time series. There were some very high catches in the spring survey that contributed to this. But the distribution themselves, however, are quite comparable. That's good.

And if we just look at the total time series for the biomass of mature female spiny dogfish, you can see that the high point is in the late '80s. The onset of the fishery and the unregulated fishery of the '90s drove biomass down to a low point of around 2,000.

That was when the FMP was implemented. The directed fishery was eliminated for the most part, and the stock rebuilding began. It's been successful, and the stock was declared to be rebuilt this year incidently on my birthday. It's a nice birthday present for me.

Next. F estimates are the latest complete fishing years 2009. F estimate for mature females was about a little over .1. This has been the case -- let's go to the next slide -- for the last three years. You can see that. Next slide. Very consistent distribution. The reason that it looks a
little almost one tale there is because it's such a low
F that it has to necessarily stop at zero on the
left-hand side. Okay. Next. Here's part of the
product and the stock status update are long term
projections, 20 year projections. These were used and
important in the SSC's determination of ABC in their
consideration of the various F reference points and how
they relate appropriately or not relative to ABC and
OFL.

No matter what F, including F equals
zero, is projected this way, you get this undulating
pattern, and the reason it goes down in the near term
is that from 1997 to 2003 there were very poor year
classes.

Pup production was the lowest on record
for a sustained period of time. And we're very close
to the time when those year classes would start
recruiting into the spawning stock biomass. So that
necessarily drives them down.

You have a mortality rate of some sort
if it's only natural mortality driving SSB down but
almost nothing coming in to replace. So it's quite
fortunate for the stock that that has been constrained
at the very low levels for a good period of time now.
So this is what the projections look like at the F target at .207, the F target -- the FMP. Next slide. And here's the projection that Dr. Miller referred to, the F threshold that's in the FMP at .325. And as you can see, given the population, existing population conditions, that would drive SSB down to about 1/2 BMSY to basically an overfished state and would not allow for recovery.

Next slide, please. The projections have a lot of detail. This is Table 9 in the update that is under Tab 1. It was provided -- there were three documents there from the monitoring committee with their recommendations followed by the status update from the science center and the original staff recommendation.

The SSC's recommendations are in a separate tab with all their other recommendations. Actually, I think that's a separate handout because that was not in time for the briefing book.

But what the SSC did is they focused on -- they were asked to provide one, three, and five year ABC recommendations. And so this is the portion. This is just a red rectangle on a table of a lot of little numbers just to show where we zoomed in. The next slide
actually does zoom in on the 2011 through 2015 fishing years. And the SSC did provide those one, three, and five year ABC determinations, but given the transitory nature of the F basis for ABC and a TAL based on ABC for the next fishing year, the monitoring committee in receiving ABC recommendations chose to only go with a one year recommendation until those F rates are settled on. We're looking forward to that.

So we basically took the first line with OFL corresponding to 20,267 metric tons -- next slide -- which gave us an ABC of 15,200, 75 percent of that first number I told you. So that's our basis for ABC.

Next slide. The monitoring committee in determining the tile basically starts with ABC and then tries to identify ABC allowable biological catch -- includes all removals. So if that's all removals. Then if we identify those removals that are not commercial landings, then we are able to use that to reduce from ABC, and then the remainder is the commercial quota or TAL. So ABC is what's left over after you account for expected discards, Canadian harvest, and also the U.S. recreational harvest or total U.S. recreational removals. So here's our table that's in the first document. It's in the monitoring
committee's communication to the joint committee and the councils.

And we have columns here of U.S. landings of dogfish and then discards and Canadian landings and recreational removals. And the monitoring committee discussed how to -- what the basis should be for our assumed other sources of removals.

And there were some important sources of information that were brought to the monitoring committee by the state agency representatives on the committee.

And probably the two most important were expectations about what's going to happen with total fishing effort in the current and subsequent 2011 fishing year in response to the implementation of Amendment 16 to the New England's multispecies plan and also what's going on with the Canadian fishery. So, in that 20-year projection table with all the little numbers, there's an assumed ratio of dogfish landings to discards that's provided. And in the past we've just kind of gone along with that, and it's matched up fairly well, and it's based on an observed ratio. But when you entertain the idea of allowing F to go up a bit, then that ratio presumes that you've got a direct linkage
between dogfish landings and discards. And what we've observed, and what this table suggests is that that's not necessarily a very strong assumption. Dogfish landings -- let's go to the next slide.

Dogfish discards primarily come from the outer trawl fishery, and that's the fishery that is regulated -- well, we're expecting large effort reductions through Amendment 16.

But compared to the otter trawl landings for spiny dogfish, they're almost insignificant. From 2008 -- from last year's specifications package, which had the 2008 fishing year data in it, otter trawl landings of dogfish were 4.9 percent compared to gill nets and hook-and-line gear. So, as the gill net and hook-and-line catch of spiny dogfish goes up, we don't expect -- and the total effort in the otter trawl fishery goes down, we don't expect that total discards are going to go up. Okay. The discard mortality rates for gill nets and hook-and-line fishery are quite low compared to the otter trawl fleet as well. So what we did is we took a look at a recent time series -- let's go back a slide -- and we said, well, we can -- let's look at the three year average of discards, Canadian landings and
rec landings, two year average, and then just what's happening in 2009.

Switching to Canadian landings, the reason we -- well, switching to Canadian landings, we decided ultimately to focus on 2009 because what we're seeing is the disappearance of the Canadian dogfish fishery.

In 2008 there were a little over 1500 metric tons of dogfish landed. That was a decline from 2400 the year before. Okay. But last year there were only 113 metric tons landed, and preliminary reports for this year suggest that it's about 5 metric tons.

What's happening is that as the U.S. fishery, which has a higher quality product, is able to supply more dogfish to the processors, all of which are in the U.S., their interest in accepting a Canadian product is going down. So with the monitoring committee looking at these different time frames as a basis for a reduction for an ABC decided that we wanted to not cherry pick and use a three year average here, a two year average there, a one year reference period here, but just go across the board.

What that ended up doing was of the three scenarios we pictured we had the highest assumed
discards coming from the '09 level, the lowest Canadian 
landings coming from the '09 level, and something in the 
ballpark of average for recreational.

So we used 2009 as our reference here for 
reduction from ABC, and that gave us a remaining 
commercial landings level of going down from 15,200 
metric tons down to 9,156 metric tons, which translates 
to a little over 20 million pounds.

And then we considered sources of 
management uncertainty possibly reducing that even 
more. We've observed that we hit the F target in all 
of the last three years, but, nevertheless, just for 
sort of unaccountable sources of management uncertainty 
we decided to reduce the final quota to an even 20 
million pounds, just for that reason. Okay. Let's go 
to the next one -- and the next one. So, as I mentioned, 
with discards the important considerations are that 
spiny dogfish discards are a function of total fishery 
effort more so than the spiny dogfish fishery effort. 
And we see total fishery effort going down.

In developing Amendment 16, the 
analysis that was done for that, estimated that total 
fishing effort, in the groundfish trawl fisheries was 
going to go down by about 40 percent.
They've done some truth checking on that this year, and it appears to be working out near there. Okay. Here's just an illustration of the discards for the last 10 years -- 15 years.

And you can see that if we had gone on with the assumed discard level that was in the projections where it's just based on some ratio with dogfish landings, we would have been going with the green star which is nearly the level of discards that we saw back in the hay day of the unregulated dogfish fishery.

So we went with the 2009 level, which is more in keeping with recently observed levels, and that's 6,000 metric tons. Next. So, in summary, the recommendations of the monitoring committee and as Red will let you know, the joint committee were to set the TAL for commercial quota at 20 million pounds. Another management measure that we've set every year is trip limits.

The monitoring committee could see no reason to increase trip limits. We noted that the fishery in the -- the northern region fishery as managed by the Commission has closed on August 27th. There's a May 1 start date to the dogfish fishing year.
With a larger quota, they think that the fishing year is likely to last a bit longer. The southern area in North Carolina are still open. But we didn't think that raising the trip limit at this point would be a really good idea.

We didn't have a biological basis for discussing alternative trip limits, though, and we really -- as we've done in the past, we've never really been able to equate a specific trip limit to achieving a fishing mortality rate.

And finally, as I indicated earlier, because of the expectation that we're going to revisit the F basis for setting future tiles and ABC and OFL, the monitoring committee felt that this should only be for one year, and the joint committee agreed. So that's it. I'll take any questions at this point.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you very much, Jim. Questions for Jim regarding the dogfish recommendations? I don't see any. I look to Red Munden, chair of the committee.

RED MUNDEN: Thank you, Mr. Chairman.
After receiving the report from the SSC committee recommendations and the monitoring committee recommendations, the joint committee passed a motion,
which I'll ask the staff to put on the screen. When Jan
gets it large enough to see it, I'll read it. Thank you,
Jan.

So, on behalf of the joint committee,
Mr. Chairman, I move that the spiny dogfish quota be set
at 20 million pounds with a 3,000 pound trip limit for
the 2011-2012 fishing year only. That motion was
passed unanimously by the joint committee, Mr.
Chairman.

COUNCIL CHAIRMAN RICHARD ROBINS: I
think we need a perfection in the language as it appears
on the screen, Jim, if you can do that. It says 20,000
million pounds. I think that might be a little bit
high. I know someone said that isn't enough, but.
Easy now.

[Laughter.]

MR. MUNDEN: Thank you, Mr. Chairman.

That was my mistake.

COUNCIL CHAIRMAN RICHARD ROBINS: So
the motion on behalf of the committee does not require
a second. The quota be set at 20 million pounds with
a 3,000 pound trip limit for the 2011-2012 fishing year
only. Discussion on the motion? Rick.

RICK COLE: Just a question. I assume
this is the same quota recommendation that the
commission has moved forward with; is that correct or
not correct?

COUNCIL CHAIRMAN RICHARD ROBINS:
Commission hasn't taken action yet.

RICK COLE: They haven't?

COUNCIL CHAIRMAN RICHARD ROBINS: I'm
sorry? Jim.

JAMES ARMSTRONG: As a member of the
technical committee, I can tell you that that's what
they're going to be recommending to the Commission.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Rick. Additional questions or comments on
the motion from on the board. Is there any public
comment on the motion? Is there any comment on the
motion? Red.

RED MUNDEN: Thank you, Mr. Chairman.
The current quota for spiny dogfish is fifteen million
pounds for this fishing year, so this is a five million
pound increase or 33 percent increase in quota. And my
comment suggests to put things in perspective. That we
have been able to increase the quota for spiny dogfish
due to rebuilding of the stock.

COUNCIL CHAIRMAN RICHARD ROBINS: Red,
that's a great point, and it's an excellent position to be in, I think, following what started out as a very difficult rebuilding plan on a species that began by rebuilding with an exit fishery following very high landings in the '90s.

So it was a very difficult rebuilding period, and it is nice to see the fruits of those efforts now through this increase. The Council ready for the question?

(Motion as voted.)

{Move that the spiny dogfish quota be set at 20 million pounds with a 3,000 pound trip limit for the 2011/2012 fishing year only.}

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

(Response.)

COUNCIL CHAIR RICK ROBINS: Fifteen. Opposed like sign.

(No response.)

COUNCIL CHAIR RICK ROBINS: Abstentions like sign.

(Response.)

COUNCIL CHAIR RICK ROBINS: One abstention. Thank you. The motion carries. Red, are
there any more motions on behalf of the committee?

RED MUNDEN: Yes, Mr. Chairman. Under other business Mr. Travelstead brought up the issue of the fact that the biological reference points needed to be reviewed and possibly updated.

Jim Weinberg indicated that they would be doing that before the next assessment on spiny dogfish. And also Pete Himchak brought up an issue that he may want to elaborate on concerning marine stewardship certifications, particularly in reference to the fact that the Canadian fishery has moved toward the marine stewardship certifications for dogfish, and it may impact our market and demand for our product.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you, Red. I believe the recommendation that came out of the discussion was that we would send a letter to the Science Center to document a request for an updating of the F based reference points.

That's something that can't be done in the next month or two, but certainly for next year as a goal if we could have that in place in time for the SSC's review of specifications and ABC recommendations it would be helpful. The SSC to be clear did not reject the F based approach; they simply did not accept that
value, the F threshold value, for uses in OFL.

So, yeah, I think we would benefit from an updating of those F based reference points and try to have that in place for next year. So, if there's no objection at the Council level, we'll send such a letter to the Science Center. Pete, would you like to elaborate on the NFC question with regard to the Canadian fishery?

PETER HIMCHAK: Yes. Thank you, Mr. Chairman. I brought this up yesterday during the committee meeting. I was using two pieces of information to make my case.

The current movement towards marine stewardship council certification for spiny dogfish, which I understand is a pretty big thing, and it could really help with marketing of the product domestically and in foreign countries.

And I also looked at the landings pattern, Canadian landings exceeding domestic landings for six years during the 2001 through 2006 period. And with those two pieces of information, I came to the committee to raise the issue on a fairness issue. But, again, this actually goes back to the mackerel discussion we had in New York City back in June, and it
also -- I have experience with this on Atlantic herring with the New Brunswick Weir fishery that essentially gets its share of Atlantic herring before we start parceling out, 1-A, 1-B, etcetera, etcetera.

So what my concern is, is that as we move into this with ACL's and AM's, take for example spiny dogfish now. We always try to estimate or we come up with the anticipated Canadian catch for a particular year, and then we subtract that from the ABC, and they get their ACL, and we get our ACL.

We have accountability measures on our ACL. So we exceed it; we have to pay it back. The Canadians don't. If there's an exceedance of the total ABC, then we will feel a reduction in year two.

We don't directly pay for their overage, but we would pay for it with a reduced ACL. And, again, I cannot see how we can continue to operate in all fairness to our fishermen to have a one-sided approach here in divvying up a quota. So, again -- and there may be other species that the New England Council deals with that have the same scenario. So what I was trying to get was a dialogue yesterday of how we can address this. And I that think the opportunity is appropriate now because of accountability measures.
So I don't know how this Council, the New England Council, the National Marine Fishery Service can get engaged in dialogue with the Canadians through our State Department or wherever, but there has to be a better mechanism for determining the Canadian catch that is then subsequently given away from the ABC. That's the way I view it.

And I'd like to know like how we can begin this dialogue to get some kind of an agreement that they will not exceed something, the average of the three previous years, because there are no accountability measures on one side of the ledger. So that's it in brief.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Pete. And you're right. The conundrum is essentially the same one we saw with the Atlantic mackerel. We are holding our fishermen accountable to a domestic ACL, but if there is an overage, obviously that's going to factor in as we look forward in setting specs and trying to anticipate Canadian catch. Whatever was caught in the past is going to be a factor. Pat, if you could comment on what the experience has been with some of the approaches to joint management with the Canadians.
I know there have been some discussions about mackerel, and I think they've just been very preliminary essentially looking at joint science, but also trying to go beyond that and discuss some joint approaches to resource sharing, etcetera.

PATRICIA KURKUL: Sure. The only species for which we now have any kind of agreements with the Canadians in the Northeast are for three of the transboundary groundfish stocks, George's Bank cod, haddock, and yellowtail.

And that agreement we reached it in the early -- it was probably around 2003, and it was actually put in place around 2004. It's not a formal agreement that was negotiated through the State Department and is signed as a binding U.S. agreement. It's called and understanding. And basically it's just we and the Canadians agreed that we will jointly assess the stocks and then jointly meet and agree on the appropriate harvest levels and the sharing arrangement for those harvest levels. And so that's worked fairly well.

What it doesn't do is there is an exception in the Magnuson Act for some of the provisions of the act when there is an international agreement in place that dictates certain catch levels.
And so this was not considered to be an international agreement under the definition in the Magnuson Act, and so there's still been some issues with the Canadians in terms of setting catch levels -- setting joint catch levels, particularly for stocks that are under rebuilding programs since we have the rebuilding program requirement and the Canadians don't have a similar kind of requirement.

So that's the one vehicle we've used so far. The other option, of course, is to go through formal negotiations with the State Department involved, but that's quite a lengthy process, and both countries would have to have some incentive to actually enter into those negotiations. So what we've certainly found in some of the other stocks -- we put forward a list of priorities several years ago to the Canadians, and one of the species on the list was mackerel. We've after several years managed to get an agreement to do a joint mackerel assessment with the Canadians.

The science has always been considered the first step in the process. We agree the data that's going to be used, and then we agree on one assessment. Obviously, you can't jointly manage if you're doing two separate assessments.
So that was always to lay the foundation for any kind of movement beyond just looking at the science side of the equation. So we did have a joint assessment for mackerel this past spring.

But, frankly, we've continued our discussions with the Canadians on mackerel and haven't gotten much interest from the North on entering into any kind of management discussions. So, if we were going to pursue it for other species, again, the process would be sort of getting them at least to start to agree to jointly do the science, jointly create databases and surveys and so forth, and then we would through our U.S.-Canada discussions try to raise the issue of management discussions. But none of these are things that would happen quickly. So, again, we could try to pursue process through the State Department. We could also look at a model like the groundfish model. But in either case, I think we're talking about several years out.

COUNCIL CHAIRMAN RICHARD ROBINS:
That's a thought. Pete.

PETER HIMCHAK: So how would we pursue a process through the State Department. I mean I think we have had an event here with the reauthorization of
the Magnuson Stephens Act and the new requirements that we will not be overfishing.

I think this is an opportunity to start the process, and I'm willing to -- this is my latest crusade. So what do I do?

PATRICIA KURKUL: Well, frankly I think the first thing the Council needs to do is determine whether or not there's interest on the U.S. side. So that would include discussions with our industry.

That's always been sort of what the Canadians' hold up first to us is we're not even willing to think about this until we have internal discussions with our industry to make sure that there's support there. So I would argue that we would want to do the same thing here.

COUNCIL CHAIR RICK ROBINS: Pete, just following up on that, I believe that Red Munden had suggested that the committee try to meet at the December meeting of the Council to discuss and react to the outcome from the ASMFC meeting since the ASMFC will be discussing spiny dogfish. So perhaps we could add that onto the agenda for the committee and give us an opportunity perhaps to engage the AP, do some censusing within the industry, etcetera. Pete.
PETER HIMCHAK: That's fine, Mr. Chairman. But I mean I thought it was obvious from the June meeting that the industry was not happy with the arrangement of getting the leftovers. And I'm also -- and the Atlantic herring, I mean, that quota was slashed tremendously, and Area 1-A was cut in half. And, again, I've heard repeatedly that if the New Brunswick Weir Fishery if there's a good year class and they'll have a good shot at them, and then they'll have some rather substantial landings. And, again, that's not fair to our fishermen.

So, I mean, doing it within the spiny dogfish committee is, I guess, our first attempt at moving this process along. I'm trying to understand how we put something down on paper and who we send it to and who do I have to get letters from.

I'm willing to go this route. The fact that I work with the Garden State Seafood Association to get help to get the mackerel industry -- you know, to get on board with this, I'll do it. But just doing it within the spiny dogfish committee is that going to be enough for us?

COUNCIL CHAIRMAN RICHARD ROBINS:
Well, Pete, eventually it would have to go up, and this is jointly managed, so I think it would have to go up through New England as well or through NRCC.

We've discussed the mackerel issue there at NRCC in the past, so I think that would be a forum for discussion as well. But I think part of the point, too, is if we're going to try to pursue some sort of joint agreement, I think we'd be well served to try to flush out at least a preferred approach before we make the ask at that level so that we're not simply saying we want some sort of joint agreement; we don't know what we want it to look like, but rather come up with some sort of idea.

If we want to follow, as Pat suggested, perhaps the groundfish model, we would need to look at the strengths and weaknesses of that on how that's performed. But, you're right, it does create a fairness issue obviously the way the calculations were being done. So I think we will need to continue to address it. Pat.

PATRICIA KURKUL: Thanks, Mr. Chairman. I agree. I think adding it to the NRCC agenda is a good idea. I would benefit from a broader discussion with the Council leadership on this. And I
would just point out that I think there's a very, very big difference between the industry -- the stake holders not being happy with the current process and thinking, in fact, that some sort of negotiated agreement with the Canadians is necessarily in the U.S. best interest. I think there's a very big difference between those two things, so we shouldn't jump from the fact that people don't like the fact the way the current process works and so therefore their support for a sharing arrangement with the Canadians. I think Rick's right. We need to do our homework to see whether it makes sense for us or not.

COUNCIL CHAIR RICHARD ROBINS: Dr. Weinberg.

JAMES WEINBERG: Yeah. Thank you. I also wanted to point out that along with jumping over to joint management, that goes hand in hand with the joint stock assessment; and from the experiences that we've had thus far, when you go to a joint international stock assessment, it becomes much more complicated. There are a lot more people's schedules to juggle. So the more people you include in the process the more difficult it is to reach agreement and to bring it off in a timely manner. So it's just another
COUNCIL CHAIRMAN RICHARD ROBINS: Any further discussion on this? We can discuss it at NRCC and have an initial discussion. We can try to carry on the discussion in the committee as well. Jim.

JAMES FLETCHER: James Fletcher. And this time I'm speaking for myself. I'm not speaking for my organization. I want to make that clear. I have a concern when a Council member recommends getting one particular group to certify something, not have it certified by a group.

When that particular group, in my opinion, basically, it's extortion from the fishing industry to say that this particular species is managed sustainably, now this Council as part of NMPS and NMPS and the Department of NOAA has a certification label saying that the species of how they're being managed and what method they're being managed in. It is sort of outrageous in my opinion that this Council doesn't endorse what it has on the books and goes outside to endorse a third-party group as whether it's sustainable or not. Now, on the dogfish issue, it brings up scientific credibility when the Canadians say that their fish move east and west and there's only a 20
percent north/south boundary, and our scientific community comes in and says we're going to subtract not 20 percent of the Canadian landings but 100 percent of the Canadian landings.

So before we look at that with the Canadians, in my personal opinion, our scientists need to look at which way these dogfish move and whether they have given you the best available science or the politically correct science. And I think we got the politically correct, not the best available, and that's my personal opinion, not my association. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:

Just to be clear for the record: The Council and the Council members did not take any position on MSC certification of spiny dogfish. The issue that came to the table was simply expressing a concern about how a Canadian move towards MSC certification could in fact lead to some resurgence of their fishery, and I think that is a fair concern to discuss. But it doesn't represent any sort of move toward MSC certification or request for that from this Council. That would have to come from the industry. Any further comments on spiny dogfish? Red, is there any additional business to come before us?
RED MUNDEN: That's all I have, Mr. Chairman. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you. I did have one item I wanted to take up under new business before we break for lunch, and that is a brief informational presentation by Mr. Tony Chatwin of National Fish and Wildlife Foundation regarding a funding opportunity. If Tony is here? Tony, come on up. Tony, welcome.

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NATIONAL FISH AND WILDLIFE PRESENTATION

TONY CHATWIN: Thank you very much.

Good morning. Good morning to everybody. Yeah. So, my name is Anthony Chatwin -- Tony, and I'm the director of Marine and Coastal Conservation at the National Fish and Wildlife Foundation. I'm here to give an overview of a new grant program that we have, but before I do, I'll -- everybody can hear me okay -- I'll talk a bit about NFWF, as we call it, the National Fish and Wildlife Foundation. We were chartered by Congress back in 1984 to be the foundation for the U.S. Fish and Wildlife Service to promote public/private partnerships for conservation.

And then in 1994 as we got reauthorized,
we became also the official foundation for NOAA, and we run a lot of grant programs. And it's the way that we implement our mission of these public party partnerships is we take federal dollar, and we seek a private dollar match, and we then give it out in conservation or for conservation.

So, in our 26-year history, we've taken 500 million dollars in federal dollars, and it's leveraged into 1.3 billion in on the ground conservation. The conservation spans from marine to terrestrial, fresh water, all aspects.

So our latest grant program is called the Fisheries Innovation Fund, and the focus of it is to support fishermen and official managers and communities in their efforts for sustainable fisheries, but primarily focused on fisheries that are either considering catch shares as a management option or that they're currently under a catch share fishery. And so there's a broad, a wide variety of entities, and people are eligible to apply for funds. The deadline for the preproposals is on November 30th, and I am now currently -- this is the first of such meetings.

I'm going to attend, I think, four different fishery council meetings around the country
to spread the word on this opportunity for fishermen.

So we prepared four documents. We have -- all this information is online on our website.

Our website's www.nfwf, NFWF, dot.org.

And then if you do back slash fisheries fund, it takes you to the information on this opportunity. The four documents that you have before you, one is a fact sheet where we just give an overview of the fund and talk about some of the deadlines, some of the grant limitations in terms of funding, who's eligible; basically, just an overview of the fund.

The next document, which is a three-page document that's stapled together, is our request for proposals, and that would go into much more detail what types of proposals we're looking for including our priorities. We do a lot of research to what potential needs of fishermen in the communities under these board guidelines would be, but we didn't assume that we had got them all, so our priorities are quite broad reaching. And there is one category that's an other for anything that we might not have considered.

So we're looking for proposals that, as the name of the fund suggests, that are innovative and that might improve on the implementation or the design
of a catch share fishery.

Things like ideas to fully access one quota when you have a quota of a species that's limiting if you have some innovation that would allow you to fully access the healthy stock, that's something we'd be interested in seeing.

If fishermen want to collaborate and collectively manage their quota and they need funds to build the capacity of an entity, if they want to incorporate or something like that, that's something also that we would be looking at. We normally have a match requirement for the NFWF funds. It's usually a minimum one-to-one. In this case, the match is not required thanks to our partners in this effort who have capitalized the fund and helped us meet that national requirement ahead of time. But we do say that matching is preferred because we do see it as a symbol and a sign of commitment, a financial commitment, from the participants. So the match is not required, but it is preferred.

That is all detailed on the fisheries innovation fund. We also have -- the other two documents have to do with help that we are going to provide to prospective applicants. We're doing that
through a multi-pronged approach.

One prong is to come to meetings like this and offer help to fishermen and an opportunity to answer questions. We do have online, we have some tutorials that people can look at at their leisure.

We will also be holding a webinar, a web-based seminar, that will be sort of a step by step how to submit a preproposal. And the preproposal is a three-page document. It's basically -- we do a two tiered approach. The first tier is to have these preproposals. The three-page document essentially is let us know what your ideas are. You don't have to invest too much time into developing that proposal. We'll review it, and then from the universe of preproposals, we'll select a subset and invite the applicants to submit a full proposal. That way it minimizes the investment up front for those that are not successful.

And we will be holding a webinar on November 11th, and that's what the fourth and final document is, just a flyer on that webinar that is intended to help people, more people through the process in addition to the documents that we have received.

My contact information is at the bottom
of a number of these documents, and so I'll be happy to answer e-mails and phone calls, and I'm also happy to answer any questions that you may have on this opportunity.

COUNCIL CHAIRMAN RICHARD ROBINS:

Tony, I noted that in the document it points out that state or local government is also eligible for this, and you have the webinar scheduled on November 11th. That's during the ASMFC, Atlantic States Marine Fisheries Commission's meeting week.

And if it's available to state government, it might be helpful to get the word out to the ASMFC. The state directors are sitting around the table or are otherwise represented, and many of them will be at that meeting. But do you already have plans to present the information there as well?

TONY CHATWIN: Actually, that's one of the biggest challenges I have is to be able to get both the schedules and opportunities that can make it feasible for me to present. I have sent a link.

When we came out with the press release, which was a couple of weeks ago, we did send it to Vince O'Shea, and I hoped he would have sent it out to everybody electronically. It is definitely a
possibility for me to attend a meeting. I just need to find the schedule. So I will get with Vince and find an appropriate time.

COUNCIL CHAIRMAN RICHARD ROBINS:
Again, just a suggestion: Given the fact that it is available to state government, if any of the agencies had interest in pursuing that, that would be a good venue to present the information as well. Pete.

PETER HIMCHAK: Yes. I'm not a speed reader, and this intrigues me. So New Jersey Marine Fisheries wanted to do a catch shares program for summer flounder, say, instead of monitoring quotas during the year, we could apply for this funding? But, again, from my understanding of catch shares is you want the industry to essentially work with you to develop the program. So that would be something that would be eligible?

TONY CHATWIN: Yeah. Definitely. And the more support you can show from the participants of the fishery for that proposal I think the more competitive that proposal will be.

With the states the only thing to keep in mind is that some states have rules on their books that limit their ability to receive funds from an NGO.
So that's the only thing that we'd have to see. And it's a state-by-state case. But we do give grants to a number of states where there's not an issue.

COUNCIL CHAIRMAN RICHARD ROBINS: But, Tony, it is available to fishing organizations, so if there were an association, for example, within a state, they could link up with the state agency and work together?

TONY CHATWIN: Absolutely. And they could be partners in a project. And it would just be -- I didn't find the best entity to be the fiduciary, the responsible party, for the grant management.

COUNCIL CHAIRMAN RICHARD ROBINS: Additional questions for Tony? Peter.

PETER deFUR: Yeah. Thank you, Mr. Chairman. I just wanted to follow up on the eligibility. So not only a private organization, but if the University of X Center for Fishery Management is an eligible organization or another nonprofit --

TONY CHATWIN: Yes.

PETER deFUR: -- Group for the Study of Fishery Catch Shares. I don't know. Whatever it is.

TONY CHATWIN: Yeah. They both sound as they would be eligible. Universities are definitely
eligible. We do look at the financial -- how would I say -- we do do a financial due diligence analysis on the entities to ensure that they would have the structure necessary to be able to administer the grant.

PETER deFUR: Right.

TONY CHATWIN: But assuming that all those are up to date, yeah.


Uncle Bob's NGO just for applying for the grant is probably not going to pass muster.

TONY CHATWIN: We've given grants to a range of different organizations from Uncle Bob's NGO to some universities. I think the challenge for the universities is that we do have an overhead limitation. It's at 15 percent.

Whatever overhead they forego in order to apply, they can consider a match to the proposal. So there's flexibility there to that extent.

COUNCIL CHAIRMAN RICHARD ROBINS: Tony, thanks a lot. Any additional questions? Any questions from the public for Tony regarding this proposal? Okay. Well, Tony, thank you very much for your presentation. And, again, I think it might be helpful to forward that information through the ASMFC,
and it sounds like you've already reached out to Vince on that.

TONY CHATWIN: Well, thank you.

Thanks for the opportunity. And I'll be here through lunch, so if anybody has additional questions. And my contact information is there. Thank you very much.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you, Tony. We're scheduled to take Amendment 11 right after lunch, and rather than getting into that now and breaking halfway through, I would suggest that we try to take a couple of reports just to get those done. So I would look to Pat Kurkul to give the regional administrator's report at this point in time.

NMFS REGIONAL ADMINISTRATOR'S REPORT

PATRICIA KURKUL: Thank you, Mr. Chair.

The winter II commercial scup period quota on September 7th, we published an adjustment in the Federal Register. This action rolled 76,256 pounds of unused winter I quota to the winter II period.

This adjustment moves the quota upward to 1,777,951 pounds. The winter II quota period opens on November 1st. The possession limit remains at 2,000 pounds.
Butterfish. On October 23rd we published a notice in the Federal Register announcing that 80 percent of the butterfish quota for the 2010 fishing year had been harvested and that effective August 24th the directed fishery for butterfish was closed. Vessels issued a federal permit may not retain or land more than 250 pounds per trip for the remainder of 2010 fishing year, which is a calendar year, so through December 31, 2010. For dogfish, on October 24th this was mentioned.

We announced that the 2010 Period 1 quota for spiny dogfish had been harvested; therefore, the fishery was closed, and vessels issued federal permits cannot fish for, possess, transfer or land spiny dogfish until November 1st, 2010, at which time the Period II quota for the 2011 fishing year becomes available.

Let's see. Under marine protected areas, the common period closed on August 5th of this year for the proposed list of mid-Atlantic marine protected area sites to be entered into the national system of MPAs.

The next step is for the Council -- the next step would be for me in coordination with the
Council to review the comments and determine whether any changes should be made to the list of nominated sites; however, no comments were received on the nominated sites. In order to move forward in this process, I will need a formal letter from the Council requesting that the sites be entered into the national system. Before MPAs proposed are the fishery management gear restricted areas under the tilefish fishery management plan, the four canyons. And it was at the December Council meeting the Council voted for the inclusion of these four sites in the national system.

On scallops, I wanted to announce that the cost recovery for the limited access general category individual fishing quota scallop fishery will not be implemented until after the first full year of the IFQ program, so not until October 1st, 2011.

The initial IFQ fee period represents only a part of the first IFQ fishing year that was March 1st through September 30th, and we determined that given that this is a new program that it would -- and we determined that we had the flexibility to delay it until the first full year and felt that that would benefit both the industry and the agency.

On bluefin tuna, we published a notice
in the Federal Register on September 21st responding to a 90-day petition from the Center for Biological Diversity to list Atlantic bluefin tuna under The Endangered Species Act. We found that the information in the petition and the readily available information in our files, which is what we are required to consider for these petitions, does present substantial information indicating that the petition action may be warranted.

Consequently, we initiated a status review to compile the best available information to assess the status of the species. The 90-day finding on the petition is the first step. We will be making a listing determination on or before May 24th, 2011, which is 12 months from the date on which the petition was received.

For Atlantic sturgeon, we published two separate notices, one for northeast stocks and one for southeast stocks in the Federal Register on October 6th that proposes that five populations of Atlantic sturgeon along the U.S. east coast receive protection under The Endangered Species Act.

The Gulf of Maine population is proposed for a listing as threatened, and endangered status is
proposed for Chesapeake Bay, New York Bight, Carolina
and South Atlantic populations. The common period on
that proposal closes on January 4th, 2011. That is all
I have, Mr. Chairman.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Pat. Just a couple of follow-up questions.
You indicated, I think, that we needed to submit a letter
to take the final step to put the four canyons into the
MPA network? We've already taken action as a council
to vote to put them in there, but you still need a
follow-up letter?

PATRICIA KURKUL: We need a follow-up
letter now that the comment period has closed. The
process is designed around receiving comments and then
the Council considering those comments and taking final
action based on the comments.

Since there were no comments, right, I
think the Council could just send a letter that says:
There were no comments; we've taken our formal vote on
it.

COUNCIL CHAIRMAN RICHARD ROBINS:
Okay. I guess it seems a perfunctory action at this
point, but if there's no objection around the table,
we'll send such a letter that would simply follow our
previous vote and action as a council. I don't see any, so we'll plan on doing that. Another follow-up on the Atlantic sturgeon listing. Pat, will that result in a new wave of biological opinions? How will that play out operationally relative to the fisheries in the region? Will biological opinions be triggered? How will that manifest itself?

PATRICIA KURKUL: Well, of course, we still have to go through the process of making a decision on the listing. So, once the comment period closes, then we'll consider the comments, make a final decision on whether or not -- either whether or not to list and whether or not -- and what is the appropriate level for listing.

So, assuming that listing is, in fact -- that the decision is, in fact, to list, that it could potentially trigger reinitiation of consultations in some of our fisheries so new biological opinions.


CHRISTOPHER ZEMAN: With regard to Atlantic sturgeon, is there anything else this Council can do, or is there a role that we have other than just sort of -- you know, watching this process move forward?
I find this list troublesome because I think we're just seeing this general declining trend with many of our anadromous species even after decades ago the ASFMC shut down all directed fishing in state waters and imposed a moratorium in federal waters.

I want to see if we have any opportunities to do something at this point so that we could pre-empt this sort of same process happening in other anadromous species. So any recommendations would be helpful.

PATRICIA KURKUL: Well, with respect to the sturgeon listing -- and the Council certainly can comment on the proposed listing. As for other andromous species, I think you'd have to be a little more specific on which ones, and we'd have to look at whether there's some kind of Council authority or whether, in fact, it's a commission of state authority. So I couldn't comment more broadly on that.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you. Any follow-up questions? Red.

RED MUNDEN: Thank you, Mr. Chairman. As the sensor chief for the new North Carolina division of Marine Fisheries Protected Species section, I can assure you that North Carolina will be
submitting comments on the proposed listing of sturgeon. We have a lot of biological data we've collected over the years.

But it may be worthwhile for the Protected Species Committee to meet in December to see if the Protected Species Committee has any interest in providing comments on a proposed listing.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat, what is the deadline again on the comment period? Do you have that information?


COUNCIL CHAIRMAN RICHARD ROBINS: Red, we can certainly try to accommodate that. I think December will be a pretty full agenda, but perhaps we can meet concurrently with the Protected Resources Committee.

Okay. Any additional questions or comments for Pat? Obviously, a sturgeon listing would have a lot of implications, I think, for the state water fisheries as well as some of the federal perhaps gill net fisheries, so it would be an important issue. Yes, Rick.
RICK COLE: I think the Commission has already sent a letter. As I understand it, the majority of the Commission didn't feel that it was necessary to list because they felt that there were adequate safeguards already in place. So at least that gives you an idea of what the majority of the states are thinking at this point in time.

COUNCIL CHAIRMAN RICHARD ROBINS: Well, if they submitted a comment letter, we can try to make that available to our committee when they meet in December. Thanks, Rick. With that I'll go to the Northeast Fishery Science Center, if you are able to deliver the report. Jim.

NMFS NEFSC DIRECTOR'S REPORT

JAMES WEINBERG: Thank you. I'll deliver the report, and Nancy Thompson can add when I'm finished if I've left anything out. First of all, I'd like to talk about survey activities.

The sea scallop dredge survey was completed on July the 2nd, and the data were provided in August for PDT work. The northern shrimp survey was completed on August the 7th, and the data were made available by mid-September for stock assessment work.
Both of the vessels, the Delaware II and the Henry Bigelow, have returned from the Gulf of Mexico after assisting with the deep water horizon response and assessment.

The Bigelow does the multi-species bottom trawl survey, and it is currently doing that. And there are four more legs of the survey scheduled, and it will be completed on November the 18th.

The herring acoustics survey, the first leg was completed. That survey is done with the Delaware II. And there are a few more legs I believe. I'd like to mention a couple of meetings that are occurring. The clam excessive shares meeting will take place. This will be a webinar that will be an exchange of information between technical experts on excessive shares and members of the clam industry, members of the Science Center, and some members of the Council.

That webinar will take place on October the 22nd, and it's a meeting that's preparatory for the report which will be prepared after that. And I believe that John Walden at the Science Center is the lead contact on that. And Lee Anderson on your Council is also involved. Tom Hoff from your staff is also involved in this meeting. There will also be a meeting
in early December, December the 6th and 7th, between the
Science Center and both of the Council's SSC's.

And the purpose of this meeting, it's to
improve coordination between the products that the
Science Center produces and delivery of this
information to the SSC's so that they're getting -- they
have a better understanding of what the Science Center
can provide and how quickly it can be provided and the
Science Center can understand -- get a better
understanding of what the SSC's need in terms of risk
analyses and so forth.

So that meeting, it will be an important
meeting, but it won't be very productive, December 6th
and 7th in Woods Hole. We've also been busy doing stock
assessments this year.

We had SARC 50, which took place in June
of 2010 with sea scallops, monkfish and pollock, and I
reported on those results at your last meeting. We also
have done -- had TRAK meetings of dogfish, mackerel,
eastern George's Bank cod, eastern George's Bank
haddock, and George's Bank yellowtail flounder this
year. And we performed assessment updates on many of
the mid-Atlantic stocks, such as bluefish, black sea
bass, scup, fluke, butterfish, and dogfish.
The next SARC is scheduled for I believe it's the last week of November, in about a month or two, and it will have loligo, silver hake, red hake, and offshore hake scheduled for benchmark stock assessment reviews.

In moving ahead to June of 2011, SARC 52, we have the three winter flounder stocks scheduled for benchmark assessment reviews. And the three stocks are Gulf of Maine, George's Bank, and southern New England.

We'll also be busy for the groundfish Amendment 16. There are catch and survey analyses for all of those New England ground fish stocks that we have to support analytically for biennial setting of ACL's.

And then the TRAK will occur again next spring for those groundfish stocks on George's bank: the cod, haddock, and yellowtail flounder. Next year we'll also in addition to providing the annual SBRM report that we've provided in the early part of each year, it's also the year when we're due to put out the three-year report, which will include a lot more information about the SBRM approach and tables including discards of different species and by different fisheries and so forth. So it's a much more comprehensive report than we've typically put out in the
And then going to December of 2011, SARC 53, two stocks are on the agenda, black sea bass and Gulf of Maine cod. Then for June of 2012, SARC 54, Southern New England yellowtail flounder and herring are both on the agenda. And that completes my report. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you, Jim. Jim, when did you indicate that the SSC would be meeting with the Science Center?

JAMES WEINBERG: December 6th and 7th of 2010.

COUNCIL CHAIRMAN RICHARD ROBINS: I agree. That's going to be a very important meeting. I think we're still very much in an evolutionary process with the SSC review of information, but clearly that will provide an opportunity for a discussion about what the SSC is looking for to qualify uncertainty as it relates to the assessment and the OFL estimates, etcetera. But I think that will be very important.

Questions for Jim? Okay. Thank you, Jim. Seeing none, I'll move to Joel MacDonald.

NOAA OFFICE OF GENERAL COUNSEL REPORT

JOEL MACDONALD: In the area of
litigation, we have a new lawsuit which is styled: Martha's Vineyard and Duke's County Fishermen's Association and Michael Flaherty as a recreational fisherman versus Gary Locke, NOAA, NMPS, the ASMFC. And interestingly enough, the lawsuit names each of the state directors in the suit because they're commissioners in the Commission. The suit alleges basically that the agency should have done an FMP for shad and river herring or treated it as a stock in the fishery in the herring and mackerel FMP's or reduced their level of bycatch in these particular fisheries.

Alternatively, it complains that the agency should have published complimentary regulations to those of the interstate fishery management plan for shad and river herring that the ASMFC has under the Atlantic Coastal Act. Now, when it comes to the Commission's side of the litigation, they allege that the interstate plan that the Commission has doesn't use the best scientific information available and violates the charter and compact of the ASMFC.

So it's going to be interesting. This was just filed not too long ago. We're in the process of preparing an administrative record which may be a
little interesting because we had to go
and -- it's not an action that they're challenging.
It's sort of a new action.

You might consider that this suit is in
the nature of a mandamus, which means a command for the
agency to do something. So it's going to be interesting
to see what we can pull together. And the Science
Center and the Council and NMPS is all working together
to get those documents together.

With respect to the Amendment 16
multispecies litigation, you may recall that I reported
the last time there are three lawsuits. And we
consolidated two of them, the New Bedford lawsuit and
the Lovegren lawsuit in Boston.

The Oceanna case is still not
consolidated in Boston. However, interestingly
enough, in that litigation with respect to the New
Bedford versus Locke case, the court denied the
plaintiff's motion for additional discovery. Not only
did they want discovery, but they had a request to depose
Dr. Lubchenco, Monica Madena, Pat Kurkul and Council
members John Pappalardo and Sally McGee.

In that order, the Court denied the
motion without prejudice premature, which means that
it's not precluded in the future that the plaintiffs could file the same motion.

The Court further denied New Bedford's motion to hold an oral hearing on this motion based on muteness. No other explanation was given by the Court under denial of the motion. Plaintiff New Bedford had argued that additional discovery beyond the administrative record was justified based on its allegation of bad faith and improper behavior. Any future motions for augmenting the administrative record by the plaintiff are due on October 1st.

So that case is going slowly along. I'm not sure when or if the Court will consolidate the Oceanna case in Boston. That's interesting. Now, we've been dragged into another lawsuit, the Cape Wind lawsuit. That suit is styled: Public Employees for Environmental Responsibility and Others versus The Bureau of Ocean Energy Management. It's a complaint for declaratory relief alleging that the Bureau violated the Endangered Species Act and NEPA in approving the Cape Wind project to install wind turbines in Nantucket Sound, Massachusetts.

On August 23, 2010, the plaintiffs amended their complaint to add the National Marine
Fisheries Services as a defendant alleging NMFS is in violation of the ESA for failing to reinitiate Section 7 consultation with the Bureau after endangered right whales were sighted in the area in March of 2010.

In fact, NMFS and the Bureau had reinitiated consultation just days before the plaintiff filed their amended complaint on September 29th, 2010. We filed a motion to dismiss the claims against NMFS as being mute because of the reinitiation.

We just learned that there was -- you remember the SBRN case, the Court found in our favor. Well, I just learned that there was an appeal in that case, which was actually filed on September 16th, but we were not made aware of it until a couple days before I came down here. And that is pretty much it Mr. Chairman.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you very much, Joel. Question for Joel regarding the General Counsel report. Thanks again, Joel. Kevin Saunders is going to give the Coast Guard report, but he's bringing that in. While he does that, I'll start with the New England liaison report.
COUNCIL CHAIRMAN RICHARD ROBINS: I had the benefit of attending the last meeting of the Council, and I'll look to Frank to correct me where appropriate. But briefly John Pappalardo and Rick Cunningham were re-elected as chair and vice chair respectively to the Council.

They also elected Terry Stockwell, Jim Odlin and Sally McGee to their executive committee. They took action on herring Amendment 5 to basically clean up the document.

Howard and Erling have been working on that committee on our behalf and are most familiar with the document than I am. But they did eliminate the full retention options. They eliminated most of the options in the document that were considered to be not ready or not fully developed. That document has had a very challenging development history. And so they did clean up parts of that document. They took another significant action in that they directed the herring committee to develop an option for a cap for river herring. And they started out with a concept of a provisional interim cap that would be superseded by a cap that was derived from the assessment results when that assessment is complete.
But that was a significant directive back to the committee. The committee had previously deleted that option, I think, from the document. So this is of interest to us as we move forward with Amendment 14 in our mackerel SMV plan. So that was significant.

And then they also accepted and adopted the dogfish section of our omnibus amendment. That is a jointly managed species with them, and so we had to look to New England for their concurrence on that so that that could be finalized.

There was considerable discussion, and there was an effort to delay action on it, but we were able to win the approval of that in the end. The Council took final action on sea scallop Amendment 15. That amendment had been under development for about three years. They voted against the leasing alternatives that were supported by the committee following a very contentious discussion at the Council table. The amendment also brought their FMP into compliance with the ACLAM requirement, so it included the ACLAM measures for the limited access on general category scallop fleets.

Significantly, the final action
includes a control rule that would set the ABC for the scallop fishery at a 25 percent probability of overfishing. Buffering is relatively cheap there. That's a very data rich fishery, so the distribution is pretty tight around the OFL.

The ACT for the general category ITQ was set at a hundred percent of their sub ACL since there's no management uncertainty of that fishery. They also had a probabilistic approach to an ACT for the limited access fishery which does have some issues with management control because they use open area DAS for part of the fishery.

They agreed to raise the trip limit for the gen cat fishery to 600 pounds per day. So you'll see that go into effect if it's approved in the final action. The Council selected no action on changing the fishing year, which begins March 1, but they did agree to modify the overfishing definition. The new overfishing definition will address the spacial heterogeneity of F. But that fishery is managed using spacial -- a lot of spacial management, and the F rates are very different across the range of the fishery. So that was a significant development.

The Council agreed to address
individual ownership caps in the groundfish fishery in
the next groundfish action. There are currently no
groundfish ownership caps. That was an issue that was
discussed when sectors went into effect.

They input ownership caps on sectors,
and there is no ownership cap on individual permits. So
they'll be addressing that. Additionally, Eric
Schwab, the assistant administrator for National Marine
Fishery Service addressed the Council and introduced
the comprehensive management review of the New England
fisheries management process and introduced Pres Pate
as project leader of that. I think Press got off to a
very good introduction and start. There's a lot of
interest up there. And, Pres, I don't know if you'd
like to comment today or tomorrow under new business
either way at your discretion, but it was a good start,
good start for Pres.

PRESTON PATE: Thank you,
Mr. Chairman. If you'll indulge me just a minute, I'll
make some comments today. Gary called me several weeks
ago to discuss his idea of undertaking this management
review and solicited my support in doing that.

And I looked around for a sharp object
to stick in my eye and couldn't find one, so saying yes
was the next best alternative, and we're off and running. It's certainly a very ambitious project that he has proposed and we have started, but one that certainly has some high potential for improving the management system in that area at least to the extent that some of the problems that might exist or are troublesome to the stakeholders and the participants can be identified through a structured, nonstrategic approach.

I'll be supported by a consulting firm that will be providing support through the interview process, and it will probably be about 200 people that have various roles in management. And that will hopefully reveal some aspects of the program that need to be examined a little bit more in detail. And even though this is being targeted at the New England Management program, some of the findings may very well be bold enough to have some application to some of the other regions, particularly this one and this Council because we do share the support from the Science Center and the regional office.

So it's going to be a short-term project I hope. We're looking at a 6- to 12-month period for its completion. And it will be pretty intense during
that, but it may very well be -- hopefully will be a worthwhile undertaking.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you for that summary, Pres. And I'd agree. We'll certainly look forward to the results of that with anticipation since some of the findings may be relevant here as well.

But I told them that we would be glad to support them in any way that we can as you all move forward with the project, and yet we'll be staying out of your way as well. So, thank you, Pres. Frank, did I miss anything that you'd like to add?

FRANK BLOUNT: You did a very good job. One thing on scallops, not only was the leasing rejected, also the stacking rejected on three different permits. Also in the gen. cat., the cap was raised from 2 to 2.5 percent.

COUNCIL CHAIRMAN RICHARD ROBINS:
Frank, I'm sorry. I couldn't hear the last part.

FRANK BLOUNT: The cap for the ownership in the general category was raised from 2 to 2.5 percent. As you mentioned Amendment 45, and then the framework 45 -- I hope we're not in Amendment yet -- will be in November.
We'll probably start working on Amendment 45 at the same time, though. The Council also asked for emergency action in the states. Felt that due to declining numbers of discards that the industry would be unable to harvest a hundred percent of the quota, so they were hoping when they asked for emergency action. I'm sure Pat's putting the final touches on that as we speak.

The red crab amendment was approved. And we also for the ACL's and AM's we also discussed starting a new amendment to get rid of the trip limits out of the red crab fishery seeing how it's I think a four boat fishery now. And that's basically about it.

COUNCIL CHAIRMAN RICHARD ROBINS: Thanks, Frank. Any questions for Frank? Okay. Seeing none, Kevin, if you'd like to give to the Coast Guard report. Thank you.

U.S. COAST GUARD REPORT

KEVIN SAUNDERS: Good morning, Mr. Chairman. Thank you. So, since my last report, I'd like to say that Deep Water Horizon support for the Coast Guards been giving down in District 8, and the Gulf has been weighing significantly, and we should have very
little to no operational impact on our fisheries law enforcement at this point forward until the next event happens.

So, while our numbers have been down significantly in the past two months and the two months previous prior to that, they should start to come up to more normal levels.

However, with that in the past two months, we have had three violations that reached a significant threshold which gives us a two percent violation rate or a 98 percent compliance rate. Ninety-eight percent is still our benchmark for what we're targeting, 98 percent or better, for the Coast Guard. But it does mark over a hundred percent increase from this period last year. Part of that can be attributed to we've learned to be more efficient with our boarding since we know we have less resources.

We know the fishing vessels that are operating in our area, so we've leaned more on intelligence from our port partners, and that's made us a little more efficient.

So the three cases we have had were in August. We had a tuna case that started out as a search and rescue case. Once it hit the pier, we took a look
at the catch, and we realized that there was a violation on board for tuna.

And then we've had two VMS related cases. One was a vessel that was fishing and not transmitting VMS that we were able to locate. And we handed that over to NMPS for prosecution, and we worked with them very closely on that.

And the second one just recently was a case where a vessel was fishing in the Delmarva closed area and transmitting VMS saying that he was scalloping in the area while it was closed. So we were able to meet him on the way in, and there were several other violations in addition to the VMS coding. And once again, that was handed over to NMPS for prosecution. So we are down in our marine protected species response rates. We only had one in the past two months, which is lower than my last previous two reports. And that was just a dolphin that we weren't able to relocate, so it was not confirmed.

As far as dockside examinations go, the same response rate, two percent. Commercial fishing vessel determination rate. And you can see the details on page four as far as what those were regarding.

One thing I would like to point out on
the final page of the document you have before you, it hasn't been signed yet, but the 2010 Coast Guard Reauthorizing Bill, there's some language in it that would increase some of the requirements for commercial fishing vessels with respect to safety requirements -- drills, dockside examinations.

So, assuming that does get signed or when it does get signed, I would encourage everybody to push that out to their field and make it aware to all the commercial fishing vessels operating in our areas 'cause it will change significantly the way we operate right now. That's all, Mr. Chairman. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:

Kevin, thank you. Any questions for Kevin on his report? Seeing none, why don't we go ahead and break for lunch and come back at one o'clock, and we'll take up Amendment 11. Thank you.

[Lunch Break: 11:54 a.m. to 1:12 p.m.]

COUNCIL CHAIRMAN RICHARD ROBINS:

Okay. Let's go ahead and take our seats. We're going to be convened as a committee as a whole, the Squid, Mackerel, Butterfish Committee, and we're going to be considering final action regarding Amendment 11, the capacity amendment for the mackerel FMP.
And I will look to Jason Didden to get us started through his presentation, and then Erling's going to be making some motions on behalf of the committee. Jason. Go ahead Erling.

ERLING BERG: Thank you. Before we start, I just want to welcome everyone to Cape May. I know for some of you this is probably the first time. And I hope you had a chance to look around town and enjoy some of the amenities and our wonderful Victorian homes. So, again, welcome. That's all I have to say. Jason.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you, Erling. And thanks again for your hospitality and what may be the best bagels on earth. Thank you. Jason.

SQUID, MACKEREL, BUTTERFISH AMENDMENT 11

JASON DIDDEN: Thank you. So, again, we're looking at Amendment 11 to Atlantic mackerel, squid and butterfish FMP, primarily with mackerel limited access.

Quick review of a few key actions to date. Recall in April the Council requested that staff pursue some further consideration of limited access alternatives one through four with the advisory panel.
That panel met with the FMAT and the committee. There were recommendations that went to the Council in June. In June the Council added some modifications for alternatives that went out for another public comment period and received a couple of comments. We'll get to those later and kind of running through those reviewing the alternatives prior to Council action. Some of the other alternatives that the Council took action on in April were EFH redesignations for all four species and life stages. I'll run through those maps quickly. The EFH folks wanted the Council to see the final maps before moving forward.

There was also a recreational commercial allocation. The Council sectored 6-C, which is a 6.2 percent to the recreational sector and 93.8 to the commercial. That was looking at the catch between the two sectors from '97 to '07 increasing it a little bit to account for some of the uncertainty in the rec. sector.

There was also consideration of processor limitations, and the Council sectored alternate 7-A as no action alternative for that one primarily based on an evaluation that determined that
it was primarily an economic allocation issue and that causes problems with Magnuson if that's the sole reason.

So I'm just going to go through some of the EFH maps. You've seen these maps before; however, before it was a color gradation, light blue, dark blue, with more dense distribution of the various species. And the EFH folks thought that -- they requested that the Council just kind of take one final look at the complete maps before kind of finalizing action on Amendment 11. Essentially, what the maps on the screen here it would be all of the blue and red areas would be designated.

The blue are based primarily on trawl survey data. The red are state data. And I can't quite see -- Jan, on the bottom, is this butterfish or mackerel at the bottom of the --

JAN: It's mackerel.

JASON DIDDEN: Okay. So these are mackerel egg on the left and larva on the right, mackerel juvenile on the left, mackerel adult on the right. Is this butterfish, Jan? This is butterfish egg on the left, butterfish larva on the right.

And the egg surveys are from the MAR map surveys. And this is butterfish juvenile on left,
adult on the right. This is Illex prerecruit or
juvenile on the left, adult on the right. And then
Loligo prerecruit juvenile on the left, adult on the
right. So all of these would be designed as EFH since
they're pelagic species. It's not anticipated that it
would lead to fishing restrictions; however, when NMPS
is doing the EFH consultations for other projects
occurring in those areas, they would provide
recommendations on how to mitigate any impacts, for
example, an LNG facility, things like that.

Can you close whatever just popped up.
You might just need to click off there, and then show
presentation.

Returning back to the limited access,
motivators -- the Council considers unlimited access to
the mackerel as far back as the early '90s that I could
see and reconsidered, kind of came to the top of the
Council's attention again.

'04 and '06 landings were pretty high
and in the upper range of what the then assessment
thought would be the likely long-term USCO predictions.
That assessment has since been kind of thought not to
give a good account of things, anyway.

But the 2010 TRAK kind of furthered
through a different rationale but came to the same basic range that the U.S. fishery should expect somewhere in the range of 10 to 50,000 metric tons a year under the current information.

There's estimates also high relative to the current estimates on capacity, around 200,000 metric tons as a physical capacity measure. It doesn't say that that's -- that particular analysis does not say that that number should match the yield, but it is an indication that there's a fair bit of capacity in the fishery. So the Council and the committee through various stages of interaction with the AP and public comment came up with a limited access system that folks have seen quite a few times now.

And essentially, there'll be restrictions on each tier to keep most vessels in the same general range where they had been. It's really the vessels in one tier would not kind of move up to the next tier and to limit incentive for further capacity increases by vessels.

And there is significant discussion of more current versus historical participants in the fishery and a lot of their out-of-date issues with the historical participants.
And the more current the data the more complete it is. And as you go back in time, there's in terms of different reporting periods, especially pre-1994, a lot of -- varying amounts of landings weren't in the database. So it raised various data quality equity issues. And also the longer you went back the larger the capacities. So the Council went back and forth with a variety of different alternatives. Some public comments on the original DEIS focused on qualification and allocation questions and concerns. There was a lot of concern about historical participation. Again, the Council was focusing on 1994 and 1997 and after as qualifying dates. There were a lot of comments that folks want additional consideration of prior participants. There were also some comments looking to align the herring and mackerel regulations and also looking at bycatch. I think those generally would be picked up in Amendment 14. So the modifications to the alternatives that were made and are of greater substance were to alternatives 1-C and 1-D in the original document and essentially changed Tier 3 to instead of having a relatively high threshold to either have no
threshold and just possess a permit on 3/21/2007, as a committee meeting -- and it was a date of a committee meeting where that was determined -- or have a low 1,000 pound threshold. The 1,000 pound threshold was not one of the recommendations from the AP at that meeting in May; however, it was added after because if it's only a permit alone, it's roughly 24 or 2500 vessels. So it would be many vessels in that tier.

Also, at the June meeting the motion included not having an allocation between the tiers; however, Tier 3 would be capped at up to seven percent with a hundred thousand pound trip limit. So that was one of the major things at that June meeting was getting rid of the allocation other than a cap on Tier 3.

Also at that meeting, Tier 2 -- it was kind of these bundled packages where the Council requested staff to put into the document. Tier 2 part of the bundle was 135,000 pound trip limit for Tier 2. That was one of the alternatives from the original document that would effect only a very small portion of Tier 2's landings, in, I think, I believe '97. I think it was the last five years. I'd have to double-check in the document. But the recent landings it would affect only, I think, one percent of recent landings.
And then the open access tier would be everyone else having a 1,000 to 20,000 pound trip limit. All the trip limits adjustable via specifications. I think it was just distributed a little while ago when I sent out via e-mail there are some issues raised with the current document in a nearer letter, and primarily they thought that it was a good idea to have a thousand pound Tier 3 threshold with the 7 percent cap and a hundred thousand pound trip limit.

There are only probably 70 to 80 trips where the landings that could be made at that trip limit. If you have 70 to 80 trips over 2500 vessels, there seems to be a disconnect there.

The thousand pound threshold for Tier 3 still would add many more vessels than would otherwise been in. There was, I think, about 50 to 300. But still, again, it's keeping it a little more in line with the cap and the trip limit.

And the region may want to expand on this in a little while. They also recommended for that Tier 3 group either way since it's a lot of vessels to go into weekly VTR. Most of them because of their groundfish permits will be required to do or are required to do weekly VTR anyway now, but it would kind of complete that
requirement for Tier 3 since it's a relatively small cap relative to the number of vessels and the trip limit. There was also some requests that the Council clarify that dealer receipts would be the required documentation for application and landings verification.

And they also requested clarification to 4-D, that 4-D is if vessels have done permit transfers, that they're allowed to do that, but 4-D puts in a time date certain, April 3rd, 2009, when there was a committee meeting when the issue came up so that essentially people as they're applying couldn't switch and put smaller vessels' histories on larger vessels; but if it happened in the past, it would be allowed to have occurred.

There were also two industry letters that came in in the comment period. They supported 1-D, which is the Council's preferred alternative with a thousand pound threshold.

And they also made the point that dealer receipts would be used to verify landings in their letters. They specified state dealer receipts. And I'm not sure if that's different than -- I'm not sure if that matters if there's a difference there, but it
would probably be good to have a little discussion on that point. They also recommended daily reporting of mackerel landings. And only if it's within the scope of what's in the document right now, but that could be something that could be considered as reporting with Amendment 14.

And they supported 3-F for the trip limit alternatives. That was the preferred alternative in the document. So I just kind of wanted to summarize.

If folks have some questions about and want to review any of the things in more detail, I can bring up certain segments of the document on the computer, numbers of vessels, things like that. But I thought I would kind of keep it an overview. Everyone has a document, and as questions come up, we can kind of go to the document and look at any appropriate tables or figures.

COUNCIL CHAIRMAN RICHARD ROBINS: Are there any questions at this point for Jason on the presentation before we get into the decision points? Any questions from the public on the presentation? All right. Seeing none, Jason, I know you've got a number of decision points that we have to get through here in
the document. I'll look to Erling as the committee chairman on these.

ERLING BERG: Thank you, Mr. Chairman. Jan or Kathy or whoever is doing it, do you have those? Oh, okay. Thank you. The first motion is: I move that the Council adopt Alternative 1-D. That's the mackerel limited access tier system including a 1,000 pound threshold for Tier 3.

COUNCIL CHAIRMAN RICHARD ROBINS: Is there a second to the motion? Second by Lee Anderson. Discussion on the motion? Yes.

MARY BETH TOOLEY: Thank you. I know that we just went through this 1,000 pound threshold for Tier 3. That threshold is a qualifying threshold. Is that correct?

JASON DIDDEN: Yes. And it would be in addition to the permanent requirement as well as the 2007. And so, if the threshold is not in there, there would be about 2400 vessels in Tier 3. With the thousand pound threshold, that goes to about 300.

So the decision point one way to frame it might be the thousand pound threshold means there has been at least some level of current participation in addition to just having the permit requirement. And it
just kind of depends on what the Council's goal is
between having X or Y number of vessels in Tier 3, but
there are some definite consequences in terms of how
many vessels may have access to the Tier 3 quota with
that many vessels in it.

COUNCIL CHAIRMAN RICHARD ROBINS: And,
Jason, the differential is probably over 2,000 boats
between no threshold and a thousand pound threshold.
Right?

JASON DIDDEN: Yes.

COUNCIL CHAIRMAN RICHARD ROBINS:
Discussion on the motion? Erling. Are there any
additional comments on the motion? Is there any public
comment on the motion? Erling.

ERLING BERG: Well, this was put in
place to address the regional office concern about the
capacity and the number of boats. That's what this is
there for.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thanks for the additional clarification. Peter.

PETER defur: Thank you, Mr. Chairman.
Yeah. In the letter I'm not sure that it would satisfy
the regional office's concern. It seems to, but maybe
we can get a comment from Pat Kurkul on whether or not.
Is that possible, Mr. Chairman?

COUNCIL CHAIRMAN RICHARD ROBINS: Pat, do you have any response on that?

PATRICIA KURKUL: Well, the concern is broader than that, although we did suggest that -- and I think it has -- actually, the concern has more to do with some of the rationale in the document and then some are the later motions.

But we did suggest that if 1-D was the preferred alternative, then it certainly should include the 1,000 pounds. So it's not inconsistent with the letter.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you, Pat. Additional comment? Is Council ready for the question?

(Motion as voted.)

{I move that the Council adopt Alternative 1D as the mackerel limited access Tier system, including a 1,000 pound threshold for Tier 3.)

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

(Response.)

COUNCIL CHAIR RICK ROBINS: Eighteen. Opposed, like sign. Was that a New England vote?
Opposed, like sign.

(No response.)

COUNCIL CHAIR RICK ROBINS:

Abstentions, like sign.

(Response.)

COUNCIL CHAIR RICK ROBINS: One. The motion carries. Erling.

ERLING BERG: I move that the Council adopt Alternative 2-A, no action for Amendment 14 allocations.

COUNCIL CHAIRMAN RICHARD ROBINS: Is there a second to the motion? Second by Pat Augustine. Thank you, Pat. Discussion on the motion? Erling, just can you remind us. This was already discussed in the committee previously in earlier committee meetings, so can you provide a little bit of background?

ERLING BERG: We did discuss this I think. There's so many parts to this document. It's two inches thick. But I think this was discussed earlier, like you said.

COUNCIL CHAIRMAN RICHARD ROBINS:

JASON DIDDEN: There may be need to be an internal correction. It's Amendment 14 up on the
board. And in general there was a lot of discussion by the AP and the committee for the sense of the fishery seems to be undergoing some changes right now.

They've really been struggling to catch a lot of mackerel, and there is a feeling that locking in the quotas between the different tiers may not be appropriate right now and that -- you know, have a cap on Tier 3 so that they can't take a large part of the quota, but otherwise essentially that the Tier 1 and Tier 2 groups kind of see how they settle before any firm allocation is made.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you for that additional background. Any further comments or questions on the motion? Go ahead, Chris.

CHRIS ZEMAN: Do we need to clarify that? Is this just dealing with commercial allocations between the tiers?

ERLING BERG: Yes, it is.

CHRIS ZEMAN: Maybe that should be clarified.

COUNCIL CHAIRMAN RICHARD ROBINS: Mary Beth.

MARY BETH TOOLOY: Just one question about this. If in the future you wanted to allocate
percentages to the different tiers, would that require
an amendment because of the allocation nature of that?

COUNCIL CHAIRMAN RICHARD ROBINS:
Jason, is that set up as framework or requirement?

JASON DIDDEN: I'd have to defer to

Joel, but I'm guessing that a significant allocation
would require an amendment.

COUNCIL CHAIRMAN RICHARD ROBINS:

Joel.

JOEL MACDONALD: Excuse me. That's my
impression. I think it goes a little beyond a tweak
with the coordinating amendment, scallop Amendment 10
case considered appropriate for this type of process.

COUNCIL CHAIRMAN RICHARD ROBINS: Even
though allocative decisions were considered in this
amendment, that couldn't be set up by framework?

JOEL MACDONALD: That's my feeling
right now. I think it goes beyond the [inaudible]. If
you reviewed the Court's decision, you can't introduce
something new or remove something that was previously
installed by an amendment.

This would be a fairly new concept in
terms of coming up with different quota strategies.

And I think it would go a little beyond the adjustment
that the Court felt comfortable with in the context of
a framework process.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you, Joel. Mary Beth, does that address your
concern? Erling, do you have any additional
perfections that would address Chris's concern?

Jason, do we need to say commercial allocations, or is
there a perfection that would be in order here?

JASON DIDDEN: I don't think so, Rick, 'cause we dealt with the recreational allocation.

That's been dealt with, 6.2 percent. So that's in the
document already, and that was passed by the Council.

So I don't see a need for them to go any further with
that.

COUNCIL CHAIRMAN RICHARD ROBINS:

Okay. Then it's a matter of record now. Any further
comments on the motion? Is Council ready for the
question?

(Motion as voted.)

{I move that the Council adopt Alternative 2A, no
action for Amendment 11 allocations.}

COUNCIL CHAIR RICK ROBINS: All those
in favor please raise your hand.

(Response.)
COUNCIL CHAIR RICK ROBINS: Nineteen.

Opposed like sign.

(No response.)

COUNCIL CHAIR RICK ROBINS:

Abstentions like sign.

(Response.)


ERLING BERG: I move that the Council adopt alternative 3-F for initial trip limits for mackerel limited access permits including 20,000 pound initially for open access adjustable up to 20,000 pounds via specs.

COUNCIL CHAIRMAN RICHARD ROBINS: Is there a second to the motion? Second by Pat Augustine.

Discussion on the motion? Jason.

JASON DIDDEN: And this is clarification. 3-F also involves the 135,000 pounds for Tier 2 -- sorry -- 135,000 for Tier 2 and a hundred thousand for Tier 3 and all the trip limits are adjustable within the specs -- within that 3-F alternative.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you for that clarification. Pat.
PATRICIA KURKUL: And I think that answers my question. So the reason for including the 20,000 pounds here because it is in 3-F with the other numbers. I'd like to understand that a little better. And then to go back to Jason's point that all of the trip limits should be adjustable through the specifications. That's not exactly how it reads. So, if that's the intent, that needs a little bit of tweaking.

COUNCIL CHAIRMAN RICHARD ROBINS: So we need to identify that all trip limits can be modified through specifications? Is that one of the modifications necessary? Jason.

JASON DIDDEN: The document says 1,000 to 20,000 as the alternative. And in discussions with Erling and [inaudible] it seemed like it would be good to have an actual concrete number to start off with in terms of creation of a rule and things like that depending on what time it becomes active and how it integrates with the specs. So, in talking with Erling, it seemed like since the -- I think Erling's intention based on my discussions with him was that the current closure limit is 20,000 pounds when the fishery closes, and they haven't been catching the quota, so at least
to start have the open access be at the closure trip limit of 20,000 pounds. Pat, were you suggesting the document or the motion is not clear on adjustable via specs?

PATRICIA AUGUSTINE: The document.

COUNCIL CHAIRMAN RICHARD ROBINS: I think in that case, we might want to add a sentence to the motion that suggests that all trip limits are adjustable via specifications. Would that satisfy your concern, Pat? Thank you. Erling, would you consider that.

ERLING BERG: So that we need to change the motion to reflect that? Is that?

COUNCIL CHAIRMAN RICHARD ROBINS: Yes. I would suggest that you just add a sentence at the end that says all trip limits are adjustable via specifications.

ERLING BERG: Jan, can we add that?

COUNCIL CHAIRMAN RICHARD ROBINS: Is the second on the motion agreeable to that, Pat Augustine? Yes. Thank you. So the motion's been perfected. So the motion is: That the Council adopt alternative 3-F for initial trip limits for mackerel limited access permits including 20,000 pounds
initially for open access, adjustable up to 20,000 pounds via specs., all trip limits are adjustable via specifications. Additional comments on the motion?

Mary Beth.

MARY BETH TOOLOY: Do you think we should specify the Tier 2 trip limit is in the motion?

COUNCIL CHAIRMAN RICHARD ROBINS: I think that's already imbedded in the option in the document, but I'll look to Jason to clarify that.

JASON DIDDEN: It is in the document as Tier 2 and Tier 3, so I don't know that it's necessary. It's up to the Council if they want to add it into the motion.

COUNCIL CHAIRMAN RICHARD ROBINS: As long as it's noted in the record. So the trip limits are already in the document. Additional comments or discussion on the motion? Go ahead. Kevin.

KEVIN SAUNDERS: Thank you, Mr. Chairman. I'm not sure I understand the adjustable trip limits. Is that something that we'll have notice on for enforcement purposes, or what kind of time period are we looking at?

COUNCIL CHAIRMAN RICHARD ROBINS: Whenever we set specifications, which is an annual
process, we would be able to address the trip limit if necessary. It's probably not something that would be adjusted frequently, frankly.

KEVIN SAUNDERS: Okay. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS: Is there any public comment on the motion? Seeing none, is the Council ready for the question?

(Motion as voted.)

{I move that the Council adopt Alternative 3F for initial trip limits for mackerel limited access permits, including 20,000 pounds initially for open access (adjustable up to 20,000 pounds via specs). All trip limits are adjustable via specifications.}

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

(No response.)

COUNCIL CHAIR RICK ROBINS: Nineteen. Opposed like sign.

(No response.)

COUNCIL CHAIR RICK ROBINS: Abstentions like sign.

(No response.)

COUNCIL CHAIR RICK ROBINS: One
abstention. The motion carries. Erling.

ERLING BERG: I move that the Council adopt alternative 4-B for the administrative provisions including specifying that those records would be the records necessary for tier qualification verification.

COUNCIL CHAIRMAN RICHARD ROBINS: Is there a second to the motion? Second by Pat Augustine. Discussion on the motion? Erling, does this address the concern about state dealer records, and is that something that we need more discussion on? Jason, would that be covered with this or not? This is simply a federal dealer record, is it not?

JASON DIDDEN: I'm not sure. The commenters from the letters may want to clarify what they were thinking. I see the region's hand up, too.

COUNCIL CHAIRMAN RICHARD ROBINS: I'll go to Pat.

PATRICIA KURKUL: Yeah. It should be specific to federal dealer records. That's what we've used for qualification in the past. These should all be federal permit holders so that the records should have gone through a federal dealer.

Now, what we do allow is that in the situation where a vessel owner can show that records in
our dealer database are incorrect or missing, we would allow them to use other sources of information for that. So sort of the first cut is the federal dealer records, and then the other information is what we use to show that we might have some incorrect data or missing data in the federal dealer records.

COUNCIL CHAIRMAN RICHARD ROBINS:

Erling follow.

ERLING BERG: To address that: If we put federal between that and dealer, that would do the trick then. Yes. Thank you. So, Jan if you could do that.

COUNCIL CHAIRMAN RICHARD ROBINS: Does the second to the motion agree with that? Peter? Which Peter? Go ahead.

PETER HIMCHAK: I have a question about the joint venture records. Would they be in the dealer database as proof of landings?

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PATRICIA KURKUL: We've had this question before, and honestly I can't remember the answer. But even if they're not, again, that could be a source of information that we would use to show that there was missing information.
COUNCIL CHAIRMAN RICHARD ROBINS:

Pete.

PETER HIMCHAK: Okay, with that assurance then -- I mean that's -- that kind of like MTV historical participants because they have records prior to mandatory reporting.

COUNCIL CHAIRMAN RICHARD ROBINS:

Sounds like there is still an opportunity to supplement the record. Peter deFur.

PETER deFUR: Thank you, and just to that point, do we need to make sure there is language in our rule to indicate that that opportunity for seeking supplemental information outside the official dealer records is going to be taken care of? I mean I know that's the SOP in your office; do we need to put it in the Amendment?

COUNCIL CHAIRMAN RICHARD ROBINS: I think it's already a matter of the record here today. Pat.

PETER deFUR: Is that sufficient?

PATRICIA KURKUL: Yes. There is actually some discussion in there. It wouldn't hurt to add a sentence or two more, but in the end it will end up in the regulations, and what we'll do is basically
use the same kind of regulatory text we've used in the past, and the Council will have an opportunity to see those regulations.

COUNCIL CHAIRMAN RICHARD ROBINS:
Before they're deemed. Okay. Any additional discussion on the motion? Is there any public comment on the motion? Seeing none, is the Council ready for the question?

(Motion as voted.)

{I move that the Council adopt Alternative 4B for administrative provisions including specifying that federal dealer records would be the records necessary for tier qualification/verification.}

COUNCIL CHAIR RICK ROBINS: All those in favor please raise your hand.

(Response.)

COUNCIL CHAIR RICK ROBINS: Nineteen.

Opposed like sign.

(No response.)

COUNCIL CHAIR RICK ROBINS:

Abstentions like sign.

(Response.)

ERLING BERG: I move that the Council adopt Alternative 4-C, which would require Tier 1, Tier 2 vessel hold certification and a 10 percent upgrade restriction.


ERLING BERG: Well, this is similar to what they're dealing with in New England on the herring issue, so it's probably something that we need to do.

COUNCIL CHAIRMAN RICHARD ROBINS:

Additional discussion on the motion? Jason.

JASON DIDDEN: The rationale with this amendment was a little different than with herring; although, if it's not considered in this amendment, I'm guessing it would be considered in Amendment 14 for similar reasons.

But the general idea is that holds are kind of pliable and are one kind of aspect of capacity that could change, and kind of this was kind of put in there as one way to kind of, again, constrain the vessels within each tier to their historical performance.

But in the future, it could also be used for looking at making sure landings are what we think
they are if the quota becomes binding. So it could
serve multiple tasks, but the primary rationale for this
amendment was part of the capacity restriction within
the tiers. And it's Tier 1 and 2 only.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Jason. Pat, did you have a comment?

PATRICIA KURKUL: I had a question.
The document doesn't say anything about the 10 percent,
so is that an addition that came later?

COUNCIL CHAIRMAN RICHARD ROBINS:
Jason.

JASON DIDDEN: It's part of 4B-6,
vessel upgrades, and it essentially says: If Amendment
11 includes a requirement for hold capacity for 1 and
2, that then there's a 10 percent increase verse
baseline. And so it's kind of that 4B-6 Subpoint 3 only
kicks in if this is included.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
does that satisfy your concern? Good. Mary Beth.

MARY BETH TOOLEY: I in general agree
with this motion. There is just one important
difference between the measures that are going to be
considered in the herring amendment in that many vessels
in the fishery are already measured. There's no
mention in the document. In the document it just refers to certified marine surveyors. And many of the boats were already measured by the Maine State's -- I forget the exact -- the State of Maine Sealer of Weights and Measures. So it's been a requirement that's been in place for many, many years, at least 50 that I know of.

And I wonder if we could just amend this motion. And I have some language that would just deem these vessels as to meet the requirements as they are already measured.

COUNCIL CHAIRMAN RICHARD ROBINS: That is, if they've already been certified by the state's division of weights and measures?

MARY BETH TOOLEY: Exactly. Because it's redundant for those vessels. And if you were to require them to do this, then their holds would be measured in two different ways, so I think it would create confusion.

I mean the State of Maine has a conversion chart. And which is also a little unclear to me when we say this. Are we going to have a measure to the pound? to the metric ton? In the State of Maine we use hogs heads. I don't think I would recommend that, per se. But I mean what's the measurement unit?
And then if we can decide what that this, I would offer a motion to amend to include those vessels that are already weighed and measured.

COUNCIL CHAIRMAN RICHARD ROBINS: Let me just ask first, was that discussed at all in the committee, that is, some sort of alternative method of certification? Jason, do you have any clarification on the certification process?

JASON DIDDEN: Sure. Well, it's a maximum volumetric maximum. It's a volumetric measurement. It's a volume is how it's envisioned in the document at least. And, again, brought forward by industry as another way of kind of looking at the capacity restriction issue within vessels and tiers.

And in terms of why these two were picked is: just kind of went out and said, okay, if you're going to do it, how would you do it? We saw that there were accreditation societies that had some specialties, and I talked to some of them also about some of the pricing information.

So I was not aware of the Maine process, and I don't know how it's done. So it wasn't not included because of a reason. It was just not included because I was not aware of it.
COUNCIL CHAIRMAN RICHARD ROBINS: So, Mary Beth, are they certifying the hold for a tonnage amount through weights and measures, or is it volumetric?

MARY BETH TOOLEY: It is volumetric. I mean really the only way you can do it correctly is volumetric. So I mean they're pumping in water -- I mean they've been doing it for a long time. Sort of a standard of rate.

I mean whether you say you're going to do it volumetrically. Well, that's okay, but you still have to decide you're going to measure the hold and mark the hold and whatever. Are you going to mark to tons? Are you going to mark it to pounds? I mean you really should decide that up front what you want that measurement to be.

Volumetric is just the methodology. Which you do need to do that. The Maine way of doing it is volumetric as well, except they're marking it to the hogs head. And the volumetric unit that they're using is a water conversion to pounds or hogs heads. So I mean I think I would suggest pounds might be most appropriate in that we have the different tiers. But I think the document should probably specify it. And
then I do think because -- correct me if I'm wrong, Jason -- but I think that the estimates that you got from a marine surveyor were in the range of $6,000. Is that correct?

COUNCIL CHAIRMAN RICHARD ROBINS:

Jason.

JASON DIDDEN: To a maximum of. And that would be kind of multiplying the high end per foot costs times the largest vessels. So, again, that would be the maximum that the largest vessels if they are going with the most costly surveyor would be likely to encounter.

And some of these vessels may if it's an add-on to a survey that they're having for insurance purposes, it may not be like they're adding on $6,000 onto a survey. It may be something that they can kind of incorporate in their normal practices. But it just kind of depends on their schedule.

MARY BETH TOOLEY: So I would just envision that you see implementation of this action, and then a whole bunch of people might need to go out and get their holds certified when we already have a whole bunch of people that already have holds certified under a different methodology. In the state of Maine it costs
about $250 to get it done. So it's very cost effective. It's already in place. And if the committee is amenable, then I would make a motion to amend.

COUNCIL CHAIRMAN RICHARD ROBINS: So you're making a motion to amend to include a state certification in addition to or as an alternative to a marine surveyor inspecting and certifying the hold?

MARY BETH TOOLEY: Yeah. My motion to amend would state that vessels that are sealed by the Maine State Sealer of Weights and Measures will be deemed to meet this requirement.

COUNCIL CHAIRMAN RICHARD ROBINS: Can I ask if there are any other states that do that?

MARY BETH TOOLEY: None that we know of.

COUNCIL CHAIRMAN RICHARD ROBINS: Is that offered as a friendly amendment? Is that acceptable to the makers? Do you have a question first? Go ahead.

ERLING BERG: Is there a conversion factor for the hogs head? I mean how many cubic feet? The cubic foot weighs about eight pounds. So is there some way of converting that to --

MARY BETH TOOLEY: Yes. There is a
conversion table that goes with that, and if I'm recalling correctly all vessels need to have that conversion table on board at all times, and their holds are marked.

The hogs head just comes -- it's an old measurement unit from sardine days. It just kind of evolved. It's been in place a long time, and it's a statute in the state of Maine.

COUNCIL CHAIRMAN RICHARD ROBINS:

Erling.

ERLING BERG: Now that Mary Beth said that, I accept it as a friendly amendment.

COUNCIL CHAIRMAN RICHARD ROBINS:

Seconder of the motion okay with the amendment?

PAT AUGUSTINE: I would approve it, but I have some questions of Joel MacDonald. Does this create a problem for us? Have we done this in other FMP's? I don't think we have. Is this an exception to the rule is my only concern.

COUNCIL CHAIRMAN RICHARD ROBINS: We can ask Joel. As I understand it, it's an alternative certification method. So I'll look to Joel.

JOEL MACDONALD: I don't think it will be problematic. I think it's something that's already...
out there that we could consider as following within the
ambit of the alternatives that were sent out to the
public.

I don't think it would be a surprise to
the public if we were to use a state's established system
of measurement as an alternative in the process. I
don't see that as being problematic.

COUNCIL CHAIRMAN RICHARD ROBINS: It's
still a volumetric measure, so it's just a matter of
having the state certifying it versus a private marine
contractor or surveyor.

PAT AUGUSTINE: With that having been
said, I would definitely approve it. I'll go along with
it as a second.

COUNCIL CHAIRMAN RICHARD ROBINS: So
the maker and seconder of the motion agree to the
friendly amendment. Do you mind repeating that for the
benefit -- or you're going to give it to her? Okay.
Comments on the amended motion? Go ahead, Peter.

PETER deFUR: Thank you, Mr. Chairman.
I have a question. I think it's interesting. Is there
any reason that any other state would go through the
process that Maine has, hence we wouldn't need to say
state -- I mean say Maine. We could just say any state
that does that volumetric certification. See what I'm asking? It doesn't sound like a thing that any other state is suddenly going to decide they will also implement.

COUNCIL CHAIRMAN RICHARD ROBINS: I'm not aware of any pending regulation like that.

PETER HIMCHAK: Nor why would they?

COUNCIL CHAIRMAN RICHARD ROBINS: Right. Additional comments on the motion? Jeff. Can you all put on Jeff's microphone when you get a chance, please. All right, Jeff. Let's try that. There you go.

JEFF REICHLE: Thank you, Mr. Chairman. Yeah, I think this should be amended to include any state. I mean even though Maine is the only one that has the ability to do it right now doesn't mean that that will always be that way. And I also wanted to kind of clear up. What's happening in Maine right now is more of a way to -- their holds are being volumetrically measured and marked as a way to determine how much fish a boat has on it when it comes in before it unloads because everything's not weighed up there.

Where what we're trying to do at least in mackerel right now is just have a finite measurement
of the hold capacity of the vessel. So we don't really have to -- if you're in a mackerel fishery and not in a herring fishery -- or if you're in a mackerel and herring fishery but not unloading in Maine, you could just have your hold volumetrically measured; you don't need it marked.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thanks for that clarification, Jeff. Any additional public comment on the motion? In response to that comment, does the maker and seconder of the motion want to consider those issues? Pat.

PAT AUGUSTINE: You know, based on what he said, I would like to take the word Maine out, so it would apply to any state. Otherwise, it would require later on another amendment if other states wanted to come and do that. Let's get clarification with Pat and Joel.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PATRICIA KURKUL: I'd like to hear Joel's opinion. I think that might be something that could be frameworked. Would you agree that adding a state in the future is a frameworkable item?

JOEL MACDONALD: I do. I do agree.

COUNCIL CHAIRMAN RICHARD ROBINS: So,
in the course of two meetings, we could modify it. Okay. Mary Beth, further comment? Any additional comment around the table on the motion? Joel. No, it's still in there. Lars.

LARS AXELSON: Lars Axelson, Vessel Flicker and the Durston. I'm trying to wrap my head around this. I'm up here just to ask the question to understand it better.

I've never gone through the process of measuring the size of my fish hold, but my boat was designed by a marine architect. We paid a lot of money for it. And I have volume sizes in my stability report that tells me how big my hold is. So my question then is: Is that documentation good enough to satisfy this requirement, or do I have to go through the exercise of steaming my boat to Maine and having it filled full of water, and then they tell me how many gallons it is, and then steam all the way back?

Is that my requirement if this goes through, or can other documentation, such as I just explained, work in its place? I'm just trying to understand physically what I have to do to come in compliance with this. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:
Jason. Thank you, Lars.

JASON DIDDEN: I think the Maine thing is more if they had already had that done. As it stands right now, physically you would have to have an accredited marine surveyor with a specialty in -- either a certified marine surveyor with a fishing specialty in one of the major accreditation ones survey the vessel and kind of give you a hold volume. So, as it stands now, I don't think you're kind of building specs would satisfy that unless they were an accredited marine surveyor, as it stands now.

COUNCIL CHAIRMAN RICHARD ROBINS: So it would require an actual vessel inspection rather than going by the plan view drawings?

JASON DIDDEN: Currently, yes.

COUNCIL CHAIRMAN RICHARD ROBINS: Lars.

LARS AXELSON: Yeah. Well, I had my vessel swung, if you will, by Jensen Maritime out in Seattle, and they are an accredited marine outfit, but the whole idea was to get it within Coast Guard stability requirements.

Actually, the vessel was actually built to ABS loadline standards. But I'm just wondering if
it's 250 bucks, it's no skin off my nose if I can do it in Cape May, but if I got to steam it all the way to Maine and back again, okay, it's going to require me some fuel to do that.

I'm just trying to wrap my head around it, and I'm sure there's other vessels in this area that will probably be in the same predicament as me. And I'm probably one step ahead of them because I do have accurate numbers because there's no way you can swing a vessel without having accurate numbers from an architect to be able to fall within the compliance of stability. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Lars. Mary Beth.

MARY BETH TOOLEY: It's an interesting discussion. And even though we have alternatives in the document for herring, and we've been down this road a lot longer for quite awhile, we didn't talk about the detail.

I mean Jensen Marine in Seattle if you have specs from that firm and those guys for your hold, that should really meet the requirement. I mean they're actually a higher level than a marine surveyor. I mean they're going to design the vessel; they're going
to lay it out for you, and you're going to have somebody build it.

And to go through that process, which is very detailed, drawings -- I mean it's a long process, and it's quite costly. And then after the fact after it's built, have a marine surveyor come in to say that it actually met the drawings, I don't know, it's a little disconcerting the way Lars described it, and it sounds like he wouldn't meet this requirement. I mean when you spend hundreds of thousands of dollars on these drawings, it seems a little unfortunate. I don't know how to deal with it, though.

COUNCIL CHAIRMAN RICHARD ROBINS:

Additional comment on the motion? Pat.

PAT AUGUSTINE: Yeah. Thank you, Mr. Chairman. Thank you, Lars, for that clarification. It just seems to me then based on what Mary Beth said, the first part of it would qualify and serve to make it certified if you said this required Tier 1, Tier 2 vessel hold certification and then a 10 percent upgrade restriction.

But when you go on and say vessels that are sealed with a Maine -- in this particular case it would have to require another survey. That's what that
satisfy your need for Maine. But if you use just
the first part, in my mind, the vessel hold
certification has been determined and supplied by the
vessel builder. That agrees with what you said. So I
think the second part is an overkill. If it applies --
COUNCIL CHAIRMAN RICHARD ROBINS: Pat,
the second part is an alternative qualifier. Right?
So they would either have to have an inspection -- in
the document now they'd have to have a hold inspection
and certification done. And the only problem with
using plan view drawing is if there was a departure as
built from the original architectural drawing is one
issue. But right now it would require an inspection or
in the alternative satisfied if they had this Maine
inspection done by the state.

PAT AUGUSTINE: Well, then why don't we
just say an alternative would be vessels that are sealed
with a Maine record. It says in there an alternative
method would be. It just is a run-on. There's an
inference here you have to have it. I must be
misinterpreting it, but that's the way it reads now.
COUNCIL CHAIRMAN RICHARD ROBINS: I
think it's an alternative means of satisfying it as it's
written now. But, Pete.
PETER HIMCHAK: Yes, Mr. Chairman.

Would it be tidier if we split the motion and then just
had the Maine issue dealt with as an acceptable
alternative to the previous motion?

COUNCIL CHAIRMAN RICHARD ROBINS: I
don't know that we need to divide the question at this
point. Jason.

JASON DIDDEN: One possibility the
Council could consider and the region -- I have some
thoughts on this -- would be to change that second
sentence to State of Maine certification and/or other
documentation as acceptable to NERO would be deemed to
meet this requirement. It's about 70 vessels that
would be involved in this.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PATRICIA KURKUL: No. I think that the
language that's in there now responded to our original
concerns about this not having enough specificity. Now
we're going back the other way.

COUNCIL CHAIRMAN RICHARD ROBINS: I
think the way the language reads now we've got an
alternative method for satisfying the requirement, and
that is the State of Maine certification. So you'd have
to have the vessel hold inspection and certification
done or in the alternative if you're in Maine or you've
had the Maine State inspection done and certification,
then that would satisfy it in the alternative. Is there
any additional comment on the motion? Jeff.

JEFF Kaelin: Thank you, Mr. Chairman. Jeff Kaelin, Lund's Fisheries. I wondered: Could we
add or another state? I mean it seems to me to framework
this -- if for example -- in Maine they use a meter. I
think there's only one of them in the universe, and it's
owned by the State of Maine.

We're talking about this in the herring
right now, as Jeff said, in terms of certifying what's
been caught. But, if for example, we were to buy one
and give it to the State of New Jersey so that people
could have a similar certification done down here at a
lesser cost, for example, than maybe going out to a
marine surveyor or something like that, why would we
need a framework amendment, a framework, just that
language.

So, if we added -- if the Council would
add or another state after weights and measures, another
state certification program, so it would read: vessels
that are sealed by the Maine State Seal of Weights and
Measures or another state certification program will be
deemed to meet this requirement. That way if we can do something also or another state decides that they're going to do this, we could avoid a framework to accomplish that. Because there's a possibility that one of these meters could be brought down here to Cape May and do this for a fraction of what it might cost a marine surveyor to do it. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you, Jeff. Erling.

ERLING BERG: Well, I don't think that we need to add any other states. I mean it's pretty clear what it says up there. Maine is the exception, and any other state would have to have a surveyor to do the measurement, so I don't think that we need to go any farther than that.

As far as addressing Lars's problem, I don't know how we can get language in there that would add an architect. Or maybe there is a way of doing that. But other than that, the motion is pretty clear to me.

COUNCIL CHAIRMAN RICHARD ROBINS:

Other discussion? Pat.

HOWARD KING: I suppose it would be getting too far afield to say vessels that are sealed by the methods of Maine State Seal of Weights and
Measures will be deemed to meet this requirement. It would be accepting the methods of the State of Maine.

COUNCIL CHAIRMAN RICHARD ROBINS:
There may be other methods, though, that would give it a volumetric measure. I think the question is whether we should have a universal exemption there for state certification programs and whether the Council wants to include that now or recognize that it would take about a four-month delay to go through a framework to get it done. That's the basic tradeoff that's been set up.

Peter.

PETER deFUR: Thank you, Mr. Chairman.
As we've said Maine is the only state with such a provision and capability right now. If another state contemplates it, I would not only guess, but I would hope that either Council members or the states themselves would be in contact with us giving us plenty of time to make a framework so that we could get that framework language taken care of long before they could put such a system in place because they're going to have to go through rule making themselves if they're going to go through that as well as the technology. So I think we've got ourselves wrapped around the axle somewhere going through the discussion. It's gross
hypothetical.

COUNCIL CHAIRMAN RICHARD ROBINS:

Greg.

GREG DIDOMENICO: Unwrap us around the axle. The intent of the motion should be to make sure that in the event that another state has the same methods system by which they are measuring and doing a volumetric equivalent of vessel holds right now, that another state or vessel that goes through this volumetric measurement meet the same requirements and be allowed to have that done in their home state or a state nearby instead of having to go to an able contractor purely in an effort to save money. And that really was our intent here.

I am not familiar with the actual device that the State of Maine uses, but I'm sure that a state could meet the same requirements and not use the same piece of equipment.

But, again, there shouldn't be any reason to kind of confuse the intent of this. We should be able to do this very simply in a motion, and that is, to accept a volumetric measurement of the same standards that's already used in the State of Maine to accomplish the measurement of your fish hold capacity. Thank you.
COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you. Jeff.

JEFF REICHLE: Again, we're spending a lot of time on what seems like a relatively simple thing. But for a boat like Lars's to steam to Maine and back you're looking at four or five, six thousand dollars plus several days, two or three days.

All's we're talking about is any state, whether it's New Jersey -- I mean as an industry we could buy the measuring device for the State of New Jersey and ask them to certify our holds.

All's that measuring device is is a meter. It measures the water as it goes in the boat, and when the boats filled up, you know what the volumetric measurement of the boat is.

So it's not like it's a very expensive piece of equipment to buy. And if we have 15 boats in the State of New Jersey, we don't want to spend 15 times four or five thousand dollars and 45 working days to steam up to Maine.

And we don't want to have to -- we shouldn't have to worry about coming back for a framework because we're going to have to have our holds measured by a certain time. So we really should
consider making it be able to be done in any state.

Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:

Jeff, I get your point. Just to be clear, though, we
don't have to steam to Maine to satisfy the requirement.
The Maine certification is simply an alternative means
to satisfy the requirement.

So it would either be done through a hold
inspection and certification by a private marine
contractor, or a vessel in the State of Maine that had
already been certified would satisfy it in the
alternative.

JEFF REICHLE: Yes to both of those
things. But the third thing is that any other state
should be able to do the same thing that Maine's doing.

COUNCIL CHAIRMAN RICHARD ROBINS: I
understand that.

JEFF REICHLE: And so why say that you
have to framework that to allow the State of New Jersey
to do that if the State of New Jersey so chooses to do
the same thing as Maine. Because frameworking takes
time. Nothing happens overnight in this process.

COUNCIL CHAIRMAN RICHARD ROBINS: I
appreciate that. I just want to make sure it's clear
that boats don't have to steam to Maine to do this.

Okay. Pat Augustine.

PAT AUGUSTINE: Yeah, thank you, Mr. Chairman. I was going to ask in the industry how many vessels are we talking about, and what is the cost of this equipment? And we've used enough manpower and time today sitting around this table. We could have solved this problem with probably a simple statement.

And I would have amended the motion myself just to say that any other state that has certified weights and measures equipment that meet the volumetric requirement and be done with it. And then we don't have to look down the road four months from now or whenever else to solve the problem. So, if I can amend it accordingly I will, Mr. Chairman.

COUNCIL CHAIRMAN RICHARD ROBINS: Go ahead. Is that agreeable to the maker of the motion?

ERLING BERG: Yeah, that's fine. I was going to do the same thing. So I'll let Pat.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat, you want to give the words to Joel. You want to record it? Erling.

ERLING BERG: What I was going to say was any other state that uses similar methods to Maine
or something like that.

PAT AUGUSTINE: May I interject? That uses certified volumetric equipment that meets the standards. Is that clear enough, Joel?

COUNCIL CHAIRMAN RICHARD ROBINS: Joel.

JOEL MACDONALD: If we're approving a state certification program before or prior to its actual establishment, there might be a problem because state's may adopt a system that is not as precise as Maine.

And that could be a problem down the road. You may get different volumetric measures because the system, let's say, adopted by state Y is not as precise as that adopted by Maine.

We would have to make some sort of certification that every state coming on line had the equivalent program to that of Maine. I don't know how we'd go about doing that. I mean that's something to think about, certainly.

COUNCIL CHAIRMAN RICHARD ROBINS: As clear as mud now.

JOEL MACDONALD: I think the way to go is with the State of Maine being the exception. And if
a state adopts a similar program, they would come to the Council; say, okay, this is what we've adopted; we have determined, or there is a determination that it is the equivalent of what Maine uses. And that would enable us to put that state on board as well.

COUNCIL CHAIRMAN RICHARD ROBINS:
Through a framework action.

JOEL MACDONALD: Right.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you. I did not read the edition yet. Are you all offering that as a perfection of the motion? Erling.

ERLING BERG: I'm sorry.

COUNCIL CHAIRMAN RICHARD ROBINS: Do you want to read the motion as perfected.

ERLING BERG: You want me to read it?

COUNCIL CHAIRMAN RICHARD ROBINS:
Please.

ERLING BERG: I move that the Council adopt Alternative 4-C which require Tier 1 and Tier 2 vessel hold certification and a 10 percent upgrade restriction. Vessels that are sealed by the Maine State Sealer of Weights and Measures will be deemed to meet this requirement. Certification from other states which use the equivalent methods would also
suffice.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PATRICIA KURKUL: Let me try to make Joel's points again and add some of my own. I don't know what that means, that certifications which use equivalent methods.

[Inaudible.]

PATRICIA KURKUL: No. I really, I agree with Joel's points -- you know, that we've got a system right now that Maine uses that we understand and that people seem to think is equivalent to the intent of this motion. It's not clear what any other state might do in the future, and you can't leave it wide open because we need to be able to write the regulations in such a way that we would either include or exclude them based on some kind of criteria, and similar criteria doesn't work.

COUNCIL CHAIRMAN RICHARD ROBINS:

Erling, in light of the legal concerns that have been outlined by Joel and followed up on by Pat, do you want to withdraw this?

ERLING BERG: Let's take out certification from other states which use equivalent methods. What else would suffice? We're back to the
original one that Mary Beth perfected, and that would be it.

COUNCIL CHAIRMAN RICHARD ROBINS: Is the seconder of the motion okay with this?

PAT AUGUSTINE: No. I would try putting the word volumetric in there before I agree with taking it out. See if that doesn't pass muster. It still doesn't sound like it's going to pass muster. Pete.

PETER HIMCHAK: I don't see what the problem is with a state certification of volume. I mean it is what it comes out as. If you put in that language comparable to the State of Maine's program or anything or other methods. I mean they're going to measure and certify a volume, period. Isn't that what we're looking for in the beginning of the motion?

COUNCIL CHAIRMAN RICHARD ROBINS: It is. I think Joel's point is that it would be preferable to see what's being proposed before it's approved. In other words, right now we're just saying we'd sign off on a method. Pat are you agreeable to a second to the motion to this?

PAT AUGUSTINE: Yes.
COUNCIL CHAIRMAN RICHARD ROBINS: Erling, can you read the motion into the record again, please.

ERLING BERG: I move that the Council adopt Alternative 4-C, which would require Tier 1, Tier 2 vessel hold certification and a 10 percent upgrade restrictions. Vessels that are sealed by the Maine State Sealer of Weights and Measures will be deemed to meet this requirement.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you. Is the Council ready for the question?

(Motion as voted.)

{I move that the Council adopt Alternative 4C, which would require T1/T2 vessel hold certifications and a 10% upgrade restriction. Vessels that are sealed by the Maine State Sealer of Weights and Measures will be deemed to meet this requirement.}

COUNCIL CHAIR RICK ROBINS: All those in favor please raise your hand.

(Response.)

COUNCIL CHAIR RICK ROBINS: Eighteen. Opposed like sign.

(No response.)
COUNCIL CHAIR RICK ROBINS:

Abstentions like sign.

(Response.)


ERLING BERG: I move that the Council adopt Alternative 4-D providing for some history retention permit splitting for the mackerel limited access qualifications. Landing and permit requirements also apply. Permit history transfers will have to have been completed by April 3rd, '09.


PRESTON PATE: Mr. Chairman, just because I don't know the origin of that control date. Could Pat or Jason explain where that came from?

COUNCIL CHAIRMAN RICHARD ROBINS: Jason, do you have some background? I think the idea was to prevent transactions after this issue came up in committee from being able to undermine the intent of upgrades. But I'll look to Jason.

JASON DIDDEN: Yes. The idea was that if over the course of time a vessel had retained history
that as was done with scallops they would be able to use
that retained history to qualify a vessel. But a
concern was if folks could do that right like now, there
could be a lot of vessels switching smaller histories
onto larger boats. So it's more to -- kind of if it
happened in the past, it would be allowed, but not to
have a lot of it occur kind of taking advantage of the
application system.

COUNCIL CHAIRMAN RICHARD ROBINS:
Satisfy your concern?

PRESTON PATE: Yeah. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:
Comments or discussion on the motion? Are there any
public comments on the motion? I'm sorry. Mary Beth,
did you have your hand up?

MARY BETH TOOLEY: I read through this
part of the document. I still was a little confused,
and I was wondering if Pat could just explain how this
differs from the current way it's done. She can't.

COUNCIL CHAIRMAN RICHARD ROBINS:

JASON DIDDEN: I think in general if a
vessel had retained that history, the mackerel history,
but other permits had been transferred with the vessel,
that mackerel history would be dead. It would not essentially be allowed to qualify a vessel since the other permits had transferred. But as was I think done in scallops, if someone had -- so that's how it's done in most circumstances.

However, like scallops this would allow if you had sold a boat and other permits but in a sale agreement had retained the mackerel history, you would be able to qualify a vessel based on your retained history.

And the vessel that you sold, if they went on to establish new history, they could also get a mackerel permit. Let's say you sold it in 2000. You retained from 2000 before. You could quality a vessel based on those earlier landings.

If the vessel after 2000 went to a new owner, caught mackerel, they could use their own new history to also qualify for a mackerel permit.

Generally, that's not allowed, but it was allowed in scallops, and it's proposed to be allowed here.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thanks, Jason. Additional comments or discussion on the motion? Are there any public comments on the motion? Seeing none, is the Council ready for the

JASON DIDDEN: So 4-E essentially that if you -- the per baseline established by the vessel that created the fishing history, and it would be used for qualification purposes.

So, if you had acquired some history, it wouldn't be the vessel that was applying for the permit, that baseline. It would be the baseline from the vessel that actually created the history.

It was in there, but the region has said that this would be almost impossible to implement. So I think no action is necessary. It will just kind of die without action. But I just wanted to kind of -- it is in the document. It's not a preferred alternative.

I just wanted to highlight that. The Council can just ignore it, and it will, I think, just die if it's not selected. I just wanted to flag that. It had come up several times in committee discussions. Again, it's this issue of people potentially using the system of qualifying a larger boat with a smaller boat's
landings, but because of the implementation
difficulties it seems impractical.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Jason. Pat, do you have any specific
ccharacters on this?

PATRICIA KURKUL: I agree with your
approach that Jason's outlined. I think our concerns
at least two of them are in the document, and we have
others. I could go through them if you'd like. But if
you're going to move on, I'm not sure it's necessary.

COUNCIL CHAIRMAN RICHARD ROBINS:
Erling.

ERLING BERG: I move that the Council
adopt Alternative 4-F, multiple vessels one owner.

COUNCIL CHAIRMAN RICHARD ROBINS: Is
there a second to the motion? Second by Pat Augustine.
Jason, can you provide some background on that?

JASON DIDDEN: Sure. The intent is
that if one owner has -- one person owns two vessels that
one vessel qualified but the other didn't, they could
put the mackerel permit on either vessel as long as the
other vessel was within the
10-10-20 rule. So it would have to be put on a similar
vessel, but it would allow them some flexibility.
COUNCIL CHAIRMAN RICHARD ROBINS: Thank you. Erling. I'm sorry. Can you turn your microphone on, please, so we can capture your comment.

ERLING BERG: Looking at this, I wonder if we should add the 10-10-20 rule to this motion just to sort of clarify it.

COUNCIL CHAIRMAN RICHARD ROBINS: Do you want to suggest language?

ERLING BERG: Yeah. Let's add that in there. I think that would clarify it.

COUNCIL CHAIRMAN RICHARD ROBINS: Jason, you had your hand up.

JASON DIDDEN: I was just going to say it's definitely clear in the alternative in the document. It may suffice just to highlight it on the record.

COUNCIL CHAIRMAN RICHARD ROBINS: Does that satisfy you, Erling, that it is, in fact, described in the alternative? Pat.

PAT AUGUSTINE: Well, for clarification purposes, it's just as easy to look at the document in a brief. If it has it there that's fine, too. But I don't have a problem either way.

COUNCIL CHAIRMAN RICHARD ROBINS:
Discussion on the motion? Greg.

GREG DIDOMENICO: Did we or did we not just add the 10-10-20 provision to this, or is it already --

COUNCIL CHAIRMAN RICHARD ROBINS: Greg, it's already in the document, so we just verified it as a matter of record.

GREG DIDOMENICO: Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS: Any additional comment or discussion on the motion? Seeing none, is the Council ready for the question? Is there any objection to the motion? Are there any abstentions on the motion? One abstention. The motion carries. Thank you.

Erling.

ERLING BERG: Thank you, Mr. Chairman.

I move that the Council adopt Alternative 4-G-2, weekly reporting for Tier 3 vessels.

COUNCIL CHAIRMAN RICHARD ROBINS: Is there a second to the motion? Pat Augustine second.

Discussion on the motion? Jason.

JASON DIDDEN: This is addressing one of the region's concerns about there being a lot of vessels in Tier 3 and potentially a small quota to
monitor.

And almost all of the vessels would already be required to report weekly VTR because of their groundfish permits, but would kind of tie up a few loose ends of those who were not and facilitate monitoring of their relatively small quota.

COUNCIL CHAIRMAN RICHARD ROBINS: Mary Beth.

MARY BETH TOOLEY: Just a question. I don't think it's really going to apply to that many people. But as we work through the Amendment 5 for herring we are definitely looking at reporting requirements, some of which would be daily reporting, either through VMS or IVR; and I just wonder is Pat if a vessel has a more restrictive reporting requirement would this then not require them to do an additional -- let's say we do a daily VMS reporting. If they had a Tier 3 permit for mackerel, would they also be required to do a weekly VTR, or could you just go with what the more restrictive and not require it?

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PATRICIA KURKUL: No. I think unless we clarified it, they'd have both requirements. So we need to be careful in -- if this is adopted, we'd need
to be careful in herring that it acknowledged -- well, you can't revise this.

Yeah, I need to think. No, you can't especially because one's a VTR and one is a VMS. It doesn't superseded the other one. If they were the same, then the more restrictive would apply, so.

COUNCIL CHAIRMAN RICHARD ROBINS: So both would apply the way this is proposed. Pat, is there a way to clarify the boat would not be required, if in fact, there would be owners who had done it?

PATRICIA KURKUL: Aja thinks that we have a weekly VTR as a proposal in the herring as well.

AJA: I think it's in addition to the VMS and IBR reporting options.

Well, there is an option for a weekly VTR. I think it's highly unlikely that it will be chosen. I think the industry supports a daily reporting or a trip by trip reporting. And if you look at the overage in 1-B that recently happened, there clearly is a need to have that because we can't monitor these smaller amounts.

So I mean we can't say that -- I can say I think this is going to happen. I don't know that it's going to happen. But if there was a way to sort of
clarify here that if you have to report on a more timely basis or in some way, meaning we clearly in the last few years have had issues with people understanding what they're supposed to be doing now.

Then if we change it and then have an overlay from another permit, it just -- if there's a way to simplify and not have it be confusing that was my goal.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat, would it be possible to say unless the vessel is reporting more frequently under a different permit?

PATRICIA KURKUL: Something along that line. I think it's possible. I think -- I'm not sure Joel is.

COUNCIL CHAIRMAN RICHARD ROBINS: Joel.

PATRICIA KURKUL: He's thinking.

COUNCIL CHAIRMAN RICHARD ROBINS: Deep meditation.

PATRICIA KURKUL: Yeah. But I think, yeah, we could say unless the vessel has a reporting requirement that provides at least the same level of information through some -- you know, some other vehicle. We could work with the -- if the Council
agrees to the concept, we could work with the staff on
the language.

COUNCIL CHAIRMAN RICHARD ROBINS:
Jason, you had your hand up a minute ago.

JASON DIDDEN: I was just going to say
it seems like the status quo is monthly reporting and
this is going to weekly for everyone, then it's kind of
actually somewhere in between if you're only requiring
the weekly for those vessels that don't have some more
stringent requirement.

So it would kind of fall somewhere
between the no action and the proposed. So it seems
like it would be okay in terms of within the range of
what's in the document if you added: except vessels
with more stringent requirements would be exempt.

CHAIRMAN RICHARD ROBBINS: Further
discussion on this? Mary Beth?

MARY BETH TOOLEY: Well, I think Pat
says if we agree with the concept, that they could work
on the language. So I'd just ask around the table if
people are comfortable with that approach.

COUNCIL CHAIRMAN RICHARD ROBINS: Do we
want to add a sentence that simply says unless the permit
holders are required to report on the same frequency or
more frequently as a result of another permit and then let staff resolve the language with the regional office? Is that acceptable to the maker and seconder of the motion? Jan, could you add a sentence then that says at the end is: comma, unless the permit holders are required to report on the same frequency or more frequently in another fishery -- on the same frequency or more frequently in another fishery. And then we'll look to staff in the regional office to resolve the final language part of the demon.

Thank you. Erling, do you mind reading that perfected language into the record? Turn the microphone on.

ERLING BERG: I move that the Council adopt Alternative 4-G-2, weekly reporting for Tier 3 vessels unless the permit holders are required to report on this frequency or more frequently in another fishery. That doesn't sound quite right.

COUNCIL CHAIRMAN RICHARD ROBINS: Or say this frequently instead of on this frequency. Jan, can you modify that to say this frequently instead of on this frequency.

Are we clear? Does the seconder of the motion agree with that perfection? Thank you.

ERLING BERG: That was the last motion. That was it.

COUNCIL CHAIRMAN RICHARD ROBINS: We still have to consider final adoption of the amendment; correct? Vote for final submission? Are there any other? Mary Beth.

MARY BETH TOOLEY: Yeah. Just sort of backtracking to the beginning. I apologize for that. Alternative Set 1, there's 1-H and 1-I which refers to limited access herring vessels may not qualify for a herring permit.

And I don't know -- I'm not recalling if the committee made a motion as choosing one of these as a preferred alternative. Jason, do you have any recollection of that?

CHAIRMAN RICHARD ROBINS: Jason.

JASON DIDDEN: I think that [inaudible] multiple people's attention. I can review those things, and then the Council can consider a motion if
it deems appropriate.

CHAIRMAN RICHARD ROBINS: Okay.

JASON DIDDEN: So the idea with 1-H and 1-I was to include for Tier 3 those herring vessels that either have an A or a B herring permit for 1-H or 1-I herring vessels having an A, B or C permit. So those vessels, if they also have a herring permit at those levels, would get a Tier 3 permit. And the idea behind this was to avoid regulatory discarding. Some of those herring vessels, while analysis was difficult, apparently have not been reporting mackerel when it gets mixed with herring in this bait fishery sometimes. So this was to kind of account for that fact and to include some provisions for those herring vessels.

CHAIRMAN RICHARD ROBINS: So option 1-I would include A, B, or C permits?

JASON DIDDEN: 1-I would. And the number of vessels that could be affected under those -- give me one second. Mary Beth, do you have any comments on this while I check the number of vessels?

MARY BETH TOOLEY: Yeah. I would like to comment on it. The majority of dedicated, year round herring vessels are going to qualify for a mackerel permit, but there certainly are some vessels
in the Gulf of Maine purse seiners that may have mix of
mackerel at certain times of the year that have not
historically reported it and would need to have some
bycatch allowance, and so I think it's important to
consider that. The herring amendment is also
considering it for those mackerel vessels that did not
qualify for a limited access herring permit. So in
Amendment 5 we have three alternatives: one which will
allow any vessel that qualifies for a limited access
mackerel permit to have a possession limit up to 25
metric ton, 20,000 pounds; and then there's a lower
limit which I quite frankly can't remember at the
moment. So Amendment 5 will try to balance the needs
between the two fisheries, and I think it's important
that we do that as well in this action.

COUNCIL CHAIRMAN RICHARD ROBINS:

Jason.

JASON DIDDEN: So if it's A and B more
the directed vessels, it's about 20 additional vessels
to Tier 3. With A, B, and C, it's about 50 or 60
additional vessels to Tier 3. I think the original
intent was more on the directed fishery, but it was
unclear originally how many vessels would be under
either the C incidental herring permits were not
included so they were both put in there after some analysis. And, again, it's 20 vessels if it's the A and B permits, which is I; and then 50 to 60 vessels if it also includes the A -- if it's A, B, and also C.

COUNCIL CHAIRMAN RICHARD ROBINS:

Jason, Option 1-H would be A or B; and Option 1-I would be A, B, or C. Is that correct?

JASON DIDDEN: H is A or B, and I is A, B, or C.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you. Mary Beth.

MARY BETH TOOLEY: So just a question about the category C permits, the herring ones: They would be eligible for an open access mackerel permit -- and Jason's kind of busy -- but I was trying to recall what the possession limit would be.

I mean under their C herring permit, their possession limit for herring is 55,000 pounds. So I don't know what the open-access mackerel possession limit is, but.

I asked the question because it clearly would qualify a whole bunch more people here. And if the possession limit under open access isn't sufficient or not I don't know the answer to that. It may be.
COUNCIL CHAIRMAN RICHARD ROBINS: Erling, what's the open access trip limit?

ERLING BERG: I'm going to defer to Jason.

COUNCIL CHAIRMAN RICHARD ROBINS: Twenty thousand?

ERLING BERG: He has a better memory than I have.

COUNCIL CHAIRMAN RICHARD ROBINS: Jason, 20,000?

JASON DIDDEN: Right.

COUNCIL CHAIRMAN RICHARD ROBINS: Does that satisfy your concern?

MARY BETH TOOLEY: Yes. I don't see the need -- since it would draw in so many extra people, I think it looks like given the possession limits, that 1-H is probably sufficient for this purpose.

COUNCIL CHAIRMAN RICHARD ROBINS: Do you want to make that in the form of a motion?

MARY BETH TOOLEY: Yes, I would. I would recommend that the Council doc. Alternative set 1-H to include in Tier 3 qualification criteria that any vessel with a herring limited access A or B permit would qualify.
COUNCIL CHAIRMAN RICHARD ROBINS: Is there a second to the motion? Second by Erling Berg.

Discussion on the motion? Jeff.

JEFF REICHLE: Thank you, Mr. Chairman. I'm a little confused I think. So what we're saying is that if the herring has an A or B permit, right, that they're going to qualify for a Tier 3 mackerel permit, which right now has a landing limit of a hundred thousand pounds. Right?

And yet in New England at the moment we still only have 6600 pounds for a mackerel boat that has no herring permit. Now, I know we're trying to get that to 20,000 pounds. It hasn't happened yet. But I know we're trying to get that to 20,000 pounds, and I'm not so sure that that was our intent.

I mean I think we need to be fair. There's certainly herring boats that have landed mackerel -- we know that -- that haven't reported it, just like has happened with mackerel boats that have landed herring historically that haven't reported it.

But I'm very concerned that we're going to go ahead and give them a hundred thousand pound landing limit, and right now we get 6600 pounds, which basically puts a lot of mid-Atlantic boats out of the
mackerel fishery or the herring fishery, whichever.

COUNCIL CHAIRMAN RICHARD ROBINS: Mary Beth.

MARY BETH TOOLEY: Well, I think Jeff makes a really good point. And, clearly, as we were going through the discussion and the motion, I was forgetting what the possession limit was for the open-access, which is the 20,000 pounds, which is a likely outcome of Amendment 5, so I'm just going to withdraw the motion for now.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you. Does the seconder agree to withdraw? Greg. No further comment? Jason, is there a no action alternative in that screen? I don't have it up in front of me.

GREG DIDOMENICO: It's just one in a long list. So I think just kind of if it's not adopted, then that's it.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you. Further discussion on this section of the document? Are there any other items to come before us before we consider final submission? Seeing none, Erling.

ERLING BERG: I move to approve
Amendment 11 for secretarial submission.

COUNCIL CHAIRMAN RICHARD ROBINS: Is there a second to the motion? Second by Pat Augustine. Any discussion or comments on the motion? Any public comments on the motion? This is a final submission, so we'll take a roll call vote. I'll look to Chris Moore to read the roll.

(Motion as voted.)

{Move to approve Amendment 11 for Secretarial submission.}

COUNCIL CHAIR RICK ROBINS:

CHRIS MOORE: Pat Augustine.

PAT AUGUSTINE: Yes.

CHRIS MOORE: Jim Gilmore.

JAMES GILMORE: Yes.

CHRIS MOORE: John Murray -- McMurray.

I'm sorry. John McMurray.

JOHN MCMURRAY: Thank you. Yes.

CHRIS MOORE: Steve Schafer.

STEPHEN SCHAFER: Yes.

CHRIS MOORE: Chris Zeman.

CHRISTOPHER ZEMAN: [No response.]

CHRIS MOORE: Chris Zeman.

CHRISTOPHER ZEMAN: [No response.]
UNIDENTIFIED MALE: He's out.

CHRIS MOORE: Erling Berg.

ERLING BERG: Yes.

CHRIS MOORE: Pete Himchak.

PETER HIMCHAK: Yes.

CHRIS MOORE: Gene Kray.

EUGENE KRAY: Yes.

CHRIS MOORE: Rick Cole.

RICHARD COLE: Yes.

CHRIS MOORE: Lee Anderson.

LEE ANDERSON: Yes.

CHRIS MOORE: Howard King.

HOWARD KING: Yes.

CHRIS MOORE: Steve Linhard.

STEPHEN LINHARD: Yes.

CHRIS MOORE: Mike Luisi.

MICHAEL LUISI: Yes.

CHRIS MOORE: Pete deFur?

PETER deFUR: Yes.

CHRIS MOORE: Rick Robins.

RICHARD ROBINS: [No response.]

CHRIS MOORE: It's not time.

RICHARD ROBINS: Not yet.

CHRIS MOORE: Jack Travelstead.
JACK TRAVELSTEAD: Yes.

CHRIS MOORE: Red Munden.

RED MUNDEN: Yes.

CHRIS MOORE: Pres Pate.

PRESTON PATE: Yes.

CHRIS MOORE: Pat Kurkul.

PATRICIA KURKUL: Abstain.

CHRIS MOORE: Mary Beth Tooley. Mary Beth.

MARY BETH TOOLEY: Are you sure you want me voting on this? I think probably not.

CHAIRMAN COUNCIL RICHARD ROBINS: On final submission. We're convened as a committee of the whole, but the final action -- okay.

CHRIS MOORE: Sixteen in favor. One abstention. Three -- four absent.

COUNCIL CHAIRMAN RICHARD ROBINS: The motion carries. Thank you. Thank you, Erling and Jason. Before we go, I know Jason has a presentation on the bycatch cap. I would just note on this question of volumetric measures, though, that if a specific State like New Jersey wants to pursue the volumetric measures program, by all means contact us early, and we'll work to review the matter and try to get it into a
frameworkable type action. Thank you. Jason.

Erling.

ERLING BERG: Before Jason starts, I forgot -- when I first opened up this committee, I forgot to acknowledge the Garden State Seafood for their reception last night. I think it had a good attendance. People enjoyed themselves. It was a nice venue. And I just wanted them to know it was appreciated. That's all. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you, Erling. Jason.

_________________________________

BUTTERFISH ESTIMATION METHODOLOGY

JASON DIDDEN: So we're actually on our presentation from NERO staff on the estimation methodology for the butterfish cap. Just for folks who are relatively new, in Amendment 10 the Council considered a variety of motions to improve, protect, rebuild the butterfish stock including GRA's, mesh requirements to loligo fishery for a variety of reasons.

The Council decided that the bycatch cap was the best way to facilitate lowering discards of butterfish in the loligo fishery, but their final cap methodology was yet to be determined in the document.
And so I'll turn it over to staff now.

CHUCK ADAMS: Hi, my name is Chuck Adams. I'm a statistician at the regional office, and I'm going to be talking about butterfish catch estimation towards the mortality cap for the loligo fishery. The fishery statistics office will be monitoring three allocations relevant to this discussion. One is loligo landings against the loligo trimester closure thresholds.

Two is the extrapolated butterfish catch on trips that land at least 2500 pounds of loligo against the butterfish mortality cap during trimesters 1 and 3, and butterfish landings by any vessel against the annual butterfish closure threshold.

Each of these three allocations can result in different closure scenarios which Aja is going to discuss after I'm done. I was asked to come down and talk specifically about No. 2 here, the estimating the butterfish catch.

So there are two primary data sources that I'll be working with. The first is federal dealer data. This is submitted through SAFUS, and it's available at midnight on the Tuesday immediately after the week ending date, which is always on a Saturday.
So, as an example, for reporting week of Sunday, January 2nd through Saturday, January 8, 2011, landings should be available at 00:01 hours on Wednesday, January 11th. Of course, this example assumes that dealer reports are submitted on time. The other primary data source will be the Northeast Fisheries Observer Program. Unaudited observer data will be available to FSO within seven days, and audited data will be available within 10 to 14 days.

Another potential data source is vessel trip reports. Currently 92 percent of loligo permit holders also have multispecies permits, and these multispecies permit holders must submit weekly VTR's. So these weekly VTR's could be used as a substitute when dealer data are not available.

So the way we'll estimate butterfish catch is with this simple equation here where we've got observe butterfish caught in the numerator, observe kept all in the denominator, and which is multiplied by the fishery kept all.

So the observed butterfish caught and the kept all will come from NEFA data, and the fishery kept all will be from the federal dealer data. And just a couple thoughts on this denominator here, the observed
kept all. Many vessels with loligo landings greater than or equal to 2500 pounds target a range of species. So, in order to account for butterfish catch across all these fishing activities, the denominator has kept all rather than just kept loligo, and this makes the denominator more stable.

So this catch rate will be cumulative. It will be the year-to-date sum of observed butterfish caught over the year-to-date sum of observed kept all. And then this cumulative catch rate is multiplied by the cumulative dealer reported landings of kept all.

And just a note here that the estimated total butterfish caught may change from week to week. There are situations where it could be lower or higher if the catch rate changes.

Now, at the start of the fishing year, there won't be any data to catch accumulative catch rate, so we are going to use this transition method during that time period. And just as a sidebar, this is the same transition method that's used in other fisheries, for example, the Northeast multispecies fishery. So I don't want to get bogged down in the equation. I just wanted to make a couple comments on the assumed rate and the in-season rate. The assumed
rate is the catch rate from the previous trimester. So, in January of 2011, we would use the catch rate for Trimester 3 of the current fishing year 2010. And the in-season rate is just the butterfish caught over the kept all.

And, again, this transition method is when there is less than five observed trips, so when there's only one, two, three, or four trips. So, before I summarize, I just wanted to quickly state that after I put together this presentation, there was some discussion about stratifying catch rates between New England, the mid-Atlantic, and after discussion with FSO and the Science Center Staff and the Council staff, it was agreed that we would apply this using a port of landing and we can review this again in 2011.

UNIDENTIFIED: Speak a little louder, please.

CHARLES ADAMS: Sure. I'm actually just about done, so. So just to summarize: There's three things that we'll be monitoring in FSO, the loligo landings against the loligo trimester closure thresholds, the estimated butterfish catch of trips that land greater than 2500 pounds of loligo against the butterfish mortality cap, and butterfish landings by
any vessel against the annual butterfish closure threshold. And, as I said, at the start this can result in several different closure scenarios, which Aja is going to discuss.

COUNCIL CHAIRMAN RICHARD ROBINS: Greg, we're going to take the questions after she's done.

AJA PETERS-MASON: Okay. So, hello, everyone. My name is Aja Peters-Mason. I'm the new squid MARCO butterfish policy analyst at the regional office. I'm going to walk you guys through how the extrapolation method that Dr. Adams just described will translate into closures for the loligo fishery.

So two things to note: the slide that I'm about to present and the next slide are all -- they weren't included in the presentation that's in the briefing book, but they are in the butterfish mortality cap summary document that was sent out in the briefing book.

So, if you want to follow along there if you have it with you, it's Table 1 in the text immediately following in Table 1. The next thing to note is that the numbers that I'm presenting are the Council's recommendations for 2011 specifications for
the squid, mackerel, butterfish fishery. So first I'm
going to walk you through the quotas, documented quotas,
for loligo, the butterfish mortality cap, and the
butterfish quota. The recommended domestic annual
harvest for butterfish is 20,000 metric tons.

And, again, that's allocated over three
different trimesters. And just as it was in the past
few years, Trimester 1 and Trimester 2 were closed when
90 percent of the individual trimester quota is
attained, and Trimester 3 will close when 95 percent of
the annual allocation is attained.

The next set of rows below the previous
set of rows is the butterfish mortality cap, which is,
again, equal to 75 percent of the butterfish ABC. The
allocation is, again, divided into three different
trimesters.

And the loligo fishery will close when
it's determined that extrapolated butterfish catch
reaches 80 percent of the Trimester 1 allocation and
when it's determined that the extrapolated catch
reaches 90 percent of the Trimester 3 -- oh, I'm sorry
-- the annual allocation for the butterfish mortality
cap. You'll notice again, as Dr. Adams mentioned,
there's no closures during Trimester 2, so the loligo
fishery will only close during Trimester 2 based on loligo catch. During that period, we'll track the butterfish mortality cap, but we won't actually apply those landings until Trimester 3.

And then I wanted to add the last three rows just to highlight the butterfish quota, which is the specification for that is equal to the domestic annual harvest for butterfish. That's an annual allocation, so it's tracked throughout the year, and it's tracked based on dealer landings information.

And the butterfish fisheries are, again, based on landings information submitted by dealers and will close when 80 percent of the annual quota is attained. And so I just pulled this information out of the first slide just to highlight the exact things that will happen to close the loligo fishery.

So this is the same information that was in the last slide just pared down to closures with allocations removed. So, again, during Trimester 1, the loligo fishery can close if we determine that landings reach 90 percent of the Trimester 1 closure threshold or if the extrapolated butterfish catch reaches 80 percent of the
Trimester 1 butterfish allocation.

    Trimester 2, again, will close only if we determine that loligo landings reach 80 -- oh, sorry -- 90 percent of the Trimester 2 allocation, and Trimester 3 reverts back to the annual allocation for both loligo quota and the butterfish mortality cap allocation.

    So the loligo fishery will close if we reach 95 percent of the loligo allocation or if we reach 90 percent of the butterfish mortality cap allocation. And just to talk briefly about review of the mortality cap.

    So the Amendment 10 states that the FSC can review the butterfish mortality cap's performance during the specifications that are in process for the upcoming fishing year. When we hit specifications setting for the 2012 fishing year, we will only be through about one trimester of the mortality cap, but we can evaluate based on what's happened during that single trimester. We'll have a full year of data available for evaluation. We'll be setting specifications for the 2013 fishing year. So with that, I can answer any questions you have about the methodology.
COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you, Aja. I think we will have questions. And, Charles, if you want to [inaudible]. I'll get back to you. Pete.

PETER HIMCHAK: Yes. We just had a day in Philadelphia talking about the river herring bycatch on the level of precision on the estimate and how it's expanded. Could you comment on how or what kind of coefficients of variations you'd have on the butterfish bycatch estimates.

COUNCIL CHAIRMAN RICHARD ROBINS:

Charles.

CHARLES ADAMS: Yeah. We haven't actually -- I haven't looked at these numbers for past years yet, but I am working on it presently, so I should have an answer in the next month or so.

COUNCIL CHAIRMAN RICHARD ROBINS:

Jason.

JASON DIDDEN: Analysis in the amendment suggests that you could get CV's in the range of .3. There were two or three years that were .3 and one year that was .6. We are anticipating at least starting in the first quarter of 2011 of having some additional [inaudible] compared to we've had in those
analyses.

It really depends on the variation that they end up seeing on the additional trips and the amount of trips. Those two things combined to get the CV's. A CV of .3 means you're 95 percent confidence interval. It's plus or minus 60 percent. So that's still a wide confidence interval, but that's what the amendment found.

COUNCIL CHAIRMAN RICK ROBINS:
Additional questions on the presentations? Greg.

GREG DIDOMENICO: Greg DiDomenico, Garden State Seafood Association. I have a question and then a comment. When you are determining the first trimester bycatch rate, why are you using rates from Trimester 4 for that instead of using the Trimester 1 rates from 2010?

COUNCIL CHAIRMAN RICHARD ROBINS:

Charles.

DR. CHARLES ADAMS: I think the consensus was is that would be more reflective of recent history, given that there are going to be large interannual differences.

GREG DIDOMENICO: So we're looking at the rate of bycatch that occurred in what would be
September, October, November, December, and you're applying that to a fishery that starts January 1. That doesn't make a lot of sense.

DR. CHARLES ADAMS: Right. And that would only be for the first four trips because then we would have enough data in the current fishing year.

GREG DIDOMENICO: Okay. So why not just use the first four trips of January 1, 2010?

DR. CHARLES ADAMS: Again -- and, Jason, feel free to weigh in with your records. I thought that we had agreed that it was best to use more recently history.

COUNCIL CHAIRMAN RICHARD ROBINS:

JASON DIDDEN: It was just a tradeoff of the interannual variability with the seasonal variability. And so you either are depending on data from January, February, March, April to have a rate for the first few weeks of January, or September, October, November, December to get a rate for the first few weeks of January. And it was kind of the consensus of the group that using the bycatch the more recent in time from just a few months ago for, again, just that first few weeks of January, would be more closely correlated to
what was actually happening than the year before data but given the interannual variability that we know occurs.

GREG DIDOMENICO: Could you then run both numbers just to make a comparison? Because you know the fishery is different in September as it is in January.

JASON DIDDEN: Sure. I think there will be a lot of analysis after the first year of how different ways of running numbers would have worked. I don't think we can have kind of two running at the same time and kind of pick one.

But I think kind of once we get at the end of the first year or possibly even when the monitoring committee is making recommendations in May and June who will have seen almost a full trimester of the cap operation, and I think it will be evaluated not so much what the result was obviously, but kind of we can certainly do some more analysis of which are more strongly correlated. So I think that's certainly if not had been going to be analyzed, will and can be.

COUNCIL CHAIRMAN RICHARD ROBINS: Jason, once you have five trips under your belt, it's all based on actual data. Is that correct? So the
method will just apply to the first four trips?

JASON DIDDEN: To the landings that occur until the fifth trip has occurred.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you. Peter.

PETER deFUR: I think Jason might have addressed the question. But I mean Greg raises a good point about the difference between the variation over September through December versus the previous January. And I should imagine that we've got enough historical catch data to do some stats on how that has changed over the years, haven't we?

JASON DIDDEN: I think what we can do is take a look at -- 'cause this is not a final methodology yet. And this is kind of some of the input we're looking for. I think it would probably be pretty easy to take a look at correlations between previous Januarys and in this loligo year and then compare it to the months before. And we'll take a look at those correlations, and whatever is better correlated I think that would likely be the one we choose.

COUNCIL CHAIRMAN RICHARD ROBINS: Thanks, Jason. Greg, you have a follow-up comment?

GREG DIDOMENICO: Yeah, I do, actually.
It's kind of a comment to the question now after what Jason said and I think a positive one. What concerns us, of course, is the difficulty or the possibility of a very early closure in the loligo fishery.

With that said, one of the things that is kind of also I think is kind of unfortunate and somewhat irregular in my experience -- and maybe I'm wrong -- but the methodology was not providing the final rule. It is still not finalized, and we have a part of an amendment that's coming online January 1.

It doesn't give the industry a lot of time to analyze the most important part of the amendment. And quite frankly, we're conducting our own analysis, but I'd be more than happy to give you comments or if you're interested -- and I think you just said that -- as you finalize the methodology. Because we're doing somewhat of our own analysis, and we haven't had a lot of time before this to complete that.

So, given the fact that, again, it wasn't provided in the final rule and we've got implementation of this coming on in a couple months, I think it would be very important to -- hopefully, we can provide some comments to the staff.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thanks, Greg. Are there any additional comments or questions? Pat.

PAT AUGUSTINO: Thank you, Mr. Chairman. You raised a good question and a good point, Greg. As a follow-on, if you're going to do a comparison between January landings of bycatch for previous years, are you going to do the same thing for previous September through, so you're having a dual comparison, three to five years in the September timeframe forward as compared to the January timeframe for it and then come up with whatever? And then a final question: Will this methodology finally be peer reviewed, or will it be just accepted as that's the one that's been selected and that's it?

COUNCIL CHAIRMAN RICHARD ROBINS: Charles.

CHARLES ADAMS: Well, actually, the answer to this question will allow me to answer I think his name was Greg's question as well.

The methodology that we're using is being used in a number of other fisheries currently, the northeast multispecies. I'm also using it to calculate yellowtail bycatch in the scallop fishery. So, in that sense, it is peer reviewed. And the methodology has
been out there.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PATRICIA KURKUL: Yeah. We do projections in I forget now what the number is -- 80-something fisheries. I mean this is a normal part of the administration of a fishery management plan.

And we would not normally develop the projection procedure ahead of time, and we certainly would not put it in the amendment or codify it because it's a constantly evolving technical exercise. Now, in this particular case, the procedure has, in fact, been peer reviewed because it was peer reviewed when we implemented it for the multispecies process. And especially because we've gone through a peer review of it, we feel confident in the methodology, and the important part then is just adapting it to the other fisheries.

So I want to be a little bit careful here. I mean I know people are interested and we certainly want to provide information, but we don't want to get into the position here at the table of deciding how to statistically project catch limits. So let's leave it to the experts. But -- you know, to the extent that people are interested in the information, I think
that's great and welcome input.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you, Pat. Additional comments or questions on the proposed methodologies? Jason.

JASON DIDDEN: I know there will be at least one more meeting of the group working on this methodology, and I think pretty likely we could FR notice and do kind of a public webinar so people can kind of see the finalization of it. It might provide some additional accessibilities to the thought process and decision making.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thanks, Jason. Is there anything else to come before us in the committee? All right. Seeing none, we'll be adjourned. But before we do, Jason, do you have information on the tour? We have a NEMAP demo at the Lund's docks.

JASON DIDDEN: Yes. And since the Lund's people are here, I was going to rely on them to give better directions than I'd be able to give. Wayne, can you? Or, Jeff, are you here?

JEFF KAELIN: Yes.

JASON DIDDEN: Wayne or Jeff. Okay. Could you just kind of route people the easiest way to
get from here to Lund's.

        JEFF KAELIN: It's pretty simple. You basically go out and you're going to get back on the parkway again. As soon as you go over the bridge going out of Cape May, you take the first right onto Ocean Highway, and you'd take that road about a mile, and we're on the left-hand side right before the toll bridge. Can't miss us. Just one turn. Go over the bridge and make a right.

        COUNCIL CHAIRMAN RICHARD ROBINS:
        Jeff, what's the address if we want to plug it in?

        JEFF KAELIN: The street address is 997 Ocean Drive.

        JASON DIDDEN: We can put a few maps with directions at the front desk in the next few minutes.

        COUNCIL CHAIRMAN RICHARD ROBINS:
        Okay. Very well then. We'll head out there now, and we're adjourned for the day. Thank you.

WHEREUPON:

        THE MEETING WAS SUSPENDED AT 3:15 P.M.
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 23rd, day of November, 2010.

______________________________
PAUL T. WALLACE. Notary Public
My Commission Expires
October 8, 2015

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[10:38 a.m.]

INTRODUCTIONS AND ANNOUNCEMENTS

COUNCIL CHAIRMAN RICHARD ROBINS:
Let's go ahead and take our seats so we can get started and get out of here at a reasonable hour. I would like to go ahead and go through the remaining reports. Yesterday we made good progress and took a number of reports ahead of schedule, so --

APPROVAL OF MINUTES

COUNCIL CHAIRMAN RICHARD ROBINS: The first order of business is actually the minutes from June and August, and I would just ask if there are any corrections or additions to the minutes. Pete Himchak.

PETER HIMCHAK: Yes, Mr. Chairman. I just have one word replacement. Let's see. It's for the -- the date is August 19th, Page 250, Line 22. It says banability and then phonetic in parentheses. It should be sustainability is what I was talking about, sustainability, plans.

COUNCIL CHAIRMAN RICHARD ROBINS: Pete, do you remind just repeating the date and page of that?
PETER HIMCHAK: It's August 19th.

COUNCIL CHAIRMAN RICHARD ROBINS:

Right.

PETER HIMCHAK: Page 250, Line 22.

COUNCIL CHAIRMAN RICHARD ROBINS:

Okay. Are there any other corrections or additions to the minutes from June or August? Yes, Jim.

JAMES GILMORE: A couple of minor ones. Let me see if I can decide. I marked all these and now I'm going to have to find them. Hang on one second. It was mainly on the vote on the ACL/AMs, and I think Steve Heins was here and it was inaudible. He had voted no on that motion. And I'll find the -- if you give me one second.

It's on Line 12 on Page 255.

COUNCIL CHAIRMAN RICHARD ROBINS:

Okay. And what is the correction?

JAMES GILMORE: He had -- it was inaudible and he had voted no.

COUNCIL CHAIRMAN RICHARD ROBINS:

Okay. Thank you. Steve Heins voted no.

JAMES GILMORE: Had voted no. There are some other minor corrections. I don't have the exact details, but when they go through them, there's
-- there was -- they get Arnold Leo's name wrong every time. So, he has a different name in this one. So, you may want to go back and correct it.

There is one, though, that -- just give me one second there. There was a comment that John -- that Steve Heins had made. It was actually John Boreman.

COUNCIL CHAIRMAN RICHARD ROBINS:
We'll wait while you find that.
(Pause.)

JAMES GILMORE: It's on Page 295 under Line 4. It indicated Steve Heins, but that was actually John Boreman that had made that comment.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Jim. Any other corrections?

JAMES GILMORE: No, that's it. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:
Okay. Without objection -- Pat.

PAT AUGUSTINE: Dick Brame's name was Blain, B-L-A-I-N, I think is spelled wrong throughout the document. Dick Brame.

COUNCIL CHAIRMAN RICHARD ROBINS:
B-R-A-M-E, right. Okay. Thank you. We'll correct
Are there any other additions or corrections to the minutes?

PAT AUGUSTINE: Otherwise, it's a good job.

COUNCIL CHAIRMAN RICHARD ROBINS: Yeah. Seeing none, and without objection, they'll stand and reflect those additional minutes. Thank you.

Okay. Our next report is NMFS Law Enforcement. Scott.

___________________________

NMFS LAW ENFORCEMENT REPORT

SCOTT DOYLE: Thank you, Mr. Chairman. By way of introduction, I'm Scott Doyle. I think I know most of you folks, but I'm the Assistant Special Agent in Charge and I handle the Mid-Atlantic region, so most of the cases and actions that take place in the Mid-Atlantic.

If there's a problem, I would suggest if you have an issue or problem, just reach out to me directly and we'll see if we can handle it on my level.

I have a counterpart, Logan Gregory, who normally handles Maryland, Virginia, Delaware, but he's temporarily been assigned to headquarters to help with
headquarters. So, I once again have not only New York and New Jersey, but all the way down to Virginia.

Normally during these reports, I discuss cases. I'm not going to do that today. I'm going to kind of speak a little bit about some current changes in NOAA Law Enforcement and address a few of the IG investigation that we've been undergoing for the past year and a half, kind of give you some feedback or some -- at least give you our position on what's going on.

First and foremost, Andy Cohen, who was our SAC for a number of years, has retired after 30 years of service. Our current SAC is an Acting SAC. His name is Tim Donovan. He's very readily accessible. He's up in the Gloucester office. He would normally be here, but he's down in headquarters this week doing headquarter matters.

We also have a new Acting Director, and that's Alan Risenhoover. Alan was the Director of Office of Sustainable Fisheries. He's serving as the Acting Director while we're awaiting what's going on with our enforcement office. And at some point he'll go back to his job, I'm sure, and they'll announce an opening for a new director.

When that's coming, I have no idea, but
I'm sure -- hopefully it's coming shortly. The office has been going under this scrutiny and I can tell you that our office is fully committed to addressing and correcting the actions. We look for fair and effective enforcement, and it's essential to our ability to rebuild and protect the public fisheries and our natural resources.

That being said, we're doing a couple of items. One is we're conducting work force analysis, and that analysis is to help determine the appropriate mixture of criminal investigators versus civil enforcement agents, that would be uniform personnel on the docks.

A second thing we're doing is we're reviewing and revising in conjunction with NOAA General Counsel all our operational manuals. One aspect of that will be -- I know from the General Counsel's perspective, will be putting together some type of penalty schedule. So, if there is a violation, there'll be a clear and defined schedule of what the penalty is.

Another item is that we're -- we had a law enforcement summit in August. During that summit, involved stakeholders from across the spectrum,
fishermen and dealers and conservationists and law enforcement folks. And during that summit, that two-day summit, we looked for suggestions on how to improve compliance and improve our effective enforcement.

We got a lot of good suggestions. Hopefully, they'll take them back and we'll implement some of those suggestions.

And we are -- we're constantly reviewing and looking at our actions, what we're doing for now. A special master has been appointed by the Secretary of Commerce, and that special master will be looking into previous cases that may have had issues or may be some question and seeing -- making sure that the actual fine or penalties were appropriate.

Another -- and the last item I'll speak about is we transferred the asset forfeiture fund. It's been put on hold now. And there's only certain items which can come out of that. Those items -- those items would be such items as directly related to investigations and enforcement proceedings.

The purchase of vessels and vehicles and assorted equipment and upgrades and modifications and maintaining of current vessels and vehicles will no longer be used by the fund.
And that concludes my report, Mr. Chairman. I'll address any questions, if anyone has any questions.

And as a side note, I just -- as a personal note, kind of off the record, I'd say don't believe everything you read in the paper.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Scott.

PAT AUGUSTINE: Good note.

COUNCIL CHAIRMAN RICHARD ROBINS: I'm not going to ask which paper. Any comments or questions for Scott around the table?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Okay. Thanks again for the report.

The next item would be the South Atlantic Council Liaison Report. Red.

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SOUTH ATLANTIC COUNCIL LIAISON REPORT

RED MUNDEN: Thank you, Mr. Chairman.

The South Atlantic Council met in Charleston, South Carolina, September the 13th through the 17th. I attended the meeting on the 13th through the 15th.

The first day I was there, the King and
Spanish Mackerel Committee met. The King and Spanish Mackerel FMP is an FMP that the lead Council on is the Gulf Council.

The South Atlantic recommended that there be two changes to the public hearing document for Amendment 18 to the Migratory Coastal Pelagic Fishery Management Plan, which includes king and Spanish mackerel.

The Council moved that the sale of bag limit caught King and Spanish mackerel and cobia be prohibited through Amendment 18.

And another addition recommended by the South Atlantic is giving the South Atlantic Council the authority to adjust the Spanish mackerel bag limit and commercial trip limits by framework action.

The South Atlantic will review the draft amendment and a Draft Environmental Impact Statement at its December 6th through 10th meeting in New Bern, North Carolina, which is the next meeting of the South Atlantic Council.

At our last meeting, I brought the Mid-Atlantic Council up to speed concerning the actions that the South Atlantic Council took at its June meeting in Orlando, Florida. And after the June meeting, I
received communications from the South Atlantic staff concerning the extension of the management area for snapper/grouper up into the Mid-Atlantic and New England area of jurisdiction.

And at the June meeting, the South Atlantic Council voted basically to extend the area and to set an ACL and ACMs for Spanish -- I mean for snapper/grouper, but it would be up to the Councils to put the appropriate regs in place to assure that ACLs were not exceeded.

Well, the correspondence I received from the South Atlantic Council staff said based on discussions after the Council voted, we've come to the conclusion that the South Atlantic Council will be responsible for putting all these regs in place, if indeed no permit is required to participate in the fisheries.

It was kind of like one of all. We couldn't say well, we're going to exempt our fishermen from the permit requirement and -- without saying we have to exempt our fishermen from all requirements.

So, I communicated with the South Atlantic staff, the Chairman communicated with the Chairman of the South Atlantic, and we felt like that
we had gone back to the original intent where the Mid-Atlantic Council and New England Council would be responsible for managing snapper/grouper species within the area of jurisdiction.

So, this came up at the meeting in Charleston, and the Council passed a motion to extend the snapper/grouper fishery management area northward and then also an alternative that would not require a snapper/grouper permit to be required, and that the staff would address additional alternatives to allow the fishermen to handle snapper/grouper species without a permit to track those landings.

Then the Regional Administrator raised the issue of how we would track the landings without a permit system in place. And we further said that if you didn't have a permit, then all fishermen, whether it be commercial or recreational, would have to abide by the South Atlantic bag limits and there'd be no sale of commercially caught fish.

So, there was a lot of staff discussion about how to word this, and looking at another option, and then there was a lot of concern expressed by the members of the Snapper/Grouper Committee about slowing up Amendment 18, because they felt like that the
The amendment was ready to go forward other than the northern extension of the management area.

So, there was a lot of discussion after that about, well, maybe we can make an exception to allow the commercial harvest of snapper/grouper in the northern management area and put an exception in that would allow the sale of those species to address bycatch.

Finally, the Council said well, what we need to do is to take Amendment 18 and split it into Amendment 18A, which covers everything that we've talked about for this amendment except extending the management area northward, and we'll put that in a new amendment, which we'll call 18B. And that motion passed, so we will not have public hearings on the extension of the northern area during the fall when they were originally scheduled, and this issue will be placed in a new amendment. It may end up in Amendment 22, 23. I think they're up to about Amendment 25 now for snapper/grouper.

And I've had conversations with the Chairman and the Executive Director, and hopefully we can schedule a meeting when the South Atlantic Council meets in New Bern, North Carolina in December, the first
week in December, and talk with the Southeast Regional Administrator and the staff from the Southeast Region -- Southeast -- South Atlantic Council, rather, and really come to an agreement as to what needs to be done if indeed the management area is expanded to the north.

During the conversations, they asked me my opinion and I said well, I liked the first option first, where the Mid-Atlantic Council and New England Council would be allocated a certain number of fish and we could manage them as we saw fit.

And -- but I said -- you know, another option may be -- and this was something we discussed early on -- another option may be for the Mid-Atlantic Council to take on responsibility for snapper/grouper species and fold that into our existing Golden Tilefish FMP or the Demersal FMP. And several members around the table said, well, that sounds like a great idea.

So, it's almost like we're back to square one with snapper/grouper; but again, when you're dealing with the South Atlantic Council, snapper/grouper is so complex and convoluted, it's hard to come to a decision on something that initially seemed like a relatively simple matter of extending the management area northward to account for all -- account
for all sources of mortality to snapper/grouper species as required by the Magnuson-Stevens Act.

One other thing. If you look behind the Tab 7, I asked the staff to include three Southeast Region Fishery Bulletins. I just wanted to point out to you some of the Draconian measures they've had to take for several species.

Amendment 17B, this was the first of the items that's enclosed behind Tab 7. It discusses Amendment 17B to snapper/grouper and this amendment would prohibit the harvest and retention of snowy grouper, blueline tilefish, yellowedge grouper, misty grouper, queen snapper and silk snapper beyond 240 feet in -- in water 240 feet deep in the federal zone.

And this action was to prohibit the incidental catch of two other species, speckled hind and Warsaw grouper, because the ACL for these species is zero.

So, they've impacted all these other species to ensure that fishermen are not harvesting speckled hind or Warsaw grouper, and those fisheries have been closed for a number of years. I don't know the exact number, but the prohibition for the harvest of speckled hind and Warsaw grouper has been in place
for a number of years.

The next bulletin I'd like to call your attention to concerns vermillion snapper. This fishery -- the commercial fishery was closed on October the 6th of 2010. And it will be closed until January the 1st, 2011. So, we're talking about a three-month closure. And this closure was necessitated because they allocate their vermillion snapper grouper on a semiannual basis and the harvest limit for the fall fishery -- of mid-summer to fall, winter fishery, was 302,523 pounds, and that was harvested in a little over three months. So, that fishery is closed for the second half of that harvest period.

And then finally something that's near and dear to the heart of most of the Mid-Atlantic Council members, the last bulletin under -- behind Tab 7. The commercial fishery for black sea bass closed on October 7th -- the commercial harvest for black sea bass, and this fishery will be closed until June the 1st, 2011. So, we're looking at a closure that's basically going to be about nine months on black sea bass.

The majority of the black sea bass that are harvested in the South Atlantic are harvested by hook and line. There is some pot fishery, but it's not
a shadow of the pot fishery that we have in the
Mid-Atlantic.

And one other interesting thing is that
through the ASMFC action, the state -- the quota for --
the commercial quota for black sea bass is allocated on
a state-by-state basis. And through the ASMFC action,
North Carolina receives 11 percent of the black sea bass
commercial quota, which is similar to several other
states in the Mid-Atlantic.

And the North Carolina share of the
commercial black sea bass quota exceeds the total quota
for the South Atlantic Council.

So, Mr. Chairman, that concludes my
report on South Atlantic. I'd be glad to answer any
questions.

COUNCIL CHAIRMAN RICHARD ROBINS: Red,
thank you for that report. The issue with the northern
FMU on snapper/grouper has been a bit frustrating. We
had what I thought was a very clean solution that their
Council and staff had been supportive of, but the issue
got wrapped around the axle with the Southeast Regional
Office and their General Counsel regarding a permit
requirement.

And it -- you know, I think we need to
continue to work with that Regional Office to try to address that, because we don't want to export that permit requirement in the Mid-Atlantic.

The commercial guys would have to have -- have to buy two snapper/grouper permits just to be in the fishery, and there's just not a significant commercial fishery in the area. So, I think we need to go back and consult with the Southeast Regional Office, because that's where the problem flared up there at the last minute. But Pete.

PETER HIMCHAK: Yes. Thank you, Mr. Chairman. So, Red, just for point of clarification, because I reached out to our fishermen to see -- you know, there are like 79 species in this complex, snapper/grouper complex. And we do catch a couple of them on a rare event.

So, for now there is no permit requirement, they could keep Warsaw grouper if they caught one and we're not -- we don't have any Mid-Atlantic management measures, which is what we may do in the tilefish plan. Is that where we're at?

COUNCIL CHAIRMAN RICHARD ROBINS: Pete, we could do it in one of two ways, the way we had originally proposed, if we can get the Southeast
Regional Office to come around on that point, or an alternative would be to fold those species into one of our existing FMPs, either black sea bass or golden tilefish.

Red, did you have a follow-up?

RED MUNDEN: And Pete, none of the South Atlantic restrictions apply north of the North Carolina/Virginia line at this time. If the states such as Virginia desire to put regs in place, then that would be up to the individual states.

Mr. Chairman, one thing I failed to point out, the South Atlantic snapper/grouper plan prohibits the harvest of snapper/grouper species by trawl, and I pointed this out to the South Atlantic Council. I said this also needs to be addressed if we extend the management unit north because the majority of our black sea bass harvest and scup harvest which would not fall under this is by trawl.

So, we would have some snapper/grouper species that would be taken incidentally to the trawl fishery, and therefore they'd have to be discarded if we folded in the South Atlantic regs prohibiting the harvest of snapper/grouper species by trawl.

There is some incidental catch of
blueline tile, I believe, in the trawl fishery.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you, Red. Additional questions on the report?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS:

Okay. Seeing none, Chris Moore with the Executive
Director's Report.

EXECUTIVE DIRECTOR'S REPORT

EXECUTIVE DIRECTOR CHRIS MOORE: Thank

you, Mr. Chairman. Good morning, everyone. There's a

number of items behind Tab 8 that I'd like to discuss

with the Council.

The first item behind Tab 8 is the -- is
titled our Annual Work Plan scheduled activities. Our
next scheduled Council meeting is December 14th through
16th in Virginia Beach. Between now and then, we have
a number of activities and meetings that either staff
or Council members are going to attend.

If you look at Page 5 of that document,

for example, you see that we have a national SSC workshop
scheduled for Charleston October 19 through 21.

We also have the NRCC meeting scheduled
for Providence at the end of October, October 27th and
In November, we have a number of other meetings that again some of you are involved with. We've talked about the ASMFC Annual Meeting scheduled for Charleston and Demersal Committee's participation in that particular meeting during that week, November 8th through 12th.

The next -- oh, and then at the December Council meeting of course the big thing on the agenda for that particular meeting is adopting the Summer Flounder, Scup and Black Sea Bass recreational specifications for 2011.

The next item a number of you have asked about, the 2011 Council meetings. This is the list and the hotels, including dates and locations. This list is also posted on the website. So, this is something that a number of you have asked about before.

I'll take questions now, Mr. Chairman, or are you going to --


EUGENE KRAY: Thank you, Mr. Chairman. Two comments, Chris. One is the December Council meeting in Virginia Beach, it actually begins December
13th with the Ecosystems Workshop for all Council members, and the 13th and 14th will be -- that will start at one o'clock in the afternoon on Monday the 13th and then go all day on Tuesday. And the Council meeting itself will meet from the 15th -- on the 15th and 16th.

Also, I was looking at your schedule -- the schedule for the Council meetings next year, and I thought I made this -- I made this comment to somebody, I forget who it was, though, that the Hotel Danforth where we met the -- we met there before and the meeting room was the worst one we've ever had anywhere. It was tight, it was very cramped, and I hope that we're going to look into getting a different kind of a meeting room. We just didn't have enough room in there.

COUNCIL CHAIRMAN RICHARD ROBINS:
Gene, I appreciate that and I think they've undergone a ten million dollar renovation since then?

EXECUTIVE DIRECTOR CHRIS MOORE: Yeah. Multi-million dollar renovation. We're assured that those meeting rooms are going to be much better than the last time, so it should be fine.

To your earlier point, Gene, you know, thanks for reminding me of that and I forgot to mention that to the Council. We were going to talk about it
later in the Habitat Committee report.

This is the two-day or the day and a half workshop that we've been talking about relative to ecosystems. And Gene's right, we're going to start that meeting on the 13th and it's extended into the 14th.

So, we're going to have a busy week. It's likely that with rec specs taking most of Wednesday and some of the other items that we've identified at this meeting, that this is going to be a -- you know, take us into Thursday afternoon, at least at this point.

Other questions on the schedule, the locations for 2011?

(No response audible.)

EXECUTIVE DIRECTOR CHRIS MOORE: The next couple items behind the tab are in reference to some motions that were made at the last meeting. One of the motions involved ACCSP. It said to move to engage with ACCSP to increase and advance the Council's participation in improvement of data collection in the Mid-Atlantic region.

So, if you notice, there's a letter that was sent to me from Mike Cahall, who's the Director of the Atlantic Coastal Cooperative Statistics Program or ACCSP, welcoming me to the Coordinating Council.
That Coordinating Council is going to have a meeting in Charleston at the ASMFC week.

I've also appointed Jessica to the Operations Committee for ACCSP. And I understand that there's a Marine Recreational Committee that's going to meet in the next couple weeks, and we'll have a staff member there, as well.

So, we're fully involved in ACCSP at this point.

The next item refers to MRIP. There was a motion at the Council meeting -- last Council meeting that said move to direct Council staff to develop a list of recreational data collection needs specific to the Mid-Atlantic region for consideration by the MRIP Operations Team.

So, this is the staff document that's subject to revision. Basically, it's a rank priority items for MRIP in three categories: economic, biological and other.

We can discuss at length if you want, Mr. Chairman, or we can wait for the next -- when we do committee reports. It's up to you. This is MRIP.

COUNCIL CHAIRMAN RICHARD ROBINS: Why don't we go ahead and discuss it.
EXECUTIVE DIRECTOR CHRIS MOORE: Okay. So, basically this is a two, three, four-page document. Jessica, working with Jason and Rich and Jose, put this thing together.

Basically, we have these three groupings. We think they're appropriate. The first one is economic. Basically, MRIP needs to continue to collect expenditure information gathered via the economic add-on survey.

One of the concerns expressed by staff is that the economic data has taken a second seat or back seat to some of the other issues that MRIP focuses on. So, we've put that up front.

Also, the next one under economic is collect data to allow for up-front estimation of how management measures would affect the number of anglers that participate in the fishery.

And this is something that would help us make some of our decisions relative to those particular recreational fisheries that we're involved in. Stop me at any point if you have any questions about any of these.

The next one is collect information on cost and earnings. In the biological section we have
develop new procedures or implement expanded procedures
to collect more biological info. And this would help
support our stock assessments in terms of this
additional information.

The next one is develop or implement a
process for collecting more detailed effort info. This
would also support assessments by allowing spacial
examination of data.

Then in the other category, we had small
area estimation issues and we point out that some of the
projects that have been identified in the current MRIP
program are working on this, but these should remain a
high priority for managers. And basically, the point
there being that managers are applying measures at
smaller scale than the current data quality may support.
So, there's a concern there, as well.

And last but not least is data
timeliness and data resolution.

The item behind that particular sheet is
an overview of the priority item activity. I don't
know, Pres, if you want to address any of those at this
point.

PRESTON PATE: Just as a -- in the way
of a quick explanation, the Operations Team for the MRIP
is meeting on November the 9th in Charleston, also, and we'll be not in the same hotel but across the street from the one that the Commission is holding its meeting in.

And the purpose of our meeting on that date is to set the priorities for funding next year. And in the past we have set priorities based on the recommendations that came out of the NRC review and report from 2006. And those priorities have by necessity addressed some of the fundamental or global issues associated with the survey methodologies and the biases that the NRC detected in its review. And we have several pilot projects that are underway and scheduled for completion next year that will speak to those biases and make recommendations for survey improvement.

So, we feel like -- or I feel like, as Chairman of the Operations Team, that we're at the point that we don't really need to do any more pilot projects that address those fundamental issues, and it's a good time for us this year to set priorities based on the more region-specific needs, example of which you just went through.

And it gives the individual Operation Team members the opportunity to work with regional partners in developing project teams and project
proposals to come -- excuse me -- to come back to the Operations Team for their consideration for funding. Again, this is a shift in our priority and strategy a little bit that the Operations Team has to buy into, but I feel pretty confident that we'll be able to get support for that and give the regions and those that are interested in refining the surveys that are specific to their management needs a good chance to come forward and get some funding to do so.

EXECUTIVE DIRECTOR CHRIS MOORE:

Additional questions or comments on that document?

COUNCIL CHAIRMAN RICHARD ROBINS:

Chris, just a follow-up. Will these be transformed then into regional-specific projects through the Operations Team or through our staff representation to the Operations Team? In other words, these priorities that have been identified.

PRESTON PATE: Well, I think Jason realizes that a lot of this is going to fall on his initiative and the support that he gets from the Council in moving forward with addressing some of these issues. And once again, it's a shift in our priority focus and I'm not real sure now how the Operations Team is going to respond to that in terms of
the initiatives that the individuals on the team want to take to work within their regions to develop these proposals. But I suspect that there'll be some coming from the Northwest through the Pacific Commission and certainly some from this Council based on what we've discussed already.

So, I guess that can be developed in any number of ways, Mr. Chairman.

COUNCIL CHAIRMAN RICHARD ROBINS:

Well, Pres, I appreciate that. It sounds like the timing does present us with an opportunity as a Council to be more closely engaged and identify those regional priorities.

PRESTON PATE: It does.

COUNCIL CHAIRMAN RICHARD ROBINS:

That's good.

PRESTON PATE: It's worked out really well.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you. Chris.

EXECUTIVE DIRECTOR CHRIS MOORE:

Moving on, unless there's additional comments or questions? The next item behind the tab is a table that I asked Tom to put together. This is a table we put
together in response to comments that we had heard from the Region that we were behind in our EFH designations updates.

In other words, every five years we're required to look at EFH and those designations and make sure that they're correct and modify them if necessary.

So, this is -- these are the FMPs. This is when we did the original EFH designations, the updates are listed there, as well. And then at the last column is the next update.

So, for example, if you look at surfclam and ocean quahogs, the last time we did an EFH designation for those particular species it was 2003. So, it's been more than five years. We need to do them again.

We're thinking about doing them in the next amendment. The other possibility is that we can also deal with EFH designations in specification packages.

So, again, that's on our to-do list and we'll take of that. You can go down the list and look at the other ones.

Bluefish, we said the last time we did the update was 2004. Again, that's been more than five
years, so we need to do it again. We'll probably handle bluefish in the specification package; take care of that, as well.

Another example is tilefish. We just did that in Amendment 1, so we don't have to do that one again for a while -- at least another five years post 2009.

Any questions on that?

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PAT AUGUSTINE: Yeah, thank you, Mr. Chairman. Are we under any duress that we have to develop the EFH areas for bluefish and so on? Is there edict that says we have to produce them by a certain time? It's just within the context of the five years? That need will be satisfied as we address them in the next update?

EXECUTIVE DIRECTOR CHRIS MOORE: Yes. The Region can comment if they want, but basically all of the Councils are behind in their EFH designations, and you know, being responsible, we're basically letting the Region know when we're going to be taking care of that particular task.

PAT AUGUSTINE: Thank you for that clarification.
EXECUTIVE DIRECTOR CHRIS MOORE: The next item behind the tab is a Council Communications Plan, and I put this document in here for a number of reasons. One, because I think that most members don't recognize that we do or have had a Council Communications Plan.

This plan was developed back in 2004 by Marla Trollan, who was our public affairs officer at the time. She spent a lot of time putting the document together based on the survey or a survey that she did of our constituents. It has a lot of information in it that I think the Council should take a look at.

And basically, it's an indication that we need to begin the discussion on how we're going to be handling communications from a Council perspective.

We -- since this document was put out in 2004, we really didn't implement a lot of the things that are discussed in here, mainly because Marla left and I left soon after to take on another job. Dan basically took on some of the tasks. For example, Jim Armstrong has been doing the web site stuff. Kathy has been doing press releases.

So, basically, we -- or he took on some of the things, but some of the things that we had done
before like annual reports, quarterly newsletters, that went by the wayside.

So, again, this is to begin the discussion. The plan is to have a longer discussion at the December Council meeting. When we get to the December Council meeting or before the December Council meeting you'll have a list of possible ways for us to look at communications from a Council perspective. That will be from me.

So, when we're talking about communications, we're talking about outreach, education, press releases, the whole nine yards. So, again, when we get to the December Council meeting, we'll have a list of possible ways to deal with this, and we can talk about it then. Or we can talk about it now, too, if you'd like.

Do you have any questions or comments at this point?

COUNCIL CHAIRMAN RICHARD ROBINS: Gene Kray.

EUGENE KRAY: Thank you, Mr. Chairman. Chris, would you -- it's premature, probably, to try to put some dollar figures on the different parts of a plan. It might be helpful if we could, even if we put in rough
dollars, what it would cost to implement say the whole thing, what it would cost to put in this, this and this. If we had a dollar figure attached to each one of those things, it might help a little bit in terms of how we're going to do things.

EXECUTIVE DIRECTOR CHRIS MOORE: Yeah, I hope to incorporate that into that document that you'll see at the December Council meeting.

EUGENE KRAY: Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PAT AUGUSTINE: Thank you, Mr. Chairman. Just a follow-on to that. Having gone through this brochure that Marla had put together, she was very clear in the number of responses she had, it would seem to me that those responses would still be relative today as to press releases, web site and so on. And maybe we could stack rank those for consideration, price those out. And we're doing some of those things now. And I agree with Gene, if we can focus on at least two or three that we could do in the short term, by the time we get into the budgeting cycle for 2012, could allocate X amount of dollars for it. I think it would speed up the process. And she did a very thorough job with this. Thank you.
EXECUTIVE DIRECTOR CHRIS MOORE: Other comments? Questions?

(No response audible.)

EXECUTIVE DIRECTOR CHRIS MOORE: Okay.
The next -- speaking of communications, the next item behind the tab is a summary of a call that we had with the folks from New England relative to monkfish catch shares. So, this is a monkfish catch shares planning conference call, happened on September 13th, basically to bring everyone together to discuss a plan to reach out or basically have some outreach sessions along the coast to engage stakeholders about the Council's intent to explore catch share management in the monkfish fishery.

So, this is an excellent one-page summary that the New England Council staff put together, tells you exactly what transpired from that conference call.

We talked about from a Mid-Atlantic Council perspective that we should have at least four or five meetings in the Mid-Atlantic Council area to discuss monkfish catch shares.

We also made it very clear that we don't schedule meetings or have these meetings until we have
a document that we can share with stakeholders so they know exactly what we're talking about.

So, the burden on producing that document is with the New England Council staff. They're going to be working with Gomry (phonetic) to basically do that. We haven't seen a draft of that yet. Hopefully we will in the coming weeks.

The plan was to -- initially to have one of these meetings here in Cape May, but again we didn't want to have the meetings without the documents or without -- you know, the preparation. So, we didn't schedule that meeting for this particular meeting.

Ideally, based on our initial discussions, these meetings will occur before the end of the year, but we'll see.

Questions on that? Pete.

PETER HIMCHAK: Yes. The Cape May opportunity was mentioned, but what's missing here is that primarily in New Jersey we want to accommodate Barnegat Light. We want to -- I mean, I wanted something in between Barnegat Light and Point Pleasant. And then Cape May was mentioned as -- you know, an opportunity; but as you say, the document has to be -- we're going to come up with some kind of a document at
the November meeting in -- where is it, Providence.

But rest assured, Barnegat Light will get one of these -- you know, or in the vicinity of Barnegat Light will be accommodated.

EXECUTIVE DIRECTOR CHRIS MOORE: In fact, Pete, if you look in the text under Number 2, it talks about some of the locations that we just identified initially. So, there's mid New Jersey, Riverhead, Long Island, Hampton Roads.

So, again, these aren't set in stone, and certainly if folks that are interested have -- you know, particular locations that they'd like us to identify in the document, let us know.

The last --

COUNCIL CHAIRMAN RICHARD ROBINS:

Howard.

EXECUTIVE DIRECTOR CHRIS MOORE: Oh, I'm sorry.

HOWARD KING: Sorry, Chris. There is a follow-up monkfish meeting November 2nd in Providence.

EXECUTIVE DIRECTOR CHRIS MOORE:

Right. Other questions, comments?

(NO response audible.)

EXECUTIVE DIRECTOR CHRIS MOORE: Okay.
The last item behind the tab is an FR Notice. Generally, I don't like to stick FR Notices in the -- behind my tab, but this one came in when we were putting the briefing book together and I thought it was an opportunity for the council to basically comment on this particular notice. And it's basically a Notice Proposed Policy on Prohibited and Authorized Uses of the Asset Forfeiture Fund.

And this is something that Scott referenced earlier. Basically, the Secretary's requesting comments from interested parties on the list of prohibited and authorized uses of funding, and in particular expenditures for activities that would promote compliance with regulations promulgated by NOAA.

Comments are due before our next Council meeting. They're due November 29th. I've talked to the Chairman about how we might want to proceed. And Rick, if you'd like.

COUNCIL CHAIRMAN RICHARD ROBINS: Sure. I think since this does relate to the Asset Forfeiture Fund, it does relate to a law enforcement program. I would suggest that we ask the Law Enforcement Committee to develop -- work with staff to
develop a draft document that we could forward on in terms of comments.

And if any specific -- if members have specific concerns or considerations they want to forward for consideration, I'd send those to the Law Enforcement Committee and we'll draft a letter related to that.

John, if that's agreeable on your end?

Thank you.

EXECUTIVE DIRECTOR CHRIS MOORE: Other comments, questions on that?

(No response audible.)

EXECUTIVE DIRECTOR CHRIS MOORE: I have just two more things real quick. Thanks to -- thanks for responding to the paper or plastic email that I sent out to -- or that Jan sent out for me to the Council members.

You can change your mind. If you got to this meeting and decided that you really missed your paper book, just let us know and we'll send you the book.

It was an attempt -- you know, and something that will be ongoing, it was an attempt to reduce waste. I had heard from a number of Council members that in fact they really didn't want a book.
So, you know, we just queried the membership and we still had -- most of the folks still want books. And that's fine. We'll keep doing the books. So, again, if you change your mind, let us know.

Last but not least, we have a Council flower fund. It's something that we kind of -- well, since I can remember. We don't have any money in the fund. So, this is a request for the membership to basically make some donations. If you're interested, see Jan. That's it Mr. Chairman and I'll be glad to answer and additional questions.

COUNCIL CHAIRMAN RICHARD ROBINS: Any further questions on Chris's report?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: I did want to follow up on Monkfish Amendment 6. Monkfish Amendment 6 is what would contain the catch share initiative, as it relates to our committee structure. Because we historically had representation in the joint committee on monkfish and we had representation in the joint spiny dogfish committee, which we have the administrative lead on dogfish, so we had the majority of the members. On monkfish, we had the minority of the members since we are not the administrative lead on that
It seems to me that the -- that's how it started and then when Pete Jensen was in the chair he established separate committees for spiny dogfish and monkfish that were specific to the Mid-Atlantic Council.

It seems to me that the Spiny Dogfish Committee, since we already have the lead on the joint committee, is certainly redundant. So, when I made the appointments this time, everybody that wanted to be on the Spiny Dogfish Committee went onto the Joint Spiny Dogfish Committee, and I held the appointment of a separate Mid-Atlantic Monkfish Committee in suspense until we can see how Amendment 6 begins to shape up.

There's a possibility with Amendment 6 that the Mid-Atlantic Council could be asked to take the lead in developing the management plan changes for the southern fishery management unit.

If that's the case, then it would make sense to me to have our own specific committee. If that's not the case, then all the work is going to be done in the joint committee, then it seems to me that a separate committee is redundant.

But I would suggest that if we just have
the joint committee, which has three of our member on it, that as we go and do these outreach sessions and informational meetings throughout the region that we augment the complement of committee members that go to those hearings or informational meetings with local representation.

So, for example, if they're in New York, we would ask some of the New York representatives to go. If they're in Virginia, perhaps some of us from Virginia could go. North Carolina, et cetera. So that we maintain a connection there between the Council and the constituents.

But I just wanted to raise that issue. That's affected the committee structure, but you know, I'm planning on just holding that in suspense for now. And again, if we end up with the lead on a southern FMU in monkfish, I would suggest that we will need some sort of an ad hoc committee to work on it. But I just wanted to bring that to the Council's attention.

Any other questions for Chris?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: The next report is the Status of the Mid-Atlantic FMPs. Rich Seagraves.
STATUS OF MAFMC FISHERY MANAGEMENT PLANS

RICHARD SEAGRAVES: Thank you, Mr. Chairman. The information I'll be covering is behind Tab 9. The first table summarizes status of our specification packages.

Summer Flounder, Scup and Black Sea Bass specs package was submitted October 1st. Squid, Mackerel, Butterfish specs that you passed in June was submitted July 19th. And Surfclam/Ocean Quahog specs package was submitted August 13th.

The next table is the status of FMPs, amendments and frameworks, and there's no change to what you saw last month.

The next item is a summary of the Atlantic herring 2010 specifications for you to look over there.

Next is a Small Entity Compliance Guide effective September 14th. Vessels issued Atlantic herring federal permits are no longer allowed to possess more than 2,000 pounds of Atlantic herring in Area 1B. So, basically that's a closure for the remainder of the fishing year of Area 1B for Atlantic herring.

The next item, another Small Entity
Compliance Guide, outlining the closure of the directed butterfish fishery. Pat Kurkul mentioned yesterday, effective August 24th, the directed fishery is closed and vessels are constrained to 250 pounds possession limit per calendar day for the remainder of the fishing year, and then it reopens January 1.

The next item is a closure of the 2010 period 1 spiny dogfish fishery effective August 27th. That fishery then reopens November 1 and the quota period 2 goes into play.

The next item is a compliance guide notice that effective September 1st, vessels -- federal permit holders from Massachusetts may no longer land summer flounder for the remainder of the calendar year.

And the last item -- I came across this one -- or no, the next to the last item, is a notice to all federal permit holders notifying them regardless of their association with the Passamoquoddy Indian Tribe, they are required to meet all the provisions of the Magnuson-Stevens Act in the EEZ. So, you'll hear more about that one, but I thought that was an interesting one.

And finally, as Pat already discussed yesterday, there's a transfer of 76,256 pounds of scup
from unused quota from Winter Period 1 to Winter Period 2.

And that concludes my report.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you, Rich. Questions for Rich?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: All right. Rich, do you want to go through the five-year research plan?

COUNCIL'S FIVE-YEAR RESEARCH PLAN

RICHARD SEAGRAVES: Sure. The girls handed out this morning a two-pager. The version of the Research Plan that went into the briefing book, there are some slight modifications to that. We had discussed this at the September 22nd SSC meeting, and some of the members of the SSC were tasked with perfecting some of the language and it came in after the briefing book was mailed out. So, I put the draft as existed in the briefing book, but the two-pager that you have -- it's also in the back of the SSC Report.

So, what I'm going to do is just highlight -- you know, any changes that were discussed and recommended by the SSC.
The Magnuson Act requires each Council to develop a five-year research priority plan in consultation or with the assistance of its SSC. And we developed this plan actually -- this will be the second time that it's been looked at, so we're kind of in the third year here.

Basically, what we did is I reviewed all the research needs from the stock assessments, anything identified within our FMPs and other sources, to develop this plan. And then it was vetted through the SSC, and then of course the Council approved it two years ago.

So, I'm going to -- so, what I'm going to do is highlight proposed changes here.

In terms of general research needs, the first bullet, there was some language added that emphasizes the need for improved discard information in Mid-Atlantic fisheries. As you know, our sample sizes are fairly small and we've got poor coverage of some significant -- fisheries that have significant discards, which hampers our ability to estimate both the total mortality of the stock and also looking at the efficacy of certain management measures as we go down the line. So, discards are highlighted.

The rest of the bullets are the same, no
change recommended by the SSC except for the last two. They were actually added. Bonnie McKay recommended adding the next to last bullet, which is to review and approve capacity for social and economic impact analyses including updated data on fisheries organization and structure participation community linkages.

And this would be for our regular FMP work and also it scales appropriate for what the contem -- the Council's contemplating in terms of ecosystems-based management. So, Bonnie recommended and the SSC agreed that that needed to be added.

And Tom Miller suggested that we add also the last bullet, that we need to quantify uncertainty in biological reference points, which was -- you know, was pretty obvious when we were looking at dogfish and other species. If we don't have a good description of all the sources of scientific uncertainty in both the reference points and the stock size metrics, it leads the SSC to come up with some either ad hoc methods or other methods to actually try to estimate what those uncertainties are. So, that needs to be part of the stock assessment process.

On a species by species basis, there
were no changes. We'll get through the first set of species until we get to summer flounder. Number 7 was added: Evaluate current summer flounder management measures especially in the recreational fishery as they relate to sex-specific mortality.

For black sea bass, Number 6 was added. That is to conduct stock identification research to identify population subgroups and the extent of mixing.

So, we've got some information that suggests that the sea bass along the coast may represent population subunits, that they tend to stay in the areas where they are produced, and -- based on tagging studies, but what hasn't been done is to define the spacial and temporal separation of those groups and the extent of mixing. So, that's a pretty big item for sea bass. But otherwise, everything remains the same.

For scup, Number 5 was added: Explore the utility of incorporating ecological relationships, predation and oceanic events that influence scup population size on the Continental Shelf and its availability to the resource survey into the assessment model.

So, this is -- was also added to Atlantic mackerel, butterfish, illex and loligo. So,
essentially what the SSC is looking for is more information on the role that these species which may play a very important role as prey within the ecosystem and then how that should be dealt with initially in the assessment and then ultimately -- you know, incorporated into some sort of ecosystem-level management policy by the Council.

For mackerel, I said Number 5 was added. That same bullet was added. And there are several significant changes here as a result of the TRAC assessment that occurred in -- back in the spring. The assessment was done jointly with the Canadians and there was broad agreement that that assessment basically got derailed at the end. There was a new model that was put forth that yielded significantly different results but it ultimately was not accepted. We had to go with ad hoc advice, basically, not to increase the catch over what was landed the previous three years. So, it was a maintain status quo catch recommendation.

And to answer a lot of the questions that were raised and uncertainties in the assessment, there was agreement that a large Number 2 was added: Initiate a broad-scale international egg survey within potential spawning habitat including the shelf break.
And this Number 4: Examine stock structure and degree of mixing between northern and southern contingents.

And then Number 5, I already talked about.

So, there are two main issues that need to be resolved, one is what's the spacial and temporal resolution of the stock, where they spawn; and then the egg survey is actually intended to try to back-calculate what the SSB is.

For butterfish, the one about the ecological relationships was added, and also Number 3: Study of growth, morphometrics and distribution, other biological attributes of the inshore and offshore components of the butterfish population should be conducted. So, there were some -- that came directly out of the stock assessment.

For illex, again the one about the ecological relationships and the role of predation, and the role that it plays as a prey species was added.

And then Number 5: Investigate the distribution of illex beyond the depth range of the current Science Center trawl surveys, possibly using experimental research or supplemental surveys. That
one was added.

Number 4 on loligo was the same, the ecological one was added to that.

And finally, spiny dogfish, Number 1 is a pretty important one, and Tom will -- has already discussed in front of the Council, is the need to revise the assessment model to investigate the effects of stock abundance, sex ratio and the size of pups on birth rate and first-year survival pups.

And that concludes the -- and these were all approved by the SSC and if they're acceptable, then they would -- we would revise the five-year plan and then resubmit to NMFS.

COUNCIL CHAIRMAN RICHARD ROBINS:


LEE ANDERSON: Rich, thanks a lot. I think this is great. One thing, remember with the surfclam and ocean quahog we've been raising issues with respect to a single stock argument and everything else on Georges Bank. And I noticed that in the quota one on Number 3 there's investigate model formulations that accommodate spacial heterogeneity. That's a big one. And I think that's good, but that was not put in the surfclams.
And I would suggest that we put it in the surfclams. It's the same issue. Because I think that the folks with surfclam and ocean quahog are very interested in this, especially as long as Georges is closed, so --

I don't think that's a big deal, but it would be good if it was in both places.

RICHARD SEAGRAVES: Yeah, but I would look to Tom. It sounds agreeable, but -- and also Tom Hoff, but it sounds reasonable. Tom's shaking his head.

COUNCIL CHAIRMAN RICHARD ROBINS: Well, Rich, just to follow up, the SSC did actually raise that point in their meeting and I thought agreed to add it.

RICHARD SEAGRAVES: Okay.

COUNCIL CHAIRMAN RICHARD ROBINS: So, it does follow some SSC discussion already.

RICHARD SEAGRAVES: All right. We'll add it.

COUNCIL CHAIRMAN RICHARD ROBINS: Lee.

LEE ANDERSON: With that change, unless there are any others, I would move that we accept the modified research -- five-year research plan.
COUNCIL CHAIRMAN RICHARD ROBINS: Is there a second to the motion? Second by Pat Augustine. Motion to approve the five-year research plan as amended. Discussion on the motion?

UNIDENTIFIED, (No microphone): I have preference, but I choose not to take it.

COUNCIL CHAIRMAN RICHARD ROBINS: I don't even know how to call the question anymore. Now, are you for or against, sir? Go ahead, Peter.

PETER DEFUR (No microphone):

(Inaudible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Turn your microphone on, please. Can you turn your microphone on? Thank you.

PETER DEFUR: Rich?

RICHARD SEAGRAVES: Yeah.

PETER DEFUR: He was going to answer the question before I asked it. I understand the words that are in that language that was added to, what, five of the sections --

RICHARD SEAGRAVES: Yes.

PETER DEFUR: -- about adding ecological predator and prey, et cetera, et cetera. It seems a little bit like biological motherhood and apple
pie.

I understand the words. What's the intent there? Because in each case it could actually be intended to add a different layer of information into the process.

RICHARD SEAGRAVES: Okay. So, basically there were actually two parts of that thing. One was how to incorporate the ecological relationships that the species has with other species, in terms -- and that would cover the prey part.

Let me see here. The effect of predation on that prey species, and then incorporating that into -- expressly in the stock assessment, which we're doing for a few species now. In other words, adding an M2 term, explicitly in the stock assessment model. So, that -- the SSC's intent there was make sure that that got done for those prey species.

PETER DEFUR: And the other component is ocean --

RICHARD SEAGRAVES: And then the effect of -- you know, environmental factors that might influence their -- large-scale oceanographic effects that should be incorporated into the assessment itself.

PETER DEFUR: So, large-scale
oceanographic effects such as climate change.

RICHARD SEAGRAVES: Climate change.

PETER DEFUR: Alterations of the output from Delaware Bay or Hudson.

RICHARD SEAGRAVES: Yeah. And Tom may want to weigh in on this. So, yeah, that was a third part of it. So, you have effects of temperature and --

PETER DEFUR: Water quality.

RICHARD SEAGRAVES: Well, I don't think they really were thinking much about water quality, it was more about you've got these broad-scale oceanographic features that can affect the distribution of the stock --

PETER DEFUR: Okay.

RICHARD SEAGRAVES: -- its availability to being preyed upon by other species, changes in where they spawn and --

PETER DEFUR: Okay.

RICHARD SEAGRAVES: -- the overall effects on the population.

PETER DEFUR: Okay. Now I understand.

COUNCIL CHAIRMAN RICHARD ROBINS: Further discussion on the motion?

(No response audible.)
COUNCIL CHAIRMAN RICHARD ROBINS: Is the Council ready for the question? Is there any objection to the motion?

(No response audible.)

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

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Seeing none, it's approved by consent. Thank you, Rich.

We'll move on to committee reports.

Pat Augustine, HMS, please.

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HIGHLY MIGRATORY SPECIES COMMITTEE REPORT

PAT AUGUSTINE: Thank you, Mr. Chairman. We're behind Tab 11. I'll give you an update on commercial landings of bluefin tuna. There's been a release since the one that was in the book. July 31st, the second page, carries Atlantic shark.

There's been a relatively large increase in the catch rate of bluefin tuna during the August/September time frame, and literally between 19 -- I'm sorry, 2009 and 2010 the numbers of tunafish, bluefin in particular, have literally doubled in terms
of numbers caught in 2010. I will ask Jan to send that report out, if you'd like. Otherwise, we can get it off the HMS report.

Atlantic shark commercial fishery update, pretty well self-explanatory, non-sandbar, large coastal sharks, have been closed. The other fisheries continue to prosecute wherever we're still below the quota.

The next page would be commercial landings, and that was a one-page, one-week, August 31st. And that's just a single update.

We included the federal Atlantic HMS Exempted Fishery Shark Research Permit to let you all know how complicated the process is to apply for that permit in particular. And it covers all of the descriptions, identification of vessels, whether you're in the exempted fishing program and so on. And again, it's for your edification and pass it along, if you would.

The following is NMFS request application for participation in the Atlantic Highly Migratory Species 2011 shark research fishery. Again, another self-explanatory document, I won't go into any details.
The next one is NMFS announced a proposed rule for the Atlantic shark fishery. There were some significant changes. It lists the various public hearing dates and so on.

The following page, Table 1, proposed quotas and opening dates for Atlantic shark fisheries. All of these were discussed at the HMS meeting that we had in September, and incorporated as some of the things that we have recommended. But it breaks out all of the various quotas and so on.

The following is NMFS announced availability of advanced notice on rulemaking for the future of the Atlantic shark fishery. Quota structure, permit structure, catch shares, et cetera, and dates where those are going to be.

The top of the next page, vehicle manufacture for other than the Canadian market. It just turned out it it was on that page, and we didn't cross that out, but I thought it would be interesting when you look at the makes and models. Toyota is pretty heavy, and so is Volkswagen, and there's a lot of interchange parts. So, not necessary to put that on the report.

But at the bottom of that, it talks about
the Highly Migratory Species North and South Atlantic swordfish quotas, and the following pages gives the description of that, what the baselines were over the years for North Atlantic swordfish quota, likewise the South Atlantic.

And then we had final rule for the adjustment of both the North and South Atlantic swordfish quota.

Followed up by a breakout of landing ones and quota for the swordfish from 2005 to 2010. If you follow this at all, you'll see what the progression has been, and during that period of time the stocks are still claimed to be rebuilt up to about 103 percent. And I think that's a very, very good sign.

And then the final two or three pages have to do with Atlantic Highly Migratory Species, the billfish management, the white marlin, the recognition of roundscale spearfish, which is primarily caught in the marlin fishery. It's been found that the bulk of those white marlin are misnamed. They're actually roundscale spearfish.

So, it talks about the process of how it -- they were identified, what the background was, how it was broken out, what the process is that the
committees have gone through and the scientists have
gone through, what the effect is and so on.
And that takes care of that. And then
there's a final on the fisheries in the Exclusive
Economic Zone, pollock and so on, does not relate to us.
Finally is NMFS announces the final
action to add roundscale spearfish to the group of fish
that are recognized. And then the Atlantic Shark
Commercial Fishery Update.
And then HMS AP brief, brief, brief
summary of our meeting that we held in September. Marla
Trollan has taken upon their group's staff to highlight
all of the major issues that we have discussed as an
advisory panel. And there is a comparison done at each
one of the meetings when we come to our next meeting as
to what we've accomplished and what we have not
accomplished. And if you follow the Highly Migratory
Species changes to process and recommendations from the
Advisory Panel, you would be very impressed as to how
HMS has grabbed onto the advisory committee and use us
very heavily, and in process are many of the changes that
we have brought forth.
I did not bring up the point that there
is a comment period for Atlantic bluefin tuna that are
being considered for listing. We're going through the process now. I will report to the Council after our October 18th, 19th, 20th meeting with ICCAT. And that's the extent of my report, Mr. Chairman. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you very much, Pat. Questions for Pat on HMS? Greg.

GREG DIDOMENICO: Just a quick question -- just a quick question for -- anyway. For the last -- for about two years, GSSA has been requesting to the HMS Division to consider providing a permit for all illex moratorium vessels to be able to have the possession limit of 15 swordfish per trip.

I attended the September Advisory Panel meeting. Pat was helpful enough to support that initiative, and I just wanted to bring it up to the Council and hopefully ask your input on this issue, and specifically in Pat's capacity if you could see -- I understand from their staff that they're moving forward? They've indicated to me that it could be done by next illex season. If we could -- you know, certainly we're going to support the process. If you in your capacity could do the same, to see if we could
get those applications or those permits by May of next year, that would be extremely helpful. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PAT AUGUSTINE: To that point, Mr. Chairman, thank you, Greg, for bringing that back up again.

There is a very overt move on behalf of HMS to move forward with that as quickly as possible. My understanding, the intent is to have that whole permit process in place for next season. If you think an added note from the Council might be helpful, if we could develop one, Mr. Chairman -- I quite frankly don't think it's necessary unless you all believe -- the Council members believe we should.

It's moving along. It was fully supported -- this one was fully supported by the advisory committee. There were no nays around the table. So, I think HMS staff got the message loud and clear this is an essential that we do.

It's actually to reduce the bycatch in that swordfish fishery, and there's a tremendous amount of bycatch as a result. This will encompass those fishermen to be able to land those.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Pat. Any additional questions or comments on the HMS Report?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: All right. Seeing none, Dr. Kray.

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ECOSYSTEMS AND OCEAN PLANNING COMMITTEE REPORT

EUGENE KRAY: Thank you, Mr. Chairman.

The Ecosystems and Ocean Planning Committee met on Tuesday and we had presentations from the Atlantic Wind Connection project and the most significant thing obviously that came out of that was it made the New York Times front page the same day. And also that Google has invested a significant amount of money in support of that project.

The second report -- second presentation was from Fishermen's Energy Wind Project, Danny Cohen, who is known by many of us in the room a fisherman and now getting involved -- an entrepreneur in terms of developing experimental wind farms off the state of New Jersey.

And the third was an update on the New England Council's fishery management plan -- I'm sorry, the omnibus habitat amendment, and Michelle Bachman was
here, gave us an update on that.

Parenthetically, they've been working on this process now for seven years, and to me there's no end in sight. I don't know when that amendment is going to be finished. So, I'll keep going up there and adding whatever I can to that process.

We didn't have much time at the end, but we did discuss -- and there'll be more information in your next briefing book, and I had mentioned it earlier when we were looking at the Council dates for next year, in December -- in December of this year, at our December meeting we're having a day and a half workshop. As I said earlier, it will start at 1:00 on Monday and then we'll have all day on Tuesday for the workshop.

It's -- the agenda is pretty well set, and there are -- Tom, what are the three major focuses we have now? The management, the science?

THOMAS HOFF: Stakeholders.

EUGENE KRAY: Oh, and the stakeholders. Those are going to be three separate addresses we're going to make. And we have a -- I think a tremendous group of people involved. And the goal that's in my mind is that out of this workshop will become a product that we can use and that will give us some direction,
the Ecosystems and Ocean Planning Committee, some
direction as to how we're going to begin, what's the best
way to begin the whole process of developing ecosystems
considerations into our fishery management plans. And
that's my report, Mr. Chairman.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Gene. Questions for Dr. Kray?
(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: All
right. And we'll look forward to the habitat workshop
at the December meeting. Gene and Tom and the staff
have done a great job of pulling all that together.

I'll look to Jack Travelstead now for
the Demersal Committee Report.

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DEMEMSAL COMMITTEE REPORT
JACK TRAVELSTEAD: Mr. Chairman, there
were no final actions taken at Tuesday's meeting of the
Demersal Committee, so I really don't have anything to
report.

Since that meeting, I think the newer
members of the committee should have received an email
notification or travel authorization for the joint
meeting in Charleston next month.
COUNCIL CHAIRMAN RICHARD ROBINS:
Okay. And so the committee will meet jointly with the ASMFC in Charleston to discuss potential reallocation of the scup fishery. I think the -- you know, we're going to have to work to come up with the basis for that if we are going to move forward. I think Joel -- we had the benefit of him here and he raised some questions and issues there. So, I think we'll have to be responsive and focused on whatever basis it is that's taken into consideration as we move forward.

And we'll look forward to that initial discussion and feedback. That will feed back into our Council priorities, as well, as we consider ongoing amendments and we'll have to wait and see how that plays out.

Any questions for Jack on this question?
(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: All right. John McMurray, Law Enforcement.

LAW ENFORCEMENT COMMITTEE REPORT

JOHN MCMURRAY: Thank you, Mr. Chairman. The Law Enforcement Committee met on Tuesday and we were tasked with picking a nominee for the Fishery
Achievement Award. There were nine nominees this time and we -- all of them really were -- should have qualified on some level.

After a lot of discussion, we were able to narrow it down to two nominees, and the committee had really recommended that we have both of those nominees receive the award. But after some discussion with the Chair and realizing that there was some discussion on this subject in prior meetings about how we should limit it to one nominee, I'd like to get some direction here on how we should do this.

Before I do so, let's mention what the Council came up with. The first nominee was U.S. versus Salisbury Investigation Team. And that was the team responsible for putting together a three-year operation that essentially resulted in a hundred percent compliance rate for the lobster fishery. And there were seven people on that team.

The other nominee was John Larson, who is the co-owner of Viking Village Dock, and founder. And his action resulted in a lot of jobs down here.

And those are the two nominees. I'm not sure how you want to proceed on this, if we should do a balloting system or if the Council as a whole wants
to go ahead and recommend both of these folks for the 
award.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, John, and I'll just put it to the body. We 
previously discussed the need to limit this or 
preference to limit it to one recipient, and that was 
endorsed by the Council.

The Law Enforcement Committee did, as 
you see, consider a large number of potential applicants 
this year, or nominees, and narrowed it down to two. 

So, it seems to me there are a couple 
ways we could proceed. We could -- if we in fact hold 
to the principal of limiting it to one person, we could 
either have a ballot now at the Council level or refer 
it back to the committee and ask them to select a final 
nominee.

So, I'll just leave it up to the 

JOHN MCMURRAY: I'd just recommend that 
we do the ballot now, get it over with.

COUNCIL CHAIRMAN RICHARD ROBINS: Is 
that acceptable to the body? All right. Why don't we 
do that. John, could you -- do you have the background 
information that you can summarize for us on these two
nominees?

JOHN MCMURRAY: Yeah, and I'll be brief, as possible anyway.

U.S. versus Salisbury Investigation Team, the team worked for more than three years to devise a plan to apprehend and bring a noted lobster poaching operation to trial by developing an innovative method to direct lobster trap violations -- sorry, to detect lobster trap violations at sea.

The case continues to protect the lobster resource off of New Jersey and has eliminated the economic advantage enjoyed by lobster fishermen who operate in violation of the Magnuson Act. This action essentially resulted in a hundred percent compliance rate.

John Larson, as I mentioned, he was the co-owner and founder of Viking Village Dock and a commercial fishing fleet in Barnegat Light, New Jersey. That entity resulted in creating a fishery in that area and resulted in a lot of folks getting hired. And that's pretty much all the background I have on John. Perhaps Erling wants to add to that.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you. Would any committee members who are
familiar with the individuals or operations like to comment or Council members? Erling.

ERLING BERG: I knew John personally, and he was an icon here in New Jersey. Been around a long time. I'd probably known him for 40 years, run across him every once in a while. And like John said -- you know, he kind of developed Viking Village. That was his baby. And made it into a rather large fishing port. So, I just felt that he was worthy of this award. He's done a lot for -- especially for Barnegat Light.

COUNCIL CHAIRMAN RICHARD ROBINS: Other comments from committee members or council members who may be familiar with the operation?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Okay. I don't see any. Why don't we select the choice is between the Van Salisbury case, right? U.S. -- what's the full title there?

JOHN MCMURRAY: U.S. versus Van Salisbury Investigation Team.

COUNCIL CHAIRMAN RICHARD ROBINS: Okay. And John Larson. So, if you would just select on one of these note pads, we use that as a ballot. Select the recipient that you'd like to see receive the
award, and I'll ask the Executive Director to come around and pick those up.

(Pause.)

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you, all. The achievement award will go to John Larson. Thank you.

John, anything further to report?

JOHN MCMURRAY: No, Mr. Chairman.

Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you. And thanks again to the committee for its efforts.

EXECUTIVE COMMITTEE REPORT

COUNCIL CHAIRMAN RICHARD ROBINS: The next report is the Executive Committee, and the Executive Committee met yesterday and covered four areas. One was related to concerns about compensation for webinars and the need to develop a policy that would be incorporated into the SOPPs to clarify how compensation will be handled through webinars. It's been done on an ad hoc basis thus far; but we are relying somewhat increasingly on them. As needs dictate from time to time, we have to have webinars, and the SSC is
also relying on those. So, we'd look to review the compensation policy for webinars.

And there were also concerns about compensation related to travel, the existing policy and the need to review and perhaps clarify that.

And staff had expressed some concerns about practices related to rental cars, et cetera. So, there were several areas that needed some additional inquiry from a policy and practice standpoint, and we've asked a working group to report back to the Executive Committee at the December meeting. And they'll come back to us with recommendations about clarifying some of those policies.

Significantly, we also got into the review of the draft ecosystem terms of reference. If you look behind Tab 5 in your book, you'll find the draft terms of reference that have been developed in consultation with the Chair of the Ecosystems Committee for consideration by the Council, and these would go to the newly established Ecosystems Subcommittee of the SSC.

And we did have the benefit of discussing them and reviewing them at the SSC meeting, and so the SSC has also weighed in and added a suggested
term of reference. But these would begin to establish short and long-term terms of reference for the committee, looking at how we might incorporate ecosystem structure and function in our decision-making processes and into our FMPs in the short-term and on an interim basis, and then on a longer term scale how we might evolve our management into more of a regional ecosystem-based management plan, realizing that there are data limitations, but we want to try to make progress by applying the principals to our current decision-making processes.

And so I think we've come up with a set of terms of reference that includes five items under objectives, and we did amend the first term of reference, and that term of reference was amended I believe -- Jan may have the language there, if she can put that up.

And that was amended following SSC discussion and deliberation by the Executive Committee. But before -- let's see. So, the motion from the committee was:

Move to approve terms of reference for the SSC Ecosystem Subcommittee, amending term of reference number one as follows:
Provide the Council with scientific advice to support and inform the development of the Council's ecosystem-level goals, objectives and policy.

The difference there between what's on the board and what's in the briefing book is what was in the briefing book said that the committee would help identify and establish the Council's ecosystem-level goals and policies; and the concern that came up in the SSC meeting from the Chair of the SSC was he didn't want to put the subcommittee in a position of providing policy to the Council, but rather the scientific underpinnings that could be used to make those tradeoff-type decisions and develop informed -- and make informed policy decisions.

So, it's simply a clarification and perfection of that. But are there any questions on the draft TORs for the Ecosystem Subcommittee?

We wanted to put this to the full Council because this is potentially a significant step that could have some bearing on all of our FMPs eventually, so we wanted to have a full discussion on it, if we could.

But are there questions or considerations? Nancy.
NANCY THOMPSON: Yeah, thanks, Rick. My question, of course, relates to the Science Center and I haven't in all honesty looked at all these terms of reference, but I'm hoping that what they do is provide the Science Center with additional guidance in terms of what kind of science products we can provide that would then be usable by the SSC to provide this kind of advice. So, I guess my point is that we obviously need to be a part of the discussion, as well. And I know there has been some discussion with some of my folks, and I know that we're also now including some additional folks from the Center on the SSC. So, just that -- you know, that's my perspective is that I'm hoping that this is going to be able to give us the kind of guidance we'll need relative to science products.

COUNCIL CHAIRMAN RICHARD ROBINS: I appreciate that, Nancy, and in fact Jason Link is going to chair the subcommittee. So, that will be an obvious connection. But certainly I would anticipate that this will be consultative as it goes forward, and this is a first step. But I think it will be a positive first step.

Further comments or questions on the terms of reference? Peter.
PETER DEFUR: Thank you, Mr. Chairman. Does the Chair of the SSC consult with the Chair of the Council, the Vice Chair of the Council, before they make the Ecosystem Subcommittee appointments or is it just on their own?

COUNCIL CHAIRMAN RICHARD ROBINS: The SSC Chair's responsible for making those. John and I have had discussions, but I think John's going to be on the committee, as well, and I think David Tomberlin and others. So, I think it will probably be a four or five-person subcommittee. There was considerable interest.

And Dr. Miller, were you going to be on the committee, as well? I can't recall. I think so. Okay.

So, there is a lot of interest in it at the SSC. Further discussion?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Motion's on behalf of the committee, doesn't require a second. Is there any objection to the motion?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Seeing none, the motion's approved by consent. Thank
you.

We had a couple of other items that we took up. One was a review of ongoing Council projects so that we could have a discussion on priorities and make sure that the proposed workload for 2011 is going to be something that we can staff adequately and meet with our existing resources.

I'd like to run through that. You should have that document in front of you. It's entitled 2011 Council Priorities and Projects. We didn't rank these in terms of priorities but we did go through them and just give an update of what the action is, what its status is, expected time line, et cetera.

And we proposed a few additions and modifications, but the first item is mackerel, squid and butterfish Amendment 11. As you know, we just took final action on that yesterday. So, that's now behind us.

The second SMB action is Amendment 14. That deals with bycatch, and we've identified that as a high-priority item. When we first initiated that, we said we would put it on a fast track, and it remains there.

Jason, I don't know if you can give us
just a quick sense of what your expectation is in terms of an FMAT review of that situation and how that might play out over the next six months.

JASON DIDDEN: So, the FMAT is constituted for Amendment 14 and they'll be meeting in November to provide input on that list of four or five goals and some preliminary suite of alternatives for the Council to take a look at in December, is the current time line.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you, Jason.

The next item is Surfclam and Ocean Quahog Amendment 15. That's the amendment that deals with excessive shares and cost recovery. As I think we've already discussed at the full Council, we did receive funding and that went to the Science Center for the technical study of excessive shares.

That review is ongoing and should be concluded by the first quarter of next year, I think, by perhaps the end of February, roughly. And so that technical information has been the holdup in our conclusion of that amendment. And hopefully as soon as we have that, we can feed it into the decision-making process and begin to wrap up that amendment.
Spiny Dogfish Amendment 3 has been on a relatively slow track, but there should be some committee activity on that following the December -- in December following the ASMFC Annual Meeting. The ASMFC is considering going to state-by-state quotas on that issue. So, we'll be taking that up again after that.

Monkfish Amendment 6, as we heard from Chris Moore a moment ago, is now coming down the chute in the fall of this year. New England has the lead on that, but we'll be working closely with them as Amendment 6 goes forward, beginning in the next few months.

The review of the RSA Program, Pres Pate and Peter deFur are heading that up in the committee, and that work is ongoing. That's now a fairly large-scale review of the RSA program to try to address some of the concerns that have revolved around that.

The AP Performance Report is still a concept that we're trying to develop at this point in time. We've engaged the SSC and their social scientists and they're going to summarize for us what they want to see in that report. And then we'll begin to develop it further with the APs.

But that will provide for structured
input from the APs into the decision-making cycle. So, the SSC would be seeing an annual report from the AP characterizing fishery effort and catch, trying to detail the underlying factors surrounding catch and explaining that.

I think that will help particularly in data poor situations to interpret catch information. So, we would look to make progress on that and have it hopefully in place in the first half of next year.

The Visioning Project is in progress. We had our first meeting in September, and the next step for that is the definition of the scope of work. It likely has a two-year time horizon. It's not going to be a short-term undertaking because we have to get OMB clearance on whatever survey instruments we use in the project.

The ecosystem-based FMP project, that is simply the engagement now with the SSC and the establishment of the subcommittee sending them the terms of reference. It's not clear what the implications of that will be over the next year. We'll have to let it play out in terms of waiting to see what type of recommendations they have, whether we would simply incorporate their findings into our
decision-making process or whether we'd have to consider plan amendments or other modifications to our processes.

MARCO is also identified and we just had the presentation yesterday by Lauren McKay. The Executive Committee didn't have a specific motion or recommendation on that because we wanted to wait and see what her presentation was, but based on that, I would suggest that we consider moving forward with requesting representation on their management board and on their working groups in order to engage the Council in the CMSP process, since they're going to be working towards products that will be feeding into that.

And then as soon as the regional planning body is established, I would suggest that we review that relationship to determine whether MARCO is going to morph into that, merge into that or otherwise relate to that structure; because at that point it's going to be important I think to be engaged with the regional planning body.

Jack, you had your hand up?

JACK TRAVELSTEAD: Do you need a motion to move that request along?

COUNCIL CHAIRMAN RICHARD ROBINS: I'd
suggest we would, but why don't we take a motion on all
of the -- just to affirm the priorities and projects at
the end and then have a separate one on MARCO. That
would be probably be best.

JACK TRAVELSTEAD: Okay.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you. The next item is MREP, Mid-Atlantic -- you
may not have seen that acronym before, but that's the
Marine Resource Education Program, and I think you've
got either a small or large brochure in front of you on
this.

John Williamson heads the program up and
it's been highly effective in New England. You may have
heard Pat Kurkul speak about it yesterday in Executive
Committee, at least, and this program is designed to
bridge the gap between fishermen and science and
management, and it's been highly effective.

So, the audience typically when it's
done in New England is for the benefit of AP members,
Council members, constituents, et cetera. It's a
fairly broad audience, but it's a program that I think
has been highly effective at trying to really get into
the nuts and bolts of the science and how they're used
to create stock assessments, do projections about stock
size and catch.

And if we were going to do this in the Mid-Atlantic, we would have to significantly add information about recreational data collection and catch characterization and how that's done.

So, we would have to modify the curriculum, but the Executive Committee has recommended in these priorities that we pursue that subject to the availability of the funding. In the northeast I think that's been funded some through cooperative research, and we'd suggest that we try to work with the Science Center to secure that funding.

And I think the MREP program, if we pursued it, and John Williamson is very eager to do this in the Mid-Atlantic, if we pursued it, it would fit nicely into our visioning concept of trying to significantly increase our outreach to stakeholders and involvement with stakeholders. Peter.

PETER deFUR: Yeah, I just had a question about the operation of MREP. It's the Gulf of Maine Research Institute. Is that a separate body, separate 501C3 that's constituted to do this activity and several others or does it come through a university, is it a partnership? I mean who does the administration
and the actual carrying out of the educational aspect.

COUNCIL CHAIRMAN RICHARD ROBINS: I think John does it through Gulf of Maine Research Institute, but I see Nancy with her hand up.

NANCY THOMPSON: Yeah, it used to be done directly through GMRI, but GMRI is a scientific institute that has the same kind of standing, for example, as WHOI. I don't know what the -- whatever. So, but they are now a part of the Cooperative Institute that exists in the Northeast, CINAR, the Cooperative Institute North Atlantic Region, which is primarily -- well, it's handled through WHOI but it includes GMRI, University of Maine, Maryland and I know I'm forgetting -- Rutgers. So, it's handled -- so, the funding -- GMRI handles the program, the funding comes from us, and the funding goes through CINAR. So, that's how it's supported.

But as Rick indicated, I think it's the appropriate thing to do. There's no question about it. And my personal opinion is that MREP should be mandatory I think for every Council. But the question of course is the funding. And we are paying for MREP through the Cooperative Research Program. So, I mean it's obviously bounded by that at this point and how much we
can throw at the program.

PETER deFUR: Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thanks, Nancy. And I think the plan would be if we do it in the Mid, we would have our own Board of Directors that we put together or that John would put together to oversee essentially the steering committee to develop the curriculum that would be regionally appropriate before moving forward. But that's how it would play out operationally.

Any additional questions on MREP? And I know, Gene -- I know you've had a number of conversations with John about this, as well. There seems to be a lot of interest and potential in that.

Next is communications and so there we have outreach and education. As Dr. Moore already mentioned, he'll be presenting the Council with an update at the December meeting to discuss possible ways forward to expand the Council's communication program, either through incremental steps or significant programmatic changes. And so we would expect some sort of recommendations or at least a range of choices there. And beginning to build that discussion out.

Summer Flounder, Scup and Black Sea Bass
Amendment 17. 17 was the kitchen sink amendment that was put on hold a while ago. It's still there. The issue now related to Summer Flounder, Scup and Black Sea Bass is the scup allegation issue, and that's pending further discussion, as you just heard, jointly with the ASMFC. So, we'll have to wait and see what comes out of that.

Bluefish Amendment 4, that includes EFH updates. As Dr. Moore mentioned, we could handle that in specs, and that's the most pressing issue in the Bluefish FMP. So, I would suggest that we simply plan on doing that in the 2011 specification cycle, addressing the EFH update.

And that's all we have here in the priorities, but we wanted to discuss these in terms of generally and having a picture of the Council's priorities and projects for the coming year, for the benefit of the Council, the public, the staff, et cetera. And if there are any questions, I'd be glad to take those now.

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: All right, seeing none, Gene.

EUGENE KRAY: I was just going to make
a motion to accept the priorities as listed in the

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you.

EUGENE KRAY: The latest update.

COUNCIL CHAIRMAN RICHARD ROBINS: Is
there a second to the motion? Second by Pat Augustine.

Discussion on the motion?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Is
there any -- and the motion is to accept the 2011 Council
Priorities and Projects. Is there any objection to the
motion?

(No response audible.)

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

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS:

Seeing none, the ayes have it and the motion carries.

Thank you.

Okay. The final action that we had --
item for discussion in Executive was MARCO, Council's
engagement to MARCO. And the bottom line on that in my
opinion is the fact that there will be a Mid-Atlantic
Regional Ocean Plan written. I think it's in the Council's interest to be engaged in that process. And I think with respect to MARCO they are not yet the regional planning body, but through the development of their portal and their ongoing efforts they've proposed to organize themselves with working teams, and some of those teams would be focused on coastal marine spatial planning and habitat -- marine habitat.

I think we have an opportunity and really an imperative to engage with those working groups, as well as the management board. I think the Council has a lot to offer in terms of technical expertise with respect to fisheries habitat, fisheries resources and the human use side from a fisheries perspective as it relates to the marine environment.

Additionally, we have management policy concerns, so we don't want to be left out of their management board process, but would suggest that we -- based on what we heard yesterday, try to engage at this point formally with MARCO.

We previously expressed support for them, I've tried to interact with them as much as was reasonably practicable, and they're very open to that engagement. It's not clear how they're going to
structure their bylaws, how they're going to structure
their management board, but I would suggest that we
consider making that link formally or requesting such
a link. Jack.

JACK TRAVELSTEAD: I think you've said
it all and I think -- you know, based on Lauren McKay's
presentation yesterday, it seemed to be a fairly
reasonable willingness, at least on her part, that the
Council be able to participate as a member, at least at
the technical level and hopefully at the management
board level.

So, to move that along, Mr. Chairman, I
would move that the Council by way of letter to MARCO
request representation on the appropriate working
groups and the management board.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Jack. Is there a second to that motion?
Second by Jim Gilmore. Thank you, Jim.

Discussion on the motion? Peter.

PETER deFUR: Thank you, Mr. Chairman.
Do we need to include Council activity in order to have
staff participate at the technical level in MARCO
efforts?

COUNCIL CHAIRMAN RICHARD ROBINS: Do we
need to clarify that the staff would be involved? Is that what you said?

PETER deFUR: Yeah, do we need to take an action at the Council level?

COUNCIL CHAIRMAN RICHARD ROBINS: Well, I think the --

PETER deFUR: I would assume not.

COUNCIL CHAIRMAN RICHARD ROBINS: I think we need to request involvement with -- a formal role with their working groups and with their management board. And I think Jack's motion does that.

So, I think the most appropriate interaction on the working group -- on the action teams is the -- is at a staff level. And staff can -- in that capacity can provide the Magnuson perspective, can provide the Council perspective, can also provide specific technical advice.

So -- go ahead, Jan. Do you need the motion?

JAN BRYANT: (Inaudible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Jack, do you mind giving Jan the motion again?

JACK TRAVELSTEAD: I should have written it down on that form. I move that the Council
by way of letter to MARCO request representation on the
appropriate working groups and management board.

JAN BRYANT: Working groups and what?

JACK TRAVELSTEAD: Management board.

(Pause.)

COUNCIL CHAIRMAN RICHARD ROBINS: To
request -- I believe it's to request representation.

JACK TRAVELSTEAD: To request
representation.

COUNCIL CHAIRMAN RICHARD ROBINS:
Instead of appoint. Is that your motion, Jack?

JACK TRAVELSTEAD: Yes.

COUNCIL CHAIRMAN RICHARD ROBINS:
Okay. So, the motion is move the Council write a letter
to MARCO to request representation on the appropriate
working groups and management board.

Is there any further discussion on the
motion?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Is
the Council ready for the question? Is there any
objection to the motion?

(No response audible.)

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

(No response audible.)  

COUNCIL CHAIRMAN RICHARD ROBINS:  

Seeing none, it's approved by consent. Thank you.  

Thanks, Jack.  

That concludes the report for the  

Executive Committee. Are there any questions on the  

Executive Committee action?  

(No response audible.)  

COUNCIL CHAIRMAN RICHARD ROBINS:  All  

right. Seeing none, we had the SSC Report. Dr.  

Miller, I know you already presented the ABC  

recommendations to us twice, and we appreciate that at  

the committee and Council level.  

Is there -- are there additional items  

for you to report out to the Council?  

___________________________________________  

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT  

THOMAS MILLER: Thank you, Mr.  

Chairman. Just a couple. The first one relates to a  

management strategy evaluation project the Council has  

funded Dr. Mike Wilberg and myself to conduct.  

The goals of this project are to  

evaluate the effectiveness of the control rules and to
consider questions such as what's the optimal frequency
at which stock assessments should be conducted.

There is an advisory committee that's
been appointed to oversee that project. The Council
Chairman and Vice Chairman are part of that committee.
Council staff are part of that committee.

We have two representatives from the
Northeast Fisheries Science Center, Jason Link, who
also serves on the SSC, and Liz Brooks, who will provide
technical support for the project.

And project staff are going up to meet
with Northeast Fisheries Science Center staff two weeks
from now to begin an evaluation based on fluke.

The other points that we discussed, the
SAW/SARC schedule and we commented that given the change
in the vessel for the surfclam/quahog survey that's
coming up in the next year or two, we noted that while
surfclam is scheduled for a SAW/SARC, quahog are not,
and we suggested that it's important that quahog be
reevaluated given the change in survey instrument for
that species, as well.

And then the final point arising from
the committee meeting was to do with the industry
advisors performance report, and we appointed Bonnie
McKay as the representative from the SSC to that committee.

And then two upcoming events the Council should be aware of: SSC members are participating in the third national SSC meeting in Charleston in a week from now. And then on December the 6th and 7th members of the SSC are invited to attend a meeting at the Northeast Fisheries Science Center to discuss improved communication and coordination between the assessment scientists at the Northeast Center and the SSCs themselves.

I think that completes the report beyond what's already been provided to the Council.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Dr. Miller. Is that meeting with the Science Center going to get into the specific areas where the SSC needs more information that quantifies uncertainty?

THOMAS MILLER: I think that's the explicit goal. There has been some concerns expressed by the assessment scientists at the Northeast Center that they work extremely hard to produce a product and then we give them a Level 3 or a Level 4, and they feel that it's a criticism of the work they've done. And that's not what it is. It's a comment that the
assessment doesn't provide the information we need, and that information I think could be readily provided. It is just that up until now no one has asked them to provide that information.

And so we're looking to improve the communication so the assessments do provide the information that make not only our job on the Mid-Atlantic SSC but the New England SSC, as well.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you. I think that's going to be an important step in the process. Questions of Dr. Miller on his report? Rich.

RICHARD SEAGRAVES: Yeah, I'd just add to Tom's report, in terms of the discussion about ocean quahog, we also discussed the idea that if it doesn't rise to the level of being added back to the SAW/SARC schedule, that we request some sort of peer review of the conversion between the two vessels in lieu of quahog getting on the agenda.

And also, I would just note that the NRC -- at the NRCC meeting in October, the ACL/AM workshop that was held -- facilitated workshop that was held in Woods Hole has a report that will be presented to the NRCC. And principally, the topic of discussion was how
can we change the way we do business given the increase in demand for scientific information and looks like fixed resources.

And so that's yet to be discussed by the NRCC, but it will certainly impinge on -- you know, future scheduling. So, we're going to go through some sort of transition period where we will basically redefine the periodicity which we do and how we do assessments and so forth.

So, all that stuff I would urge the Council -- you know, to keep -- pay close attention because this is a pretty big change in the way -- potentially a big change in the way we do business.

COUNCIL CHAIRMAN RICHARD ROBINS: And that's obviously going to be front and center in the upcoming NRCC meeting. So, that will be our first time as a group to formally debate the idea and get into the operational details. Tom.

THOMAS MILLER: I would just add, Mr. Chairman, that to provide the NRCC with information on how they decide what the optimal schedule of assessments is is really the goal of that MSE project that the Council has funded.

Without that, the NRCC really has no
information on whether one species needs more frequent assessments than a different species.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you. Pres.

PRESTON PATE: Thank you, Rick. In an effort to try and continue the improvements of the RSA program, Rich Seagraves and I discussed with the SSC at their last meeting the proper role that they could play in reviewing the research proposals to try and maximize the output from those investments.

And that idea was well-received by the SSC, and the details of that have yet to be worked out, but it's just another example of how we're trying to move forward with overhauling that effort.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Pres. Additional questions for Dr. Miller on his report?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS:
Okay. Seeing none, the next report is from the Visioning Committee.

VISIONING COMMITTEE REPORT

COUNCIL CHAIRMAN RICHARD ROBINS: And
the Visioning Committee met in Baltimore on September 9th and had its first meeting to discuss the Visioning Project. The Visioning Project was something that came out of our workshop last spring as a concept and so now we're beginning to flesh it out and move forward with it.

We had a good initial meeting. We got through a revision of the purpose statement and if you look behind Tab 11, if you're looking electrically it's probably 80 percent of the way through Tab 11, but you'll see a report from the Visioning Committee, a summary there.

And so on Page 2 of that, the statement -- the purpose statement was revised, and that now reads: The purpose of the Visioning Project is to develop a stakeholder-informed vision for the Council's managed fisheries that will be used to refine the Council's management programs.

The project will use an array of outreach methods to engage stakeholders and to ensure a transparent process throughout the product development.

Completion will likely take about two to three years depending on the final scope of the project.
The next step at this point is to define a scope of work. We did have a considerable amount of discussion about how the information would be used by the Council to update or inform the Council's management plans and programs, and we didn't come to a specific conclusion about that, but we did have discussion about the possibility of folding that into a strategic plan that would then be used to inform the Council's annual work plans et cetera. That would give us more of a framework for incorporating the information.

And I'll let Chris speak a little bit about that aspect of it.

EXECUTIVE DIRECTOR CHRIS MOORE: You all had a number of discussions relative to this visioning process and what it means. One of the things that we discussed at this Visioning Committee meeting was the actual product that we would have in hand as a result of the process.

So, if you think about it, we really don't have a long-term plan for Council activities. Every year we go through a process like we just did, establishing priorities that feeds into an Annual Work Plan. And you'll see a draft of that in December.

But to have a five-year plan that would
help guide those annual work plans would be a good thing, from my perspective. And I think in terms of how we use stakeholder constituent -- you know, comments or suggestions or visions, developing that particular document is one that we're going to discuss in future meetings.

But ideally what we're talking about is having a Visioning Project that actually goes out to stakeholders and gets comments on what they believe needs to be done for all the fisheries that we manage. And those comments will be combined with Council direction, Council ideas, to form this five-year plan.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thanks, Chris. And just to follow up -- you know, one of the other outcomes of this discussion was the fact that it's clear we need to do more to involve the ASMFC, because it doesn't make sense to go full speed down a path on developing a vision for the joint FMPs without considerable involvement from the ASMFC.

A number of you around this table are involved in the Commission's work, but we wanted to reach out and expand the Commission involvement. And so Vince attended the last meeting. A.C. Carpenter has agreed to serve on the group. But we would propose to
expand that and go to the ASMFC leadership and give them an opportunity to expand the involvement with the project. And I think that is going to be certainly a very important step.

But I should have done this before we discussed priorities, because this is one of the priorities. But I just wanted to give a quick summary and sense of the meeting and answer any questions if you have any at this point in time.

Are there any questions on the Visioning Project as it stands now? Again, the next step is going to be defining the statement of work, and we'll be working with staff to do that. And look forward to that next step.

That's all I have for committee reports. Is there any new business to come before the Council? Pete.

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NEW BUSINESS

PETER HIMCHAK: Yes, Mr. Chairman. On a serious note, I think Jule Wheatly would appreciate some cards or letters, get well. I don't know how he's doing. I heard it's a little more serious than we originally thought, so -- I guess his home address is
on the -- I looked it up on the Mid-Atlantic Council's home page, so --

COUNCIL CHAIRMAN RICHARD ROBINS:

Chris.

EXECUTIVE DIRECTOR CHRIS MOORE: Yeah, just -- we did send flowers from the Council to Jule when he was in the hospital. So -- and I think we do have another address that we can provide to the Council members, as well.

I think, Jan, we have another home -- okay. So, the home address that's on the web site is the one you should use.

COUNCIL CHAIRMAN RICHARD ROBINS:

Pete, thanks for raising the issue. His health situation and outlook is serious. I do hope to be able to visit him in the next few weeks, but I think you're right. It would be great to send cards and -- that would be good. Thank you.

Additional business? Red.

RED MUNDEN: Yes, thank you, Mr. Chairman. I received an email Monday evening from Jerry Schill, who's close friends with the Wheatly family, and it did indicate that Jule was at home.

COUNCIL CHAIRMAN RICHARD ROBINS:
Yeah, I know they had hoped to get him out of the hospital last week, and so he did make it home. Thank you.

Chris.

CHRISTOPHER ZEMAN: There is a continuing business matter from the last Council meeting. As you may remember, there was a motion that was tabled regarding creation of a river herring and shad complex FMP. I'm not sure if you have the original language of that motion.

I just -- because of the procedural rules, I need to bring that up at this meeting or it will be dropped to the ground, which is now the technical term, which is good to know.

Now, I think just as a reminder, one of the reasons why that was tabled was because there was a belief that there was a NOAA report or NOAA was doing additional sort of analysis into the legal basis of taking action or -- under the Magnuson Act, and there would be a review.

I contacted Pat Kurkul after that meeting and she responded to my emails about this request saying that there is -- are no plans for NOAA to do this legal review.

Therefore, I see that the basis for that
motion to table no longer exists, and so that's why I'm also bringing this motion back to the table.

Now, I also proposed amending language because prior to that motion to table there was discussion that the original language was just not clear enough as to the purposes of this committee. So, I took that into consideration and proposed this draft substitute language. And just as a point of order, I'm not sure if -- am I able to make a motion to amend to my own motion? And if not, then I would appreciate if another Council member would make a friendly amendment.

COUNCIL CHAIRMAN RICHARD ROBINS: Well, you could -- first of all, you've got to --

UNIDENTIFIED (No microphone): Withdrawing it.

COUNCIL CHAIRMAN RICHARD ROBINS: Yeah, you could either withdraw it or -- well, you can just make a new motion. I mean, you could take it from the table and go through the process of amending it. I'll suggest just making a new motion.

CHRISTOPHER ZEMAN: Okay. I would like to make a new motion, and that is -- language is already on the screen.

COUNCIL CHAIRMAN RICHARD ROBINS:
Would you please read it?

CHRISTOPHER ZEMAN: Sure. Move that the Council establish an ad hoc committee to evaluate:

1, Jurisdictional legal issues affecting the Council's ability to take action under the Magnuson-Stevens Act in light of the existing ASMFC management plan for river herring and shad.

That was -- I just added that. That's my intent in that language. I don't think it's specified.

2, Most effective approaches for ASMFC, MAFMC, NEFMC and NOAA cooperation and coordination in the conservation of river herring and shad complex.

And 3, MAFMC options to afford river herring and shad comprehensive EFH rebuilding and bycatch protections under the Magnuson-Stevens Act.

And that --

JOHN McMURRAY: I'll second.


CHRISTOPHER ZEMAN: I think it's appropriate to bring this motion up again and to make this clarification, because I've had subsequent
discussions and I find that these jurisdictional issues are very complex, and I think it would be of value to this Council to have a clear answer on this. And I think that would be one of the clear goals for this ad hoc committee.

And the ad hoc committee would coordinate with the upcoming FMAT, that is meeting before the December Council meeting, and would then take those recommendations as well as contacting NOAA and ASMFC to sort of work out the -- just the jurisdictional issues that come up and to determine what is the best approach and what are the limitations when you have -- under the Atlantic Coastal Act to act under the Magnuson Act, when you have an existing ASMFC plan.

I think there are some restrictions, but I think it depends on what is being asked of us and/or NOAA by the ASMFC. And so I think it would be very helpful to have that committee meet to prepare a report -- a short report for the Council to answer those questions.

COUNCIL CHAIRMAN RICHARD ROBINS: I didn't mean to have my back to you, but I wanted to read the motion in detail.

Can you just tell us how this would --
how you see this interfacing with the work on Amendment 14 and the FMAT's work, et cetera?

CHRISTOPHER ZEMAN: I see it as a -- I see it as a sort of an additional -- it's going to compliment that process. I think there's a need for a committee of Council members to sort of take that FMAT information and then review it and in light of other information we gather regarding the Atlantic Coastal Act and how it interplays with the Magnuson Act, to make a recommendation from Council members to the full committee as to where we think we have justification to act and what's the best way to act. And there actually -- there could be a situation where actually the Mid-Atlantic Council cannot do an FMP and it was really up to the ASMFC to make a recommendation to NOAA to do sort of ancillary federal protections.

So, I think the -- this language makes it clear that the end result of that committee may not be a recommendation to do an FMP. And in fact -- you know, I just want to make sure that we may not even have the ability to do that, but that's what I want to clarify. And I think that's going to be important because it's important for a committee to be formed to do this because I think the focus of the Squid, Mackerel,
Butterfish is already focusing on an existing amendment to an existing plan. So, the scope of this is broader.

Furthermore, I think -- you know, I've spoken with the ASMFC and there is definitely an expressed interest in federal partner -- in federal players like NOAA and the Mid-Atlantic Council to have a more -- have a more -- a stronger role or an increased role in conservation.

And specifically -- you know, there are certain things that we can do under Magnuson that are not afforded under the Atlantic Coastal Act.

For example, EFH designation and consultation requirements to NOAA. That's something that -- you know, I think we're just missing that tool, and it's a tool that I think is going to be more valuable in light of all these new proposals for wind energy, turbines in the rivers.

That's going to be something that I think we need to have more -- NOAA needs to have more oversight about and I've seen in the past with letters from NOAA that that -- even though it's only a consultation requirement, it can be effective in persuading that acting agency to take steps to mitigate and/or revise its proposal to minimize non-fishing
impacts on EFH.

COUNCIL CHAIRMAN RICHARD ROBINS:

Okay. Jim.

CHRISTOPHER ZEMAN: That's one example.

JAMES GILMORE: Thank you, Mr. Chairman. One of the complicating factors of this right now is -- and we really need Joel for this one -- is the lawsuit. Because under the lawsuit by the group in Massachusetts, they've named NOAA, the ASMFC, not the Council but all the state directors, and this I think in terms of legal procedure, I mean part of what's in this motion right now is what the language is in some of that lawsuit is that -- you know, and if I think we're trying to clarify this through an ad hoc committee, that would have to be coordinated through the large number of attorneys that are working on that exact issue right now.

So, I -- and I hate to say this again, but I think we're going to have to table this until we really get some feedback, particularly from Joel, who is working on the case for the National Marine Fisheries Service.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.
PAT AUGUSTINE: Well, if he's going to move to table, I'll second it. Otherwise, I would move to amend.

COUNCIL CHAIRMAN RICHARD ROBINS: Are you making a motion?

PAT AUGUSTINE: Well, I'll make the motion to table.

COUNCIL CHAIRMAN RICHARD ROBINS: Is there a second on the motion? Second by Erling Berg.

PAT AUGUSTINE: May I respond or may I say why?

COUNCIL CHAIRMAN RICHARD ROBINS: Hang on. The motion to -- motion to table is not debatable.

CHRISTOPHER ZEMAN: I have a point of order.

COUNCIL CHAIRMAN RICHARD ROBINS: State the point.

CHRISTOPHER ZEMAN: What is the immediate and pressing need to table this motion at this time?

COUNCIL CHAIRMAN RICHARD ROBINS: You ask a good question.

PAT AUGUSTINE: You can borrow my book, if you'd like.
CHRISTOPHER ZEMAN: If I may, Chairman, I'd like to respond to Mr. Gilmore's concern.

I think that that concern is addressed in this motion because my -- I'm not asking -- I'm not asking what is the Council, NOAA or the ASMFC required to do under existing law. I'm asking what is the extent of our discretionary abilities to conserve?

All these agencies, all these bodies have very broad discretion, and that's really what I'm asking. I'm not asking what we have to do. I'm asking what we could do. And in terms of any -- there's no legal mandate for our discretionary authority.

So, I understand that concern and I believe that we can go forward with this at this time without any concerns of having -- interacting with the legal litigation that's proceeding.

COUNCIL CHAIRMAN RICHARD ROBINS:

Before you go on, I will find the motion out of order in that case. So, you have raised a question, but -- I had Pete Himchak next.

PETER HIMCHAK: I would just like to comment that -- if you scroll down the motion a little bit, under Number 1, jurisdictional legal issues, I already told Chris -- you know, whether this goes
forward or not I'm not going to volunteer for this
because I don't -- I don't think I have the
qualifications to address such topics.

And then in light of what Jim said, it
-- you know, it might be prudent -- yeah, Director Chanda
(phone) was named in the lawsuit, and I serve as his
proxy on this Council and the Commission, and it might
be -- it would be prudent for me not to be on the ad hoc
commitee, so -- I'm not -- you know, supporting or not
supporting. I'm just stating a couple of facts to
consider.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you. Gene.

EUGENE KRAY: Thank you, Mr. Chairman.
Just a comment. Yesterday, I received the Draft Action
Plan for the ASMFC. And listed in there is continue to
work with the New England Council and Mid-Atlantic
Council on evaluating and mitigating shad and river
herring bycatch in small mesh ocean fisheries.

The second sentence is: Monitor the
potential initiation of a federal anadromous fishery
management plan.

And so, they're -- you know, Vince is
taking a look at -- I mean, they're going to be -- they
want to work with us. That's how I read into it. They want to work with us in terms of doing whatever we can do.

COUNCIL CHAIRMAN RICHARD ROBINS:
Peter deFur.

UNIDENTIFIED (No microphone): Did you find (inaudible.)

COUNCIL CHAIRMAN RICHARD ROBINS: The motion was out of order.

PAT AUGUSTINE: Information, Mr. Chairman. Did you find the motion to table out of order?

COUNCIL CHAIRMAN RICHARD ROBINS: I did.

PAT AUGUSTINE: Okay. Thank you. Just a clarification.

COUNCIL CHAIRMAN RICHARD ROBINS: A motion to postpone to a definite time or indefinitely would not be out of order, but motion to table would be. I have Pete.

PETER deFUR: Thank you very much. I want to speak in favor of the motion because of the reasons that both Gene pointed out, that there are a number of federal agencies that are interested in seeing
more information not only on the river herring and shad
question, but also what actions can and should be taken
for protection under which -- under which act.

So, Fish and Wildlife Service has got
some information. They have some interest in this.

We had a good workshop last week, ten
days ago, whatever it was -- not long ago; it seems like
it was just the other day -- on the question, and it's
clear that there's a certain scientific shift now in
looking at assessing this rather than a river by river
basis, looking at it coastwide, which would suggest a
federal perspective outside the -- I mean in the EEZ
outside the three-mile zone.

So, I think it's appropriate for us to
not only ask these questions within the scientific
perspective, but also within the management
perspective. I think the motion does establish the
ability to basically conduct a scoping. What are the
options? And so I think that this is a good motion and
I'm supportive of it. Thank you, Mr. Chairman.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Peter. Jason, I know you had your hand up
a minute ago. How does this -- how does this mesh with
the work of the FMAT relative to management
coordination? I know management coordination or
text integration was one of the concerns we had talked about
earlier on in the development of 14.

JASON DIDDEN: I had raised my hand just
to clarify if it was tabled or not; however, on your
text question, I think the FMAT would be seeking to provide
as much input as we can over the next -- you know, the
month that we're going to be looking at it. And we'll
either be reporting it out to the SMB Committee or --
you know, any other body. But I think that the FMAT will
be seeking to address these questions.

COUNCIL CHAIRMAN RICHARD ROBINS:

Thank you. Howard.

HOWARD KING: Yeah, I view Number 2 as
being the core of this, and that the ad hoc committee
would be the Mid-Atlantic Council working group,

essentially, that would sit with ASMFC and/or NOAA or

others. To me, the core of this is Number 2, not Number

1, which was Peter's concern, or Number 3.

And I would support the motion in any
case.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PAT AUGUSTINE: Then I would move to

amend. You want to hear the amendment? I would move
to amend to remove 1, jurisdictional legal issues affecting the Council's ability to take action under Magnuson-Stevens Act in light of existing ASMFC management plans for river herring and so on.

Need any further discussion? If I get a second on that, I'll tell you why.

COUNCIL CHAIRMAN RICHARD ROBINS: Motion to strike Number 1 by amendment. Erling -- is there a second to that? Erling Berg.

PAT AUGUSTINE: Then a follow-on to that, Mr. Chairman.

COUNCIL CHAIRMAN RICHARD ROBINS: Pat.

PAT AUGUSTINE: To establish an ad hoc committee to find out what the others are doing, and to be a party to, and bring it all together, seems to me the most appropriate thing to do. And I thought that was the point that the maker of the motion was originally going for. I would support this a hundred percent the way it is now.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you. Pete Himchak, did you have your hand up?

(Inaudible comments away from microphone.)

CHRISTOPHER ZEMAN: I would consider that a friendly amendment. I would -- oh.
COUNCIL CHAIRMAN RICHARD ROBINS: I had
Jim Gilmore.

JAMES GILMORE: Thank you, Mr. Chairman. And that actually I can support the motion now. My concern was primarily with Number 1 in that, and I was going to go to the postpone definite time. But with 1 removed, because of that, the issue about a legal determination of that, I think that needed to be coordinated through legal counsel.

And if that's removed, I think 2 and 3 -- you know, are appropriate and a good step and I think we can move on that and I can support the motion. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS: I feel like I'm in the middle of the parliamentary Olympics now. Chris.

CHRISTOPHER ZEMAN: I would consider that a friendly amendment.

COUNCIL CHAIRMAN RICHARD ROBINS: Well, it's already been -- it's been moved. Let's go ahead and I'll take some question and then -- so we have a record, we'll go ahead and vote on it. Pres.

PRESTON PATE: Just an observation, Mr. Chairman. I certainly support the idea of taking
Number 1 out, but in effect it doesn't make the issue go away. If you're evaluating the most effective way to coordinate Council activities with the other entities that are listed in Number 2, you still have to do that evaluation at some point to determine whether or not you've chosen the most effective mechanism.

So, it's still going to be effective, I think, getting back to Jim Gilmore's original comment, by the outcome and deliberations over the lawsuit. But I do support the motion, with -- as amended.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you. Yeah, well, it just avoids I think putting the committee in a position of trying to conduct some sort of legal review that may not necessarily be the best thing to do right now in light of the ongoing legal actions.

Any further discussion on the question? Lee.

LEE ANDERSON (No microphone):

(Inaudible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Is the Council ready for the question? Is there any objection to the motion to amend?

(No response audible.)
COUNCIL CHAIRMAN RICHARD ROBINS: Is there any objection to the motion to amend? (No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Seeing none, it's approved by consent.

We're now to the amended motion. Is there further discussion on the motion as amended? (No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Is there any comment on the motion as amended? (No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Seeing none, is the Council ready for the question? And the question is: Move that the Council establish an ad hoc committee to evaluate the most effective approaches for ASMFC, MAFMC, NEFMC and NOAA cooperation and coordination in the conservation of river herring and shad complex; and MAFMC options to afford river herring and shad comprehensive EFH rebuilding and bycatch protections under the Magnuson-Stevens Act.

Council ready for the question? Is there any objection to the motion? (No response audible.)

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

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS: Seeing none, the motion is approved by consent. Thank you.

Is there any other business to come before the Council? Greg.

PETER HIMCHAK: Who's going to form the committee? Are you looking for volunteers?

COUNCIL CHAIRMAN RICHARD ROBINS: I'll appoint the committee and I'm wide open to volunteers. So, if you can't find that sharp object to stick into your eye -- and you won't engage in the legal review. Chris, are you going to head that up?

CHRISTOPHER ZEMAN (No microphone):

(Inaudible.)

COUNCIL CHAIRMAN RICHARD ROBINS: All right. Gene Kray, you going to be on there? All right. We've got a committee of two. John? Anybody else that's willing to serve, please contact me in the days ahead. Pat?

PAT AUGUSTINE (No microphone):

(Inaudible.)

COUNCIL CHAIRMAN RICHARD ROBINS: All
right. Committee of four. Chris.

CHRISTOPHER ZEMAN: At the prior Council meeting, I believe there was a Dave Mica? Mico? From Pennsylvania. He was also interested in being on this committee if approved.

COUNCIL CHAIRMAN RICHARD ROBINS: Thanks, Chris. We'll check in with him.

Additional business to come before the Council? Greg D.

GREG DIDOMENICO: Thank you, Mr. Chairman. Just a bit of an update on something that we've been working on regarding Amendment 10. Essentially, what I'm trying to get across to the Council is that you know that on behalf of -- you know, not just Garden State Seafood Association, but fishermen and organizations and people from four states, New Jersey, New York, North Carolina and Rhode Island. We've put a tremendous amount of time and effort and resources into Amendment 10 from its inception till today.

And as you recall, our legal counsel wrote a letter to the Secretary of Commerce on March 2nd of this year to ask for a partial approval and/or no approval of Amendment 10 while it was going through the
process. That -- of course that request was denied by a letter from the agency dated April 12th of 2010.

We submitted another letter on March 3rd -- sorry, March 30th of this year, a much more extensive letter, which not only covered the management issues but the assessment issues involved in the butterfish assessment.

It's an extensive letter, a much more extensive letter than the short letter we wrote through legal counsel, and we have 13 questions in here that are science-based and are legitimate and are going to have -- as you know, Amendment 10 can or will have a very -- could have a very negative impact on the loligo fishery and people from all those states.

And all those people that I'm talking about -- speaking of -- on behalf of today, have some expectation that this letter will be responded to. And unfortunately, what we have received so far is a letter from the agency dated August 2nd that is exactly the same as the letter that we received April 12th.

And I have reached out and have supplied this information not just to the Council or the staff members, but to everybody that I can think of at this point. And we're asking perhaps for the Council to look
into this, as well, and so we can receive a proper response on behalf of the people that you are managing through Amendment 10.

And I'm sure George has some -- can add to this conversation, but quite frankly it's -- it's very important and I've had face-to-face conversations with Administrator Schwaab and I've asked him -- I explained to him that essentially they're obligated to answer this letter, because it is factual and it's based on a lot of participation by the industry and the merits of which can't really be -- you know, can't be refuted at this point.

So, we need a response and I appreciate either George's response or something else from the Council. Thank you.

COUNCIL CHAIRMAN RICHARD ROBINS:
Well, Greg, the Council, as you're aware, can't respond on behalf of the Secretary, but I know George had his hand up, so -- I appreciate you briefing the Council on it.

Both letters have been responded to, as I recall, from what you showed me?

GREG DIDOMENICO: Yes, but it's the same response.
COUNCIL CHAIRMAN RICHARD ROBINS: I understand.

GREG DIDOMENICO: To a different letter.

COUNCIL CHAIRMAN RICHARD ROBINS: But we're not able to respond on behalf of the Secretary.

GREG DIDOMENICO: I understand.

COUNCIL CHAIRMAN RICHARD ROBINS: But I'll see if George has a comment.

GREG DIDOMENICO: I understand that.

COUNCIL CHAIRMAN RICHARD ROBINS: Thank you.

GEORGE DARCY: Do you have the October response? A response that was signed and sent to you -- at least I have a copy of it -- dated I think October 8th? Well, if I have it, I'll give it to you. If not, it should be in your office waiting for you. It did go out.

COUNCIL CHAIRMAN RICHARD ROBINS: There you go.

GREG DIDOMENICO: Via snail mail, is that --

GEORGE DARCY: I don't know how it was sent. I imagine so.
GREG DIDOMENICO: Wonderful. Thank you very much.

And just another brief comment, the previous motion that was debated here, not going to be surprised we're not supportive of, but you know, it would have been very helpful to have that discussion in front of the people who are essentially going to be impacted by that. There were people in the audience here today -- who have been here for the last two days, that certainly would have had a lot to say if we had the opportunity to.

COUNCIL CHAIRMAN RICHARD ROBINS:
Thank you, Greg. Is there any additional business to come before the Council?

(No response audible.)

COUNCIL CHAIRMAN RICHARD ROBINS:
Seeing none, I'd like to thank the New Jersey delegation for their hospitality. Thanks to the Garden State Seafood Association for their -- and it's been a good week in Cape May. Safe travels home. And with that, we're adjourned. Thank you. See you all in Virginia Beach in December.

WHEREUPON:
THE MEETING WAS CONCLUDED AT 1:05 P.M.

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF NORFOLK

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

In witness whereof, I have set my hand and Notary Seal this 24th, day of November, 2010.

PAUL T. WALLACE, Notary Public
My Commission Expires
October 8, 2015

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