

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE

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MARINE FISHERIES ADVISORY COMMITTEE

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WEDNESDAY, FEBRUARY 15, 2006

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The Advisory Committee met at 9:10 a.m. at the International Game Fish Association, 300 Gulf Stream Way, Dania, Florida 33004, Dr. William T. Hogarth, Vice Chair, presiding.

PRESENT:

- | | |
|--------------------|---|
| WILLIAM T. HOGARTH | Vice Chair, Assistant Administrator for Fisheries |
| RUSSELL PORTER | Pacific States Marine Fisheries Commission |
| LARRY SIMPSON | Gulf States Marine Fisheries Commission |
| ROB KRAMER | International Game Fish Association |
| STEVE JONER | Makah Fisheries Management |
| CHRIS DORSETT | Gulf of Mexico Fish Conservation Director |
| TOM J. BILLY | International Food Safety Consultants, LLC |
| TOM RAFTICAN | United Anglers of CA |
| JOHN V. O'SHEA | Atlantic States Marine Fisheries Commission |

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ERIC C. SCHWAAB	International Assn. of Fish & Wildlife Agencies
LAUREL G. BRYANT	Executive Officer, MAFAC
ROY CRABTREE	Southeast Regional Administrator
ANTHONY D. DiLERNIA	Office of Maritime Technology
STEVE MURAWSKI	NOAA
JAMES D. COOK	Pacific Ocean Producers
PETER P. LEIPZIG	Fishermen's Marketing Association
MARY BETH NICKELL-TOOLEY	East Coast Pelagic Association
RALPH RAYBURN	Texas Sea-Grant College Program
HEATHER D. McCARTY	Heather McCarty & Assoc.
KENNETH J. ROBERTS	Louisiana State University AgCenter
DOROTHY M. LOWMAN	Natural Resource Consultant
ROBERT FLETCHER	Sportfishing Assn. of CA

ALSO PRESENT:

KEN BANKS	Broward County Environmental
SAM RAUCH	NOAA General Counsel
RICK GAFFNEY	WESPAC
CAROLINE PARK	NOAA
ALAN RISENHOOVER	NOAA
GORDON HELM	NOAA
JIM ROBINSON	IGFA
FORBES DARBY	Recreational Fisheries Liaison
DICK BRAME	CCA

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P-R-O-C-E-E-D-I-N-G-S

8:30 a.m.

DR. HOGARTH: We need to make sure that everyone signs in, please. Outside the door and sign in. Not the people here, but those -- not the MAFAC members, but others need to sign in outside for us. Please, it is a public meeting. We need to have a record of who attends. So please sign in for us.

With that, Tony's going to run today's meeting, so I'm going to sit here and be quiet.

CAPT DiLERNIA: Thank you, Dr. Hogarth. Good morning, everyone. It's good to see everyone back after a fun evening.

Our first order of business is to say we have a presentation of litigation. In your binder is a litigation review, looking back at programs.

We have Ms. Caroline Park from the Office of NOAA General Counsel here with us today, to make a presentation for us. So Ms. Park, here she is. It's all yours.

MS. PARK: Good morning. Can everybody hear me okay with this microphone? Okay, okay.

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1 Great. I have a very loud voice, so if I'm yelling,
2 wave at me to back up.

3 I'm here this morning, as Tony said, to
4 give you just a brief overview of a snapshot of
5 litigation within the agency over the past couple of
6 years, and to give you a sense of improvements that
7 have been made in the Office of General Counsel, to
8 try to help improve the litigation track record, to
9 try to improve our ability to advise program offices
10 on different legal requirements, and also how to
11 better support the administrative record, to defend
12 against different types of legal actions.

13 The first thing that I probably -- I'm not
14 sure how many of you are familiar with the
15 organization of NOAA General Counsel.

16 This is sort of truncated organization
17 chart, for those of you who may not be familiar with
18 the organization. Our General Counsel is Jim Walpole,
19 and he has two deputies, and this is at headquarters,
20 NOAA headquarters. There's two deputies, Jane
21 Chalmers and Mary Beth Ward.

22 Then in Maryland, we have the Office of

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1 General Counsel for Fisheries, which is headed by Sam
2 Rauch, who will be speaking later on today. Sam has
3 two deputies, Adam Eisenberg, who handles SF fisheries
4 type matters, and then he had Karl Gleaves, who
5 handles protected resources matters.

6 Then below those two deputies and Sam,
7 there are a bunch of attorneys like me, who basically
8 were split into Fisheries sides of things, as well as
9 Protected Resources and other matters.

10 In addition, there are regional attorneys,
11 who most of you are probably familiar with the
12 regional attorney from wherever you come from. They
13 basically then also have staff attorneys below them,
14 who do a variety of fisheries and protected resources
15 matters.

16 There's also enforcement counsel in the
17 regions, as well as at headquarters, and other
18 attorneys that we coordinate with on international
19 matters and other things.

20 DR. HOGARTH: Before you leave that chart,
21 though, is it not true that the regional people, even
22 though they're fisheries and do the Fishery Management

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1 Council, do not report to the Assistant General
2 Counsel for Fisheries that's in headquarters out in
3 Silver Spring?

4 MS. PARK: That's correct. The regional
5 attorneys, Sam is basically responsible for NOAA
6 Office of General Counsel for Fisheries in Silver
7 Spring. The regional attorneys do not report to Sam.
8 They basically report -- the chain of command is up.

9 DR. HOGARTH: Does anybody know why? That
10 just seems not to make any sense at all to me. I know
11 you all represent us, but here you've got all the
12 fishery people in the region doing fishery stuff, but
13 they don't report to the person who's doing fisheries
14 for the overall, for the headquarters. It doesn't
15 make sense.

16 MS. PARK: That's a very good question,
17 and it's beyond my pay grade and beyond my -- before
18 my time at the agency. I think as I get a little
19 further on in the presentation, one of the things --
20 this is my guess, Bill, but Sam or somebody who's been
21 with the agency longer, correct me if I'm wrong.

22 The regional attorneys are the direct

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1 attorneys that work with program staff, the councils,
2 the program staff in the regions. The headquarters
3 office would serve as another level of review in the
4 past.

5 It was basically an office that would also
6 try to take more of a national policy look at what's
7 going on in the regions, and also support the regional
8 attorneys.

9 Since I've been with the agency in the
10 last four years, I think there's been more regulatory
11 streamlining, which I'll allude to later, which is
12 putting more of a review back into the region, having
13 headquarters do less of a secondary review function
14 and serve more as a national coordinating function.

15 So my guess, Bill, would be is that it was
16 organized that way to have sort of a national office
17 that would help to coordinate, and then the regional
18 offices. But I don't know exactly why they don't
19 report to --

20 DR. HOGARTH: Well, I mean -- I mean
21 there's no sense in arguing, I mean discussing it
22 here, but it doesn't seem to make sense. When the

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1 rules come to headquarters, that we go through them
2 then, sustainable fisheries law, even cutting them
3 off.

4 So we have a question, we're going to go
5 ask Sam. Sam, you know, really doesn't -- these other
6 regional attorneys don't report to him, so it's
7 somewhat awkward, even though I have to say you all do
8 an awfully good job of getting that question answered
9 in headquarters.

10 But it just seems somewhat unorganized
11 rather than organized. The person who knows this is
12 the Assistant General Counsel for Fisheries. That's
13 where the action is in headquarters.

14 MS. PARK: True. I guess the regional
15 attorneys, because they're out there in the field with
16 the Council staff and other people. They're also able
17 to -- I mean that's just my guess, is that you want
18 to have a regional presence there, so that they can be
19 firsthand there accessible to the constituents and
20 other people that are there in the field.

21 But I don't actually have a very specific
22 answer on the org chart. That's all I can guess,

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1 Bill. The other attorneys that we deal with --
2 downtown there's another office, Department of
3 Commerce's Office of General Counsel. We work very
4 closely with on all of our regulatory matters.

5 There is also a separate clearance process
6 through OGC at the Department of Commerce, and they
7 tend to handle or have their specialty in areas like
8 Administrative Procedure Act, Paperwork Reduction Act.

9 So we do have to coordinate with them closely.

10 Our other partners that we coordinate with
11 very closely is Department of Justice, our litigation
12 counsel.

13 Many of you are probably very familiar
14 with this list of acronyms or will be very familiar,
15 and various aspects of working with the agency. We
16 are responsible for complying with a myriad list of
17 statutes. This is just a snapshot of some of the more
18 major issues that we have to deal with in fisheries
19 management.

20 Back in 2002, the National Academy of
21 Public Administration put out a report called "Courts,
22 Congress and Constituencies: Managing Fisheries by

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1 Default." In that report, they had a discussion of
2 NOAA fisheries and litigation.

3 The basic -- as I understand NAPA, they
4 have a Congressional charter to basically investigate,
5 report and provide actionable recommendations to
6 Congress, upon a request by Congress.

7 In this instance, they were asked to look
8 at NOAA fisheries, including what's been going on with
9 the litigation.

10 That particular report by NAPA basically
11 indicated there was a 50 percent litigation success
12 rate in Magnuson-Stevens Act or fisheries-related
13 cases, and that would have been between 1997 and 2001.

14 Just another example of an area that we
15 have quite a lot of litigation in is the National
16 Environment Policy Act, and the NAPA report indicated
17 during that time period that there was about a 40
18 percent litigation success rate.

19 The report cited a variety of reasons for
20 why there were such losses during that time period,
21 and one thing that the report noted was that there was
22 a perfect win record in fisheries cases up until about

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1 1995.

2 When the Sustainable Fisheries Act came
3 into place in 1996, it basically added a whole list of
4 new legal requirements, and there was a tenfold
5 increase in litigation since the mid-1990's. So the
6 volume of cases increased tremendously after the
7 Sustainable Fisheries Act.

8 The report also indicated there was just a
9 wider array of litigants that were taking an interest
10 in fishery actions. Not just fishermen and the
11 commercial and recreational sectors, but also
12 conservationists, states and other entities were
13 taking more of a hard look at the requirements.

14 The report also cited a concern about the
15 administrative records, about the lack of support
16 within the documentation for why certain decisions
17 were made, an inability to articulate why something
18 was this way, a policy choice was that and the
19 relevant scientific or other types of decision making
20 points along the way just were not -- they were not
21 -- at least per the report, they were not finding that
22 in the records.

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1 They also cited the fact that the agency
2 seemed to be relying on a lot of old NEPA documents,
3 and there were a lot of analyses that they're either
4 delayed or just were not being completed.

5 Since that time, I'm happy to report in
6 2004, this is the top bullet, there has been a 91
7 percent success rate in fisheries case.

8 The next three bullets, I'm sorry; this is
9 a little confusing -- these all, the next three relate
10 to 2005.

11 In 2005, there was an 89 percent success
12 rate in fisheries cases, and just to give you a sense
13 of what that looked like, there were nine what we call
14 "final decisions," cases that were basically
15 adjudicated to completion, no further appeal or
16 anything. In those nine cases, there were eight wins
17 and one loss.

18 There were a total of 17 final decisions
19 where NMFS was a defendant, and these types -- what
20 I'm trying to distinguish is between fisheries cases
21 and other cases where NMFS is a defendant.

22 The fish cases would be the ones where

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1 there was some kind of fishery management action being
2 challenged. It could have been under MSA; it could
3 have been under ESA/NEPA, or any of the other fish-
4 related statutes or conservation-related statutes.

5 The other cases where NMFS was a defendant
6 would have involved things ranging from contract cases
7 to FOIA to enforcement cases.

8 So in those 17 final decisions where NMFS
9 was a defendant, we had 11 wins, four losses and two
10 settlement agreements. So about a 73 percent success
11 rate overall.

12 The volume of cases that's pending before
13 the agency is still quite large. There is 94 cases
14 pending as of fiscal year 2005. Approximately 95
15 percent of those challenged NMFS actions.

16 Got to move a little faster so I don't
17 lose the rhythm. In terms of what has happened that
18 has improved our litigation record or improved our
19 ability to be successful in these cases, there are
20 several things that the NAPA report encouraged, cited
21 or recommended, one of which was that they encourage
22 NOAA General Counsel to maintain a more up-to-date

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1 litigation docket, something where we could track and
2 have a better sense of what's been going on in the
3 cases, the types of challenges.

4 NOAA General Counsel has had a database,
5 but we've enhanced and improved it, so that we can
6 easily review or keep an eye on cases and case trends,
7 and provide advice and coordinate with our regional
8 counterparts in an easier fashion.

9 Another thing that has changed since Sam
10 and Adam, the head of my office and one of his
11 deputies that handles fisheries, is increased
12 coordination. Whenever a new case is filed, very
13 early on there is a conference call or meeting with
14 the attorneys from GCF, as well as the regional
15 attorneys that are going to be involved in the matter,
16 DOJ's line attorney as well as the supervisory
17 attorney and program staff, to talk about things like
18 timing, the record, any potential defenses that we may
19 want to put forward.

20 So that early coordination is critical in
21 helping to map out a good strategy for the litigation.

22 There's also, in this past year has been a

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1 new administrative record guidance that has come out
2 of General Counsel Fisheries, and this administrative
3 record guidance tries to respond to the concern, one
4 of the concerns raised in the NAPA report about
5 increased consistency in records, and better guidance
6 in how the agency compiles its records.

7 So hopefully this new administrative
8 record guidance will provide that, and better guidance
9 to the field.

10 Another thing that's interesting is I was
11 just reflecting on this when I was looking at the
12 tenfold increase in litigation that was cited in the
13 NAPA report was during that time period, while the
14 litigation was increasing, there wasn't kind of a
15 concurrent increase in the staffing for the legal
16 offices.

17 In the last couple of years, there have
18 been improved -- I shouldn't say improved -- increased
19 numbers of attorneys that have been added. We have a
20 new Hawaii -- this is for the folks from Hawaii here -
21 - a new Hawaii regional office that has two attorneys
22 in it.

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1 We've also added other attorneys to GCF
2 and into different regional slots. So hopefully those
3 increased attorneys, as well as resources, will help
4 us as we handle the bulk of the litigation.

5 Another thing is that I think has been an
6 improvement, and will continue to help us in dealing
7 with litigation, is things like the regulatory
8 streamlining project.

9 When that project took off, one of the
10 things that was associated with it was a pilot
11 training program. I know there's lots of -- just
12 speaking with, I think Mary Beth yesterday, talking
13 about a training program that is put on in -- is it
14 Maine, up in Maine?

15 MS. WARD: It's a New England program.

16 MS. PARK: A New England program. Similar
17 to this, it's wonderful to hear about these different
18 types of programs that provide training on fisheries
19 management and science.

20 Similarly, the reg streamlining project
21 had been working on a pilot program for training for,
22 I believe it was for new council members as well as

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1 others that were entering the agency.

2 NOAA General Counsel participated in some
3 of those early pilots, and continues to also provide
4 advice when the agency issues guidance documents to
5 program staff about how to comply with the
6 requirements and how to put together the records. So
7 that's about all I have to say.

8 CAPT DiLERNIA: Questions? Vince?

9 MR. O'SHEA: Vince O'Shea. Good morning,
10 Caroline. Your last slide about adding new attorneys,
11 was that intended to strengthen defense teams, or are
12 those resources intended to provide additional support
13 and guidance to the councils and to agency people, in
14 anticipation of trying to avoid litigation? Thank
15 you.

16 MS. PARK: I'm not -- in terms of adding
17 the additional attorneys, I don't think it was just
18 limited to strengthening the litigation teams per se.

19 Definitely when you're understaffed, trying to meet
20 the multiple needs of the program offices, you know,
21 advising them on the day-to-day, how do you develop
22 your FMPs and everything, and also helping to defend

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1 the litigation, it's a humongous workload.

2 Recently, I've been looking at some of the
3 matters that my counterparts in the regions. I used
4 to advise solely in headquarters-based offices. So
5 I've been astonished at the bulk of work that's
6 generated in the regions.

7 I believe that the additional attorneys
8 were because of the need, just to have more legal
9 counsel and more people to help with whatever matters
10 the agency needed, including litigation.

11 DR. HOGARTH: Can I respond to that a
12 little bit too? One of the issues we felt like was
13 that we weren't giving the councils enough advice, you
14 know, sitting at the table and really helping work
15 through this.

16 You know, we worked a lot with the
17 attorneys, to tell the councils that if you're going
18 this route, you won't get it approved or you're not
19 meeting these standards. So, you know, you have to
20 meet them.

21 It's no sense going there unless you build
22 the record, and that's why we lost a lot of cases in

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1 my opinion, is we didn't have the record. The Council
2 would do something, but the record didn't really
3 justify why they did certain things.

4 So, you know, it's been a lot more, I
5 think, exchange between the regional administrator and
6 the general counsel and the Council members themselves
7 as they move.

8 That's what the goal was, to try to -- you
9 know, when you got through with it, you'd have a
10 defensible document, and not just --

11 MR. O'SHEA: Invest up front.

12 DR. HOGARTH: Yeah, invest up front. Yes.
13 And so they weren't doing it enough.

14 MR. O'SHEA: That's good. Thank you.

15 CAPT DiLERNIA: Mr. Raftican?

16 MR. RAFTICAN: I think Bill pretty much
17 answered that. That was my question, is wouldn't
18 preventative, proactive, a step ahead, instead of
19 trying to deal with it afterwards, you know, maybe a
20 Council orientation on the direction that the law is
21 taking. Just a thought.

22 DR. HOGARTH: And to that point too, we

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1 are trying now, for new Council members, to better
2 train them. We wanted to have better training
3 programs last year for the program.

4 Congress is sort of -- through Magnuson is
5 going to tell us, but we've started already with Alan
6 and his people. We've got to have much better
7 training.

8 We even went through -- NAG went through a
9 mini-stock assessment, so that people really know the
10 stock assessment process, because it's complicated and
11 they have a better idea. So they would go through
12 that whole process.

13 CAPT DiLERNIA: Mr. Billy?

14 MR. BILLY: Yes. I was curious -- Tom
15 Billy. I was curious to know what percent of the work
16 or the cases are related to establishment of the
17 rules, versus enforcement of the rules?

18 Can you break it down that way? Of your
19 work, what percent relates to a failure to have a
20 record, the process of establishing rules versus
21 compliance with the rules, where fishermen fail to
22 comply or that kind of thing?

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1 MS. PARK: I don't have that particular
2 statistic in front of me. Just as a clarification, we
3 have a separate Office of General Counsel for
4 Enforcement and Litigation, that handles the
5 enforcement matters.

6 So an exact breakdown of that workload,
7 they have a separate shop of attorneys that
8 specializes solely in the enforcement cases. So I
9 don't have that number off the top of my head.

10 The bulk of the cases that the regional
11 attorneys -- well, there are enforcement counsel
12 obviously in the regions. But the bulk of the matters
13 that we handle on the fisheries management side,
14 General Counsel for Fisheries, as well as a lot of the
15 regional attorneys, deals with the regulatory process.

16 There are a lot of cases, enforcement
17 matters. But again, that's handled by separate
18 attorneys within the agency.

19 DR. HOGARTH: I have that record. We can
20 get it to you. I'll -- we'll get it to you after this
21 meeting. I don't have it with me, but it's separate.

22 MR. RAUCH: I think the answer to that

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1 question is that --

2 COURT REPORTER: Excuse me, sir. Who are
3 you?

4 MR. RAUCH: Sam Rauch.

5 COURT REPORTER: Thank you.

6 MR. RAUCH: I think the answer to that
7 question is of the non-fisheries cases, because those
8 enforcement appeals are non-fisheries cases; we don't
9 consider them fish cases, about a third of those non-
10 fishery cases are actually enforcement appeals to the
11 district court.

12 We have a huge number of administrative
13 enforcement cases that never see court, and these
14 records don't deal with that. Those are all handled
15 by administrative law judges. So about a third of our
16 non-fishery cases are enforcement.

17 MR. BILLY: But all of that is separate
18 from this organizational structure and list of
19 attorneys that was presented?

20 MR. RAUCH: Those enforcement attorneys
21 report to the Deputy General Counsel, Mary Beth Ward.
22 So they are superimposed on this list. They're not

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1 actually on that organization chart. But they do
2 report to the Deputy General Counsel.

3 CAPT DiLERNIA: Ralph Rayburn?

4 MR. RAYBURN: I don't know if this is
5 appropriate or whether we're going to discuss it
6 later, but there's been some -- I don't fully
7 understand -- but discussion on making the Magnuson
8 action a NEPA process, so that you don't have to do
9 both.

10 What are the implications of that, or how
11 difficult would that be? Is that something to discuss
12 here or will we discuss that when we talk about
13 Magnuson?

14 MS. PARK: I think -- I mean Sam is going
15 to be discussing Magnuson in a little bit. So I'll
16 probably defer. I mean one of the things that I can
17 mention, though, is that as many of you know, the
18 timing of trying to comply with the different --

19 That huge list of requirements, it all
20 broke different statutes, or many of them have very
21 difficult timing requirements, and the interception
22 between how that gels with the Council process or

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1 other regulatory process has been difficult.

2 So I think that that's something that was
3 looked at in the Magnuson Act reauthorization, in the
4 bill. So I'll have Sam discuss better; I'll defer.
5 But when -- oh, and I forgot one thing to mention
6 about.

7 When the 1996 Sustainable Fisheries Act
8 was put into place, Sam and I were just discussing
9 this last night with regards to changes to the -- in
10 the bill, that are being proposed.

11 One of the difficulties was there were a
12 lot of very tight time deadlines that were provided in
13 that Act, or there were requirements that had to be
14 done within a certain period of time, that were
15 difficult for the agency and the councils to meet
16 those time frames.

17 So there were -- there's quite a bit of
18 litigation also that would involve failure to complete
19 required aspects of the 1996 SFA in a timely manner.
20 That's something that, in looking at the
21 reauthorization, the bill, Sam indicated that's
22 something that they were trying to be very mindful of,

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1 because it posed quite a bit of problems.

2 MR. RAYBURN: Can I follow up? So is the
3 NEPA process a more extensive, a longer time frame?
4 I've heard the issue of time frames. Magnuson's a
5 shorter response time frame, or what's the difference
6 between the two time frames?

7 MS. PARK: Well, I think that with -- NEPA
8 has quite a lot of timing with regards to when you're
9 doing EIS, you have to have a document out typically
10 under a particular amount of time for public comment.

11 The question comes when you have the
12 Magnuson, with rebuilt or overfished fisheries, and
13 you must do things within a certain period of time.

14 The rulemaking process, with the Council
15 process, how long a rule should be out for X number of
16 days, trying to line that up with NEPA, saying -- and
17 you must provide this amount of time with this.

18 It can be a juggling act, depending on how
19 complicated the matter is that's going through. Also
20 I think I've heard -- again, I haven't worked closely
21 with the Council. I'll be doing more of that this
22 year.

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1 But I've heard quite a bit of comment from
2 people, "Isn't this kind of duplicative," if we have
3 quite a big open process in Magnuson with the
4 Councils, then to add this extra -- what is, is that
5 getting us anything more?

6 So I think it has to do with the
7 complication of trying to get all these time frames to
8 match up. PRA, for example, also has time frames for
9 Paperwork Reduction Act things, and trying to get all
10 of those things to link up, I think, as well as the
11 question of duplication has been a concern.

12 MR. RAYBURN: Thank you.

13 CAPT DiLERNIA: Okay. Mr. Cook?

14 MR. COOK: I just want to -- Jim Cook from
15 Honolulu -- that some of you know that the agency and
16 our association has had a long -- well, not long --
17 five or six year and rather unfortunate history of
18 litigation.

19 I am happy to say, as I think Bill is as
20 well, that for the first time, we don't have any
21 active litigation in Hawaii, which is a real relief to
22 us.

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1 When I look back and think about the
2 factors that have made that so, I think it's been
3 truly important that the agency recognized our
4 association as an applicant in this process, which
5 gave us a status different from that of the general
6 public.

7 It's been very important that there's been
8 a free flow of communication between our attorneys,
9 and the Council and our attorneys and legal staff with
10 the agency, that has given us the ability to reach
11 consensus on important things that came out.

12 The result of that, I think, is a very
13 positive thing for ourselves with the agency, for the
14 environmental community. When we have regulations
15 that come out that are defensible, and actions that
16 come out that are defensible, that really does mean
17 that they're as close to being legal, I think, as they
18 can be.

19 The attitudes between our attorneys and
20 the attorneys that we work with in the agency have
21 just changed dramatically because of this, and I think
22 it's responsible for making things as good as they are

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1 now.

2 CAPT DiLERNIA: Mr. Raftican?

3 MR. RAFTICAN: No. I just was going to
4 make an observation about Bill's point before, about
5 exactly this diagram. If you had your Council
6 attorneys reporting to Mr. Rauch, it might -- there's
7 a way there of dealing with problems before they
8 arise, and it would just seem a more effective way to
9 lay it out.

10 CAPT DiLERNIA: All my years on the
11 Midland Council, I could never understand that
12 organization myself. It always puzzled me. In any
13 event, Dr. Murawski?

14 DR. MURAWSKI: I just wanted to make a
15 brief comment on the litigation profile. Caroline
16 said before that prior to like 1995, the success rate
17 was quite high. I'm not sure if it was a perfect
18 record, but it was darn near close to it.

19 Then what happened was it seemed like, and
20 this is from my perspective, not a real attorney's
21 perspective, there was a whole spate of cases that
22 revolved around the quality of science that supported

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1 fisheries management.

2 The courts got into actually being an
3 arbiter of science. In fact, that's where I met Sam,
4 you know, the first time, being his witness in a case
5 down in the Eastern Court of Virginia.

6 So there was a number of courts that got
7 into that in a very deep way. As a result of that,
8 what we tried to do is to tighten up the peer review
9 process, because if you can go into a court and say
10 "Look, we had a whole bunch of independent people look
11 at this stuff," as opposed to having the court, you
12 know, sort of apply its judgment, that sort of process
13 is really, in my estimation anyway --

14 The number of court challenges we get on
15 the quality of science has gone down proportionally
16 because of the processes put in place there.

17 That being said, I think, and probably
18 back me up Caroline, the profile is now more into
19 things where there are ambiguities in the law about,
20 you know, things like ending overfishing and other
21 things.

22 Then as somebody else said, just the, you

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1 know, did you file the paper work on time, did you do
2 the process you were supposed to do and those kinds of
3 things.

4 So I think it's fair to say that that's
5 probably the majority of the kinds of Council
6 challenges we get now.

7 CAPT DiLERNIA: I have a question. How
8 does the office -- do you interact with the
9 commissions at all, state commissions, the Atlantic
10 states specific, the Gulf States?

11 Is there any interaction there when you're
12 say both co-named in a lawsuit? What happens? Do you
13 give, lend any support to the commissions? Do they
14 have their own attorneys?

15 MS. PARK: I actually have not worked with
16 the commissions. Vince, do you have any insight to
17 share with the group?

18 MR. O'SHEA: I'm Vince O'Shea.
19 Unfortunately, we will be working with NOAA General
20 Counsel.

21 CAPT DiLERNIA: But they don't provide any
22 staff support or anything, for your legal support

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1 whatsoever?

2 MR. O'SHEA: No. Well, maybe Sam, you
3 want to walk through the steps. When the commissions
4 get -- well at least when Atlantic States has gotten
5 sued, it's frequently under the Atlantic Coastal
6 Fishery Cooperative Management Act, the federal law.

7 That triggers a reaction from the federal
8 agencies, and Sam can explain that.

9 MR. RAUCH: Sam Rauch. We do tend to send
10 attorneys to the meetings, but the commission has
11 their own legal support staff. When the commission is
12 sued, we're often sued together, and the Justice
13 Department will represent the United States. The
14 commission has their own litigation lawyers.

15 But we work closely with them. I don't
16 believe any other commission, other than the Atlantic
17 States Commission, has been sued. But we do work
18 closely with them on a joint defense, and I don't
19 think the commission has ever lost a lawsuit that I
20 can recall, the Atlantic one.

21 CAPT DiLERNIA: But the commissioners have
22 their own in-house attorney?

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1 MR. RAUCH: They do. Right. I mean they
2 are a separate -- they're not part of --

3 MR. O'SHEA: Yeah. These guys don't get
4 to defend us per se.

5 CAPT DiLERNIA: Okay. Thank you.
6 Committee, any other questions for Ms. Park?

7 (No response.)

8 CAPT DiLERNIA: All right then. Thank you
9 very much.

10 MS. PARK: Thank you.

11 CAPT DiLERNIA: Thank you. Okay. Next on
12 our agenda we have --

13 DR. HOGARTH: Yeah. Let me just add
14 something real quick. Yeah, one of the reasons we
15 wanted to present this is there's been a lot of
16 questions and there's been a lot of improvement, and a
17 lot of it goes back to the fact that Congress has
18 provided money for NEPA.

19 We used to get virtually nothing. We're
20 now up to about eight million. We've been able to
21 give the Council more of that money, and the
22 regulatory streamlining, we've gotten more money to do

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1 that. So we've been able to assist the councils in
2 doing it.

3 All this is sort of a lead-in to the
4 Magnuson reauthorization, and what's going on with
5 that, and what we're trying to do even there to make
6 the process work a little better, so to speak.

7 So one of the issues we keep dealing with
8 is the overfishing definition and the time frame for
9 overfishing and some of those terms and terminologies
10 that get to be confusing and I think sometimes lead to
11 some litigation.

12 But we have worked very hard on Magnuson
13 this year. The Administration developed a Magnuson
14 bill, which I felt was pretty good. We got it through
15 and we've submitted it to the Hill.

16 It never was introduced, because the
17 Commerce Committee was developing its own bill, which
18 we worked with, almost on a daily basis, Alan and Sam
19 Rauch in particularly, and then Steve and even myself.

20 We spent a lot of time with the Committee.

21 The two bills are very, very, very close.
22 There's some things in the Administration bill that

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1 are not in the House Commerce bill, and vice-versa.
2 There is, I think, a chart in here under Tab 11 that
3 sort of serves as side-by-side comparison of the two
4 bills.

5 But by having an Administration bill, we
6 were really able to go to the Hill and talk, and that
7 made it much easier for us. If you don't have a bill,
8 then you have to get approval almost every time you go
9 there to talk to the Committee.

10 This way, we had sort of free rein to go
11 down and negotiate and help write, you know, the bill
12 language. Sam has written a lot of the bill language.

13 So without -- you know, it's important to go over
14 this bill with you.

15 It is a lot of changes. There are some
16 things that we're still not happy with. We're still
17 struggling with the Hill internally about overfishing,
18 National Standard 1.

19 But all of this is somewhat tied into the
20 litigation and how we move forward. We thought it'd
21 be good to just, you know, show you this and then how
22 we're trying to move forward.

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1 So the rest of the morning, in particular
2 you'll be hearing from Alan and Sam and Steve, as we
3 work through this process. But we think we've got a
4 pretty good bill right now on the Hill.

5 CAPT DiLERNIA: Well, that's great, and
6 the way we're organized here in our agenda, we have
7 our first Information Status and Issues Review, Alan
8 Risenhoover. I understand Alan, you're going to be
9 joined by Sam?

10 MR. RISENHOOVER: Yes, and we've cornered
11 ourselves over here.

12 CAPT DiLERNIA: So I'll turn it over to
13 you, and once you're done, then we'll turn to Steve,
14 yourself and Sam also, to do "About Overfishing."

15 MR. RISENHOOVER: Okay. Thanks, Tony.
16 Again, I'm Alan Risenhoover. What we thought we'd do
17 is just kind of with the goal in mind to give you an
18 overview, update and more of a discussion instead of a
19 formal presentation on the bill.

20 The Senate bill is about 160 pages now.
21 The Administration bill was 60 pages. So we thought
22 instead of going through those kind of line by line,

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1 issue by issue, we'd kind of take it at a higher level
2 here as an update, see if anybody has any specific
3 questions.

4 I'll talk a little bit about the agency's
5 priorities. Then we'll have Sam kind of go through
6 what the major differences in the two bills, that is,
7 the Administration bill and the Senate bill, on those
8 priorities that the Administration has, and then
9 anything else members of the Committee are interested
10 in.

11 Then we'll kind of save the discussion on
12 overfishing for Steve, then. That's the one topic we
13 wanted to focus on with you all. It seems to be the
14 one thing that there's a lot of different views on, a
15 lot of different positions, a lot of different
16 potential solutions.

17 As we try to figure where we're going to
18 navigate to find that final solution, we wanted to
19 talk to you all about that.

20 As Bill mentioned, we did send a bill to
21 the Hill in September. The Administration bill is
22 online, I think. You've probably all looked at it.

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1 If you haven't, it's on the NOAA Fisheries website.

2 We didn't try and load your briefing book
3 down with it here, but that does kind of form the
4 backstop for all our comments, as Bill said. Any
5 time, you know, another bill comes out or a proposed
6 amendment, we typically fall back to the
7 Administration position on that bill, on that issue.

8 The Senate bill was marked up by the
9 Senate Commerce Committee in mid-December. So its
10 next stop will be the Senate floor. We've heard that
11 that would hopefully happen in February. We don't
12 have a good time line exactly when that bill is going
13 to go to the Senate floor.

14 We have been working back and forth with
15 staff. We worked on the manager's amendment that was
16 put in at the Committee level, and we're still getting
17 requests, if not daily, weekly, for assistance in
18 putting together what'll probably be another manager's
19 amendment, or substitute for the floor. So we expect
20 that in the next month or so.

21 On the House side, Representative Pombo,
22 the chair of the House Resources Committee, is also

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1 developing a bill. We heard that they would be ready
2 to put that bill in in early February. Some would
3 argue it's still early February.

4 Talking with them, we don't know exactly
5 when that will happen. Bill indicated yesterday maybe
6 in the next week or so. So we don't know when that'll
7 come in. We do think that bill will look a lot like
8 the Stevens bill, probably minus the international
9 components, though.

10 So we'll talk a little bit more about what
11 we think may and may not be in bills, but it's all
12 speculation right now on what that'll be.

13 A second House bill will likely be
14 introduced by Representative Gilchrist, who is the
15 Subcommittee chair for Fisheries on the Resources
16 Committee. We've also been talking to them. They've
17 been looking at the Administration bill. We're
18 hopeful they'll pick up a number of the Administration
19 proposals again.

20 So where there may be differences between,
21 say, the Senate bill and the Administration bill, or
22 the Pombo bill and the Administration bill, perhaps

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1 those differences we could get in the Gilchrist bill.

2 So hopefully when something goes to the
3 House floor, there would be an opportunity for us to
4 again work with them on the final bill. So the next
5 steps are to look to the final Senate action, and
6 start working with the House on their bill.

7 So that's kind of the update on where we
8 are right now. In your book, as Bill mentioned, we've
9 included a number of materials, trying not to
10 overwhelm you but to inform you, I think, is what we -
11 - our goal here was.

12 We did include the Administration's Views
13 letter that we sent up on the Senate bill. That's
14 pre-the manager's mark. So they did take some of our
15 suggestions in that Views letter we've given you, that
16 are now in the final Senate bill.

17 We've also put in a draft side by side.
18 We had labeled that draft, not because it contains
19 Administration positions, but we're still refining it
20 kind of on a day-to-day basis.

21 What our goal was with that side-by-side
22 was simply to inform people what the various

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1 provisions were across the Administration bill and
2 Stevens bill.

3 So you should be able to look in there if
4 you have a specific interest, and find a factual
5 representation of what the Administration bill
6 proposed, as well as what's in the current Senate
7 bill. Obviously, when we get a House bill, we'll add
8 another column.

9 Some of the attachments -- not
10 attachments, but appendices to that side by side I
11 think are becoming increasingly important as well.
12 We've got one appendices there that shows what's not
13 in the bills, relative to the Administration's
14 position.

15 Also, one thing, you know, it's looking
16 like the bill will probably go through in 2006.
17 Maybe, maybe not. But we're starting to think about
18 how do we implement this. As part of the
19 implementation of the '96 bill, it seemed like that
20 overwhelmed us immediately, when all the requirements
21 came in.

22 Most of them had a 12, 18, maybe a 24-

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1 month period that we had to get things done. So we're
2 already starting to look and put together an
3 implementation plan.

4 One of those appendices to that side-by-
5 side are, that's simply the list of requirements that
6 we would have to do, and the time lines associated
7 with them. That's a fairly daunting list right now
8 of, you know, 20 things that we have to do over the
9 next two years. So we're looking at that.

10 Then the final thing is where we see there
11 may be some unfunded mandates coming out of the bill,
12 those things the Senate bill would require that we
13 haven't budgeted for. So that's also part of our
14 implementation planning.

15 The final thing in there is the
16 overfishing paper that Steve will talk a little bit
17 about, and that's something, I think, Dr. Hogarth
18 hasn't even read yet. It's something we've developed
19 at the staff level, kind of to help guide our position
20 as we work our way through these bills.

21 So that's kind of where we are and what
22 you've got. If there's no other questions, I'll just

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1 kind of talk a few minutes about the Administration
2 priorities, where we started with and what we wanted
3 to achieve with this bill, and then let Sam give you
4 some of the details. Okay, let's start with Vince,
5 and then we'll --

6 CAPT DiLERNIA: Vince?

7 MR. O'SHEA: Yes. Vince O'Shea. Thanks,
8 Mr. Chairman. I was just interested in sort of your
9 read on this Mr. Pombo bill and Mr. Gilchrist bill.
10 I'm just -- is this going to be -- I think you know
11 what the question is.

12 MR. RISENHOOVER: Yes, I think so. I
13 don't know how to answer it.

14 (Laughter.)

15 MR. O'SHEA: Who do you go to for what?

16 MR. RISENHOOVER: Well, and we're -- from
17 the Administration's perspective again, we're
18 following back to our bill and working with them both
19 toward that end.

20 So we've met with staff from both
21 representatives. Representative Pombo has indicated
22 that the Magnuson bill will be done at the full

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1 committee and the Resources Committee, and
2 Representative Gilchrist has indicated he is still
3 going to introduce a bill from the Subcommittee
4 perspective.

5 How those two bills resolve or relate to
6 themselves is something we don't want to be in the
7 middle of. We're just trying to, as best we can,
8 inform both bills. Dr. Hogarth, do you have any --

9 DR. HOGARTH: I think that's true. I
10 think, you know, it's no doubt, and I think if you
11 talk with Congressman Gilchrist himself, he'll tell
12 you the committee doesn't have any power any more,
13 that everything that's been done by Congressman Pombo
14 is done in the full committee.

15 But I think this is -- I think Congressman
16 Gilchrist does feel like he has an obligation, I
17 think, to a lot of people, and he feels like he has to
18 do this and wants to do this, because he has a lot of
19 desire for the ecosystem type management that you're
20 not seeing in probably either one of the other bills,
21 to be honest with you.

22 So I think that's what it's coming from.

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1 But will it have any momentum? I doubt it, but he may
2 -- as Alan said, he may be able to pick up a couple of
3 things as he gets it introduced, when you go to the
4 conference.

5 I think Stevens and Pombo have probably
6 talked a lot. I think there's one provision in
7 Pombo's, a couple of provisions there that will be
8 totally different. One of them's going to be probably
9 on the authority of who manages fisheries, you know,
10 the age-old question of the sanctuaries in the
11 Magnuson Act.

12 I think Pombo will address that. In fact,
13 I've read what he's got in there, and he does address
14 it pretty clearly. How that will fare out, I think,
15 one of the big things.

16 MR. O'SHEA: Thank you.

17 MR. RISENHOOVER: Yes. Some of the issues
18 that we've heard are the sanctuaries issues Bill
19 mentioned, on who manages fisheries and where those
20 regulations are developed. NEPA is also probably
21 going to be an issue.

22 The Administration bill, and I think Sam

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1 will mention this, was to work a new process with CEQ.

2 The Senate picked up on that. We're kind of getting
3 feelings from Pombo's staff they may go a little bit
4 further than that. Obviously Representative Gilchrist
5 is going to be more in line with the Administration on
6 that.

7 So those are the sanctuaries and NEPA are
8 definitely going to be two big issues. Other
9 questions? I think Heather?

10 CAPT DiLERNIA: Any questions before we
11 move on?

12 MS. McCARTY: I had the same question
13 exactly you did.

14 CAPT DiLERNIA: Sam?

15 MR. RISENHOOVER: I'm just going to run
16 through the priorities real quick, and then if anybody
17 has discussion on kind of the larger issues. Then
18 we'll get into a little bit more of the details with
19 Sam, and he's the expert. So we can answer any
20 question you have, I think.

21 The number one priority we kind of went
22 into this reauthorization was the ending overfishing

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1 and rebuilding stocks, looking at that. Many of you
2 remember our national standard, our proposed National
3 Standard 1 Guidelines rule that was out, that we had
4 kind of, I guess the word is unprecedented comments
5 on. 250,000 comments came in on that proposed rule.

6 Again, I'm going to leave the overfishing
7 and rebuilding part to Steve, because I think it is a
8 separate, distinct discussion we want to focus on.

9 The second priority, and again I probably
10 shouldn't say "second," but a second priority was
11 dedicated access privilege programs. The
12 Administration has set a goal for us internally in the
13 Magnuson Act reauthorization, and that's to double the
14 number of these DAP programs by 2010.

15 Looking around at the activities of the
16 councils right now, there's probably enough of those
17 under development right now to meet that goal. So our
18 priority in the Magnuson Act reauthorization was to
19 put in explicit authorization of those programs, to
20 help drive that process. Again, not mandate them, but
21 encourage the use of them.

22 We had a number of provisions related to

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1 enforcement, increasing penalties and some other
2 things. Again, backing regulations up with good
3 enforcement is important.

4 Ecosystem approaches to management. We
5 included that in our bill, where the Fisheries
6 Councils were authorized to develop fisheries
7 ecosystem plans, but not mandated to. Sam will go
8 into the details of how the bills address those.

9 But our goal there was, this was kind of
10 the coming wave, and we needed to be on the front of
11 that. We needed to make sure that the councils were
12 authorized to undertake those plans.

13 Recreational and commercial data
14 collection was also -- we had a number of provisions
15 in there on collecting socioeconomic information,
16 unique identifiers for fishermen, and what we'll talk
17 about later this afternoon, the recreational
18 registration program.

19 Peer review of science, having a formal
20 process at each council for a formal peer review of
21 the science they use in their decision making.
22 Council membership was another priority.

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1 We had provisions that would broaden the
2 membership of councils beyond what it is now, which is
3 basically commercial, recreational or other
4 knowledgeable individuals. We wanted to broaden that.

5 Then finally we had a number of things
6 that are important, particularly to Sam and the way we
7 do business, and of regulatory improvement things.
8 Frameworks authorizing them explicitly, and also
9 better integrating the NEPA analyses into Magnuson.

10 So there's still a distinct NEPA under
11 that law, but also making it work better with
12 Magnuson. We had some proposals on that.

13 In total, if you look back at what we
14 proposed, it all relates back to the U.S. Ocean Action
15 Plan that the President released December a year ago.
16 That formed the basis.

17 So again, the U.S. Ocean Action Plan is up
18 on the web, if you'd like me to point you to that.
19 But that's the Administration's response to the U.S.
20 Commission report. So that was kind of our basis for
21 what we proposed in the bill.

22 I think Bill was right. We had a pretty

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1 good proposal this year, with some major changes that
2 have sparked quite a bit of debate.

3 One last thing before I turn it over to Sam.
4 Recently, I think it was last week or the week before,
5 the -- pass these out -- the Joint Ocean Commission
6 initiative, which is an organization that's an
7 outgrowth of the U.S. Ocean Commission, issued a
8 report card on how they felt the Administration,
9 Congress was implementing the provisions or the
10 recommendations in the U.S. Ocean Action Plan.

11 Some of you may see this. Bill refers to
12 it as his "10th grade report card." But they graded
13 the Administration and Congress along several lines.

14 What I'm handing out now is just the
15 overview of that, as well as the fisheries management
16 portion. I want to just kind of run through a couple
17 of things on that, to highlight that we're all kind of
18 on the same page when it comes to reauthorization.

19 But we got a C plus for fisheries
20 management, which is not bad. The major thing they
21 list in there that we can do to improve our grade is
22 pass a bill. Sam and I can't do that, but we're

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1 working on it. So that's the major thing.

2 If you want to copy the entire report
3 card, I know some of you have an interest beyond
4 fisheries management, which is kind of hard to
5 believe. But if you do, the website is down in the
6 right-hand corner there.

7 But I did include the fisheries management
8 reform detail that they provided, and in that they
9 list 11 principles that they see as being needed in
10 the reauthorized Magnuson Act. If you look at those,
11 there are a lot aligned with the Administration's
12 proposals.

13 We may differ a little bit in some of the
14 details and implementation are fine lines on how you
15 would achieve those, but ecosystem management, you
16 know, independent science. Their fallback positions,
17 I think, address mainly overfishing and rebuilding.
18 What do you do if something isn't working? What's
19 your fallback position?

20 But I thought it was interesting just to
21 look at those, because I think the debates are not
22 what you need to do right now. It's more of how you

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1 need to do it, what's the best way to do that. So
2 with that, I'm going to stop and turn it over to Sam,
3 to highlight some differences.

4 CAPT DiLERNIA: Questions first?

5 MR. RISENHOOVER: Questions?

6 CAPT DiLERNIA: Eric.

7 MR. SCHWAAB: Thanks. Eric Schwaab.
8 Alan, I was just wondering if you could say a word or
9 two about how the Administration envisions dedicated
10 access privilege systems, applying to or not the
11 recreational sector?

12 I mean, is there a place, in your view,
13 for interaction between the recreational sector and
14 the commercial sector with respect to dedicated access
15 privileges?

16 MR. RISENHOOVER: We didn't propose
17 anything specific. So again, in our bill, that would
18 be left up to the councils to develop as they see
19 needed at the local or the regional level. Sam
20 anything, or Steve any follow-up on that?

21 MR. RAUCH: We haven't had extensive
22 discussions about that. I do think, in some cases,

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1 this may be sectors within sectors. For example, you
2 know, you've got a charter boat fishery for halibut up
3 in Alaska, and you know, because that's an IFQ,
4 there's some interest in that kind of sort of
5 allocation within that.

6 But I don't think anybody's ever talked
7 about, you know, sort of allocating to individual
8 fishers on the recreational side. Thirteen to
9 seventeen million people that do that.

10 MR. SCHWAAB: Yes. I'm not talking so
11 much about individual anglers as the ability, for
12 example, to transfer quota shares across sectors,
13 through maybe some kind of a collective action.

14 MR. RAUCH: Yes. I don't think we have
15 anything that would prohibit or encourage that
16 excessively.

17 MR. SCHWAAB: Okay.

18 CAPT DiLERNIA: Any other questions before
19 we move on?

20 (No response.)

21 CAPT DiLERNIA: Okay, Sam. You're next.

22 MR. RAUCH: All right. I am Sam Rauch,

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1 the Assistant General Counsel for Fisheries, and I'm
2 going to build on what Alan has said, and to go into
3 some more detail on some of these provisions. Feel
4 free, after I get done on a subject, to ask me --
5 interrupt me and ask me questions, because there's a
6 lot of stuff here. If you wait until the end, we may
7 miss something.

8 So the first thing I wanted to talk about,
9 I'm going to save the discussion of hard TACs and
10 overfishing and annual catch limits for Steve's
11 presentation, because we're going to go into that in
12 more detail.

13 That's obviously a big priority. The
14 Senate went a different direction than where we would
15 like to go. But that's going to be a separate focused
16 discussion.

17 So I'm going to start with our market-
18 based approaches. This is what we call DAPs, the
19 Dedicated Access Privileges, what the Senate calls
20 LAPs, Limited Access Privileges. I don't think we
21 care about the term; it's the principle.

22 We see, we do a lot. Our bill is very

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1 closely aligned to the Senate in terms of this is one
2 of the main focuses of the legislation, is to
3 encourage the market, to encourage dedicated
4 privileges for fishermen, so they can fish any time
5 that they want, rather than having this race, derby-
6 style fishing.

7 That creates an artificial market. So
8 there are concerns that we want to put in place. So
9 both the Senate and the Administration's bill puts
10 some regulatory structure on that, building on what
11 the current provisions of the Magnuson Act are.

12 Both allow that the councils should
13 largely drive this process, in determining who can
14 transfer -- how you transfer these programs, how
15 they're structured. There was a lot of effort to have
16 various people say "We want a program to look just
17 like this," or this other way.

18 Our strategy, and I think the Senate
19 strategy is, we don't want to overly-constrain the
20 creativity of the councils. There may come a time
21 when we know for certain what is best for all
22 fisheries, but we're not there yet. The fisheries are

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1 all different, and all of our programs are different.

2 So we want some very few, broad
3 principles, in order to protect the rights of new
4 entrants and things like that. But otherwise, we
5 leave it up to the councils to determine the level,
6 how many people participate, whether even to do it at
7 all.

8 There is -- in the Administration's bill,
9 we didn't put any barriers to adopting one of these
10 programs. There are some barriers in the Gulf and New
11 England in the Senate draft.

12 The Senate would allow the councils on
13 their own, or fishermen to petition the councils, in
14 order to start this process. But in the Gulf and New
15 England, they require a referendum before the
16 Secretary can even consider this.

17 This is one of the things that the
18 Administration is opposed to. We don't think that
19 there should be set barriers.

20 There's nothing to prevent the council
21 from requiring a referendum if they want to. But we
22 don't think that there should be barriers set up to

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1 the establishment of these programs. We want to
2 encourage these programs.

3 Both have provisions to protect small boat
4 entrants. The Senate actually allows for 25 percent
5 of the fees to be set aside, to help for small boats.

6 We require that there be mechanisms, a set-aside for
7 new entrants and small boat entrants. This is one of
8 the big concerns, but we both have mechanisms in that.

9 There are provisions for auctioning
10 harvest privileges, to pay for the cost. We have more
11 defined provisions than the Senate. We would also, in
12 addition to merely recouping our cost, we would also
13 allow for resource rents, since this is somewhat a
14 public resource, to go into, back into the fisheries,
15 to help develop the fisheries.

16 One of the things that we're very
17 concerned about -- yes.

18 MR. SIMPSON: Is this a convenient point?

19 MR. RAUCH: Sure.

20 MR. SIMPSON: I'm curious when we get into
21 this discussion. Larry Simpson, get into this
22 discussion of dedicated access privileges and LAPs.

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1 What is the philosophy with regard to the agency,
2 about dedicated access privileges?

3 Do you see it as an economic tool, or do
4 you see it as a resource biological management tool?
5 Or just what is your philosophy with regard to
6 dedicated access privileges?

7 MR. RAUCH: I think the agency's
8 philosophy is that in terms of developing conservation
9 measures, dedicated access privileges are one of the
10 best ways that we have seen to effectuate the
11 conservation goals of the Magnuson Act.

12 MR. SIMPSON: So you see it as a
13 biological tool?

14 MR. RAUCH: Right. I mean, it has to --
15 in our bill, there's a requirement that this has to
16 contribute to rebuilding, if that's the case. It is
17 an economic tool as well, but the agency doesn't
18 impose that in order to give economic benefit to the
19 fishermen.

20 But those who participate, I think, have
21 in general found that it is an economic benefit, if
22 you're one of the participants. But from the agency's

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1 perspective, the reason that we are behind this is
2 because this is much better than any other ways that
3 we have come up, with effectuating the conservation
4 goals.

5 Certainly, it's better than a quota, which
6 you could have quotas in days. It's better to give
7 the fishermen for safety concerns, to say "you get
8 this set amount and you can fish it any time you
9 want."

10 So I think from the agency's perspective,
11 that is where we are coming down. But we are not
12 blind to the fact that this can be -- this can have
13 profound economic effects on the fishery, and that's
14 what some of the terms in the legislation are meant to
15 deal with.

16 MR. SIMPSON: Okay. So you readily admit
17 that you could handle the biological aspects of
18 management other ways, but you feel as an agency that
19 for ease of administration, what I'm hearing, this is
20 the best way to go?

21 Now I'm playing devil's advocate, because
22 I support all this. But it's a good thing. You've

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1 got to have a foundation, because previously you
2 talked about barriers, and to dedicated access
3 privileges within a certain region.

4 And if this is in fact ease of
5 administration and economics and etcetera, etcetera,
6 rather than a sole or only means to deal with the
7 biology of the animal, then I would think it would be
8 beneficial to have the majority of the players support
9 it.

10 MR. RAUCH: So let me take issue with
11 "ease of administration." I don't think that's our
12 view.

13 MR. SIMPSON: You said "best way to handle
14 it," and the best way --

15 MR. RAUCH: Well, in terms of achieving
16 the conservation goals. I mean, you can do a quota
17 and you can have fishermen race for the fish, and you
18 have overcapitalization.

19 MR. SIMPSON: But you can do a quota and
20 you can do closed areas --

21 MR. RAUCH: You can do all --

22 MR. SIMPSON: You can do all kind of

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1 things, rather than just do one thing.

2 MR. RAUCH: Right, and so the reason these
3 are not mandated is because the councils look at this
4 and determine whether these are the best in the best
5 circumstances.

6 A limited access program is not
7 appropriate in every fishery. It is appropriate in
8 some, and for those we would encourage those to be out
9 there. But I don't think it's in terms of ease of
10 administration.

11 What we're looking at is achieving the
12 conservation goals, and these are better ways to do
13 that, not because they're easier to administer, but
14 because they better achieve those goals.

15 MR. SIMPSON: Look, I've been around this
16 business a long time. That's not a good answer.
17 That's a sale, not an answer.

18 MR. RISENHOOVER: And when it comes to,
19 you know, the effectiveness of them may be the better
20 way to put it.

21 MR. SIMPSON: Right.

22 MR. RISENHOOVER: And also implementing

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1 them, Larry. One of our big concerns is that, you
2 know, these programs can be expensive. So that's why
3 the Administration did include some cost recovery
4 proposals with that, that we could collect anywhere
5 between two and fifteen percent of the fishery.

6 The X-vessel value of the fishery to
7 recover those implementation costs. So we would
8 figure out what the implementation cost is, and then
9 figure what that percentage would be within that
10 range.

11 That's one of our concerns with the Senate
12 bill, is they did not pick up those additional cost
13 recovery provisions. We're worried about having
14 programs designed and implemented, that we may not be
15 able to fund. So that's one of the comments we've
16 been making lately.

17 MR. SIMPSON: I support it. I'm playing
18 devil's advocate. I hear these comments. I just want
19 everybody to work, instead of hearing one side of the
20 page, hearing both sides of the page.

21 CAPT DiLERNIA: Yes, Ralph is next. Okay.
22 We're going to have Ralph, have Steve and Tim. Oh

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1 boy, okay.

2 MR. SIMPSON: Let's go around the room.

3 CAPT DiLERNIA: Okay, Ralph.

4 MR. RAYBURN: Is the concept of the agency
5 -- this is Ralph Rayburn -- the concept of the agency
6 would establish the fees, the royalties or the rents
7 once this dedicated access privilege has been
8 established? The agency would do it or would the
9 council do that?

10 MR. RAUCH: Under our bill, the agency
11 would do that. Under the Senate bill, I think it's a
12 little more unclear.

13 But our view is we would come up with the
14 total cost of running this program, and that that
15 would be the basis from which we would collect the
16 fees. Probably by auctioning off a portion of the
17 quota share.

18 MR. RAYBURN: And if I go to another
19 question, how do you really legitimize or statutorily
20 establish these dedicated access privileges, and
21 maintain them as privileges and not have some kind of
22 consideration of them being a right to this public

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1 resource?

2 MR. RAUCH: Well, both the Senate and our
3 bill are express, that these are not rights, that we
4 can revoke them at will. So that that would Obviously
5 decrease the value of them.

6 That doesn't change the fact that, you
7 know, our current experience, we have similar language
8 to that. In our current experience, when you go into
9 bankruptcy, they believe these are things that have
10 value that can be attached.

11 So it's a delicate balance. But we have
12 done what we can to make them revocable privileges
13 explicitly. Whether that works or not, we don't know.

14 But it has to be that way, or else it would become a
15 barrier to any fishery management change.

16 CAPT DiLERNIA: Okay. Steve?

17 DR. MURAWSKI: Yes. Bill's not here, but
18 I'd like to articulate one point that he's made time
19 and time again, and that is trying to make fisheries
20 run more like businesses, as opposed to being so
21 hamstrung by this sort of cascade of regulations that
22 we've got ongoing now.

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1 Of course Larry's exactly right. I mean,
2 we can do these things to effect biological goals by
3 sort of layering a lot of things on there. But at
4 some point, you know, the fishermen just get so
5 confused with the amount of regulations that we've got
6 on there that, you know, there must be a better way.

7 A good example is sea scallop fishing in
8 New England. The guys are limited to less than 100
9 days at sea now. They're monitored with all kinds of
10 equipment. The plan specifies the size of the gear
11 they use, the number of crew they can have on board,
12 etcetera, etcetera, etcetera.

13 A classic case where, you know, if you
14 allocated that catch, you've frozen in place
15 overcapacity in terms of, you know, the vessels.
16 There's a replacement issue there as well.

17 So I think it's trying to get away from
18 these sort of layers of regulations, and be more
19 expedient about it.

20 The other issue that comes up a lot is
21 safety, and when people can pick and choose the times
22 that they can go, based on a business decision, then

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1 we're not in this constant struggle of well, you know,
2 your regulations were responsible for people getting
3 injured. I think, you know, that becomes more of an
4 issue, and making these fisheries more profitable.

5 So there is some value there that they can
6 invest in safety improvements and, you know, the labor
7 can compete and those things like that. I think
8 that's a driving force, certainly Bill's interest in
9 doing this.

10 CAPT DiLERNIA: I have Tom and I have
11 Heather. Tom?

12 MR. RAFTICAN: Yes. To some extent, and
13 whether it's privileges or rights, it's this concept
14 of really privatizing parts of a public trust. You
15 talked a little bit about creating priorities for
16 small boats, and trying to keep this in balance.

17 Do you have a concern that you're
18 generating tools that really favor one segment to the
19 exclusion of the public?

20 MR. RAUCH: Well, so we are concerned
21 about that, and that's what some of the provisions in
22 the Act are intended to prevent, because this is a

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1 tool which, if used properly, can be a very good tool.

2 But it could be abused, and both the Senate and the
3 Administration are concerned about that.

4 That's why we have provisions, to allow
5 for transferability, so that the market can buy these
6 at the market rate. That's the big -- and I should
7 have said this -- I mean the big selling point of this
8 is that once the privilege is issued, the market can
9 dictate what that's worth.

10 And so somebody can go buy it for whatever
11 the market will bear. But within that is a concern
12 that there be ways for other participants to get into
13 this fishery, that we have not set the burden so high
14 that other participants, and that would include any
15 members of the public, could get into this.

16 Now one of the questions we had is can
17 environmental groups say, buy out the permit and
18 retire them? Under our bill, there's no barrier to do
19 that. I mean, if the Council allows that to happen,
20 that can happen. I think the Senate bill is more
21 restrictive.

22 CAPT DiLERNIA: Follow-up Tom?

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1 MR. RAFTICAN: Thank you. That answers a
2 lot of the concern that I have.

3 One of the other concerns is that, you
4 know, as recreational anglers, we're really dealing
5 more with near-shore species than offshore species.
6 Has the Administration or have you considered any type
7 of offsets that would actually trade off the value,
8 the offshore values for more near-shore values?

9 MR. RAUCH: Well, that's something that
10 the councils could deal with. As I indicated
11 initially, we didn't want to overly-prescribe the
12 actually mechanisms of how these were going to work.

13 There are provisions in there for
14 community sustainability quotas, and this may not be
15 addressing your point -- I guess I'm not exactly clear
16 on what your point is.

17 You know, one of the issues, though, is
18 how is this going to affect the community? Once you
19 no longer have the race to the fish, and you're going
20 back, that allows processing of other local capability
21 to be near the fishing grounds.

22 Once you take that away, the fishermen may

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1 decide it's more worthwhile to steam an extra 100
2 miles to go to a different community, and that would
3 devastate the local economy.

4 So we have quotas that can go to local
5 communities. We have quotas that can go to
6 associations. I mean, there are different
7 associational structures that you can enter into, that
8 can get the quotas to a certain area, to a certain
9 association and grouping of fishermen.

10 Whether it's done with processors and
11 commercial fishermen or even recreational fishermen, I
12 don't see any barriers to that. We didn't try to
13 overly-restrict the creativity of the councils in
14 doing that.

15 We just wanted to provide a mechanism, so
16 that if the councils thought it was appropriate, they
17 could do that. I don't know if I answered that
18 question.

19 MR. RAFTICAN: Kind of. My concern is
20 that near-shore, at least especially on the West
21 coast, we're dealing with access problems with the
22 marine protected areas, with no takeaway and reserves.

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1 Then it's kind of like you get hammered on the inside
2 and then hammered on the outside.

3 If the stocks are dedicated on the
4 outside, is there a way of balancing that where
5 essentially recreational fishermen and the public are
6 not hammered into between the two? I'm wondering if
7 there are tools where you can just trade off one from
8 the other?

9 MR. RAUCH: Well, I mean, there's nothing
10 that says that if you do a limited access privilege,
11 you have to limit the entire fishery. I mean, I think
12 most of our access programs right now deal only with
13 the commercial sector, and there is an open fishery
14 for the recreational sector.

15 So you could theoretically limit the
16 entire fishery, but I don't think we've done that in
17 any of the ones that we've done.

18 MR. RAFTICAN: What I was kind of getting
19 around to is if you had that same level, where you've
20 opened up the outside fishery, you had some area where
21 you have dedicated recreational public fishery on the
22 inside.

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1 You've got an advantage. You've got a
2 tool on the outside the recreational fishing doesn't
3 necessarily have. I'm looking for a reciprocal tool
4 closer in the near-shore, and that's --

5 MR. RAUCH: Right. Well I mean, bear in
6 the mind, that closer-in is the states. You know, we
7 have to be very cognizant of the state regulatory
8 authorities. So --

9 CAPT DiLERNIA: Heather?

10 MS. McCARTY: Thank you. Heather McCarty.
11 Sam, I don't know whether you're planning on
12 discussing ownership requirements or processor shares
13 or anything like that.

14 If you are, I won't ask my question now.
15 But if you're not, I'd like to ask a couple of
16 questions about that.

17 MR. RAUCH: Why don't you ask the
18 questions, and we'll discuss it then.

19 MS. McCARTY: Okay. I'd like to know
20 where the two, where the Administration is and where
21 the actual bill or bills are on the issue of
22 ownership, who can own these rights, and specifically

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1 the issue of processors owning harvest rights or the
2 existence of processor shares?

3 MR. RAUCH: So there's two different
4 things. Under our bill and under the Senate bill,
5 ownership of harvest privileges are restricted to U.S.
6 citizens, because only U.S. citizens under the
7 Magnuson Act can fish.

8 I mean there are certain limited
9 exceptions, but this is the way the Magnuson Act was
10 structured back in 1976 when Warren Magnuson got up
11 there and said "All I see are these foreign fishing
12 vessels. I want to write a bill that kicks the
13 foreign people out."

14 So that's -- the central tenet that the
15 Magnuson Act was built upon is only U.S. entities,
16 corporations or whatever, can fish, and there are
17 other bills that limit that.

18 Beyond that, though, there are no
19 restrictions in our bill or the Senate bill as to who
20 can buy a harvest privilege. The councils can set up
21 limitations, but the statute does not. So as I was
22 saying, an environmental group could theoretically buy

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1 a harvest privilege.

2 A processor could buy a harvest privilege.
3 They would then get a boat or rent a boat to go fish
4 that privilege. A dentist in Missouri could buy a
5 harvest privilege and go find somebody to harvest it
6 for them. But he could theoretically be the owner of
7 that privilege.

8 That's different than processor shares.
9 Processor shares are once the fish is harvested, do
10 they have to go to -- when there is a processing
11 industry, do you carve that industry up, and say "you
12 have -- a certain amount of the harvested fish has to
13 be landed here"?

14 We have one structure like that in the
15 Alaska crab fishery. The Administration adamantly
16 opposed more of those, and early versions of the
17 Senate bill had it in there, and they have deleted it
18 from the final version.

19 Clearly, it's not in our bill. We do not
20 think -- while we think limited access of harvest
21 shares makes a lot of sense and for a lot of reasons,
22 none of those reasons apply to processor shares.

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1 So we oppose those. It's not in the
2 Senate bill at the moment. It could come back in, but
3 it's not in ours and it's not in the Senate bill. Did
4 that answer the question?

5 MS. McCARTY: Yes, thank you. Could you
6 talk a little bit about why the Administration
7 adamantly opposed processor shares?

8 MR. RAUCH: The answer is that they are
9 not designed to provide any conservation benefit. The
10 conservation -- what the Magnuson Act is structured to
11 deal with is the conservation of the fish stocks. The
12 processor shares has nothing to do with that.

13 They're designed to put artificial market
14 -- guess I'm going to be a little bit harsh --
15 artificial market barriers to preserve processing
16 capability for those people who currently have them.

17 So there are a lot of -- you know, all
18 these programs create an artificial market, and that
19 is a concern. It is legitimate to put these market
20 barriers in there when you're dealing with a
21 conservation necessity.

22 But once you've done limited access for

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1 the harvesting portion, there is no reason to put
2 artificial market barriers in place and create
3 government subsidies for the processing sector.

4 We are concerned that there are, as I
5 indicated, community effects that might happen. So we
6 put provisions in our bill to try to eliminate that,
7 so that there are community quotas. Communities can
8 buy the quota, and that can sustain the community.

9 Once you've done that, once you're beyond
10 the "sustaining the community" idea, and there are
11 provisions in the Senate bill as well, there's very
12 little argument in favor of a processing quota, to
13 preserve a particular plant within a particular
14 community. So that was what it was.

15 MS. McCARTY: Yes. One more question. Is
16 there a provision in the Senate bill that grandfathers
17 in programs for DAPs that are already underway, and if
18 so, how exactly is that going to work?

19 We have several, as you know, underway in
20 the North Pacific, that aren't there yet, and so I'm
21 wondering what their status will be vis-a-vis the new
22 MSA?

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1 MR. RAUCH: So in both bills, neither one
2 of them are intended to overturn existing programs.
3 So both bills would allow those -- both the Senate and
4 the Administration bill would allow those to continue.

5 The Senate bill, I think, is a little bit
6 looser in terms of grandfathering in bills that are
7 under development. This is a comment that we've made
8 back to them, is what does that mean? Where do you
9 draw that line?

10 I don't know the answer to that. I don't
11 know whether that means bills that the council has
12 actually passed but the Secretary has not acted on. I
13 don't know whether that means bills that or plans that
14 the council's just discussed.

15 There is no clear provision in the statute
16 that draws that line, and that is of concern to us. I
17 would imagine that's an issue that will probably be
18 cleared up. I don't know whether it's been dealt
19 with, though.

20 MS. McCARTY: Yes, it's a big question as
21 to where exactly do you have to be with the program
22 development in order for it to be grandfathered in,

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1 because lots of people would like to get these
2 programs grandfathered. Thank you.

3 CAPT DiLERNIA: Dorothy, and then Pete.

4 MS. LOWMAN: Yes. That is a concern also
5 for the West Coast, which is, as you know, is three
6 years into, I think, developing a trial IQ program.

7 I have another question related to the
8 cost recovery provisions, and how that could affect
9 that. You know, the Senate bill has fairly strong
10 language that says that the program must recover all
11 the costs of management, data collection and analysis
12 and enforcement activities.

13 I'm interested in the interpretation is
14 that you are going to interpret that as the marginal
15 costs, compared to the status quo, because I think
16 that's important, because it also has a requirement
17 that it can't be more than three percent of the ex-
18 vessel value.

19 I think you could find yourself in a
20 position if you are looking at something greater than
21 the marginal costs, where you're, you know, having a
22 Catch-22. You can't implement the program because you

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1 can't recover enough cost.

2 That's a concern to me, because I think
3 this is a very important program to be able to address
4 some significant conservation issues in that fishery.

5 MR. RAUCH: So one of the things the
6 Administration has done, not just within our bill, not
7 just with the DAPs, but with all provisions, is we
8 want to try to make the fisheries pay for themselves.

9 These are very expensive programs. With
10 this and other Administration priorities, where we're
11 running a government program, it should pay for the
12 program. Fisheries does not currently do that. The
13 taxpayer is largely paying for the cost of NMFS to
14 regulate and things like that.

15 So we put cost recovery measures both for
16 DAPs and for other provisions in our bill. The Senate
17 didn't pick that up. One of our main concerns going
18 in is that these programs can be very expensive on us,
19 NMFS, to regulate.

20 Some of them, it makes some sense to spend
21 that money, because there is a profound economic
22 benefit to the country. Other fisheries are quite

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1 small, and as you impose regulatory oversight on the
2 government, it doesn't make sense, in terms of a
3 national economic look, to run it that way.

4 You're not getting any real conservation
5 value. You are benefitting a subset of fishermen at
6 great cost to the government, which from a national
7 perspective doesn't --

8 Now I don't know about your program, but I
9 know that we have some concerns with some of the ones
10 that could be developed. This is why we wanted, and
11 we still want there to be a tie to the full cost of
12 implementing that program on the government, and for
13 that to be a criteria to be able to reject the program
14 if it's too costly.

15 So I think it's by design, in both the
16 Senate bill and our bill, that if you can't pay for
17 the cost -- however we calculate the cost? I mean, I
18 think we have a really -- that's something we'd have
19 to deal with.

20 But however we calculate the cost, if the
21 program can't cover the cost, then we shouldn't be
22 doing that program. But I don't know the difference -

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1 - I don't think either bill deals with whether it's a
2 marginal cost or the full cost.

3 MR. RISENHOOVER: Right. Currently, the
4 IQ program in Alaska, we've been looking at the
5 marginal cost and collecting that, which comes out to
6 about right at the three percent.

7 But for some of these other programs,
8 where the fishery or in other fisheries, where they're
9 not as lucrative, you know, you wouldn't generate that
10 much funding with three percent.

11 GAO has recently done a report with us or
12 on us, I guess may be the better way to put it, on
13 ways to increase cost recovery under current
14 provisions. That's going to be an increasing
15 question.

16 MS. LOWMAN: I think it's a really
17 important question. I mean I'm concerned that three
18 percent is too low. I'm also, though, concerned that
19 some of the fisheries that you really want to do this
20 have been at a depressed state, because there hasn't
21 been this kind of management.

22 They may need some time to sort of

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1 incrementally recover to be able to cover all the full
2 costs.

3 MR. RAUCH: There's a provision in our
4 bill that would allow us, in certain circumstances, to
5 waive some of those initial costs. There's not one in
6 the Senate bill.

7 But we are concerned about exactly that,
8 that it may be that in the long term, if the program
9 works as we expect, the program will easily cover the
10 costs. But they can't do it in the short term. So we
11 allow for that.

12 CAPT DiLERNIA: I have Pete next.

13 MR. LEIPZIG: Pete Leipzig. This issue of
14 grandfathering in --

15 COURT REPORTER: Please move his
16 microphone closer. Thank you.

17 MR. LEIPZIG: Sure. This issue of
18 grandfathering in existing programs as provided in the
19 Senate bill is an issue that we pushed, and it came
20 into the manager's amendment. So if you've got some
21 suggestions, I would like --

22 COURT REPORTER: Could you speak more into

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1 the mike? I can't get it all.

2 MR. LEIPZIG: Can you hear me now?

3 COURT REPORTER: Yes.

4 MR. LEIPZIG: Okay.

5 COURT REPORTER: Yes, move closer.

6 MR. LEIPZIG: I was speaking to this issue
7 of the grandfather provision in the Senate version.
8 It is an issue of great concern to us on the West
9 Coast, and we had bounced some ideas off the Senate
10 staff, and I'd like to share them with you later, but
11 -- of ways the Pacific Council had viewed trying to
12 establish what constitutes something that's well under
13 way.

14 But the Senate felt, the staff felt it was
15 easier just to put something in saying underway and
16 let it go. But I agree with you. Let's define it,
17 because that's in the eye of the beholder at some
18 point, and I think it's important to narrow it down.

19 The provision, though, would get around
20 what the Senate had, in terms of these limited
21 barriers, as you characterized them. In my mind, it
22 ties back into who is issued shares.

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1 You addressed this issue of processor
2 shares, and I say -- you used the terms "two pie
3 system and a one-pie system," that is commonly used.
4 You addressed basically this two pie, where there is
5 processing shares that would have to be matched up
6 with the harvesting shares.

7 In the case of a one pie, what is the
8 Administration's view on issuing initial shares,
9 harvesting shares to processors, and how would that
10 relate then to these limited barriers that the Senate
11 has concocted, either a referendum or petition, and
12 who's going to participate in that, establishing the
13 process of going forward?

14 MR. RAUCH: So in our bill, we do not
15 preclude a processor from buying harvest share, or the
16 council from allocating a portion of the harvest share
17 to the processor sector, if they think that's
18 appropriate. So that is available in both bills, you
19 can do that.

20 If they were doing it in the Gulf or in
21 New England, which is the only two places that you
22 would have a referendum, I think this comes into

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1 question who can vote. But I do not -- I'd have to go
2 back and look at it.

3 I do not believe -- I believe that they're
4 both, you have to have some majority of the existing
5 quotaholders in some manner, so that unless they have
6 quota already, I don't think they can vote, the
7 processors.

8 MR. LEIPZIG: But in a new system, no one
9 has quota?

10 MR. RAUCH: Well, but in terms of the
11 referendum, the existing fishermen have to vote to
12 change the system.

13 MR. LEIPZIG: Okay, so --

14 MR. RAUCH: In New England and the Gulf.

15 MR. LEIPZIG: If you have a limited entry
16 system, then, that would be who would be voting
17 permitholders?

18 MR. RAUCH: Right, and it's not clear
19 whether it's a one to one ratio of every permit holder
20 or whether you do some sort of proportional weighting
21 of the vote. But this is not an issue anywhere but
22 New England or the Gulf, and in our bill, it's not an

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1 issue at all.

2 MR. LEIPZIG: I think the issue of initial
3 allocation of harvesting shares to processors is an
4 issue around the country.

5 MR. RAUCH: Well, it is, and our view is
6 that the councils should be the one to deal with that.

7 MR. LEIPZIG: And in New England and the
8 Gulf, they would have -- the permitholders would have
9 the opportunity to reject or develop a program that
10 would have made that initial allocation to processors,
11 but other sectors of the country would not?

12 MR. RAUCH: There's nothing to prevent the
13 councils from holding a referendum or requiring a
14 referendum before they take action. We just would not
15 require it as a statutory mandate, and the Senate
16 would.

17 CAPT DiLERNIA: Mary Beth, you're next on
18 the list.

19 MS. NICKELL-TOOLEY: Thank you. Mary Beth
20 Tooley. I think Pete covered some of the comments I
21 was going to make on the grandfathering issue. We
22 also were in contact with the Senate staff on that,

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1 and I think their intent was pretty clear, that you
2 know, any program that was underway within a council
3 not be affected by these new MSA recommendations.

4 But you did speak to barriers, in
5 relationship to the referendum. But I think from the
6 industry's perspective, what the Administration
7 proposed for cost recovery was a significant barrier.

8 You know, it was perceived by many as such.

9 Particularly when you add the cost of
10 science into something that you want to recover from
11 an individual fishery, which traditionally has not
12 taken place.

13 Some of the fisheries throughout the
14 nation that really are in need of some of these
15 programs are not in a position to cover these types of
16 costs. So from our perspective, we thought that that
17 was a significant barrier, that it was just too broad
18 and encompassing.

19 MR. RAUCH: And as I indicated, it was by
20 design that -- and I don't disagree it is a barrier.
21 It was intended to be a barrier because these
22 programs, we found, are very lucrative for the

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1 fishermen involved. I mean it does increase the
2 economic value of the fishery and the profits of the
3 fishermen, and who should pay the burden of that.

4 Should the people that are reaping that
5 economic benefit pay for the cost of getting them that
6 benefit, or should the U.S. taxpayer? According to
7 the GAO report and the Administration, we believe that
8 the taxpayers shouldn't bear that burden.

9 I mean, there are good conservation
10 reasons why we should do that, but we recognize that
11 the reason the fishermen like this is because it
12 increases their profits.

13 MS. NICKELL-TOOLEY: Yet I don't think
14 that fishermen would disagree with the idea of cost
15 recovery in general. It's just the extent to which
16 you go there. I mean, the cost of running the
17 Northeast Science Center at Wood's Hole would be --
18 the fishing community had to bear that cost, would be
19 quite a difficulty.

20 MR. RAUCH: Right, and I don't think we're
21 talking about that. But we are talking about, for
22 instance, if observers are required, or if -- right.

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1 I mean we were fairly explicit in our bill, to try to
2 recover the full cost. But --

3 CAPT DiLERNIA: Okay. Any other questions
4 on -- I'm looking at Ralph and then -- just one
5 moment, Ralph. Sam, how many other items do you have
6 in your report?

7 MR. RAUCH: Well, I've dealt with one.

8 CAPT DiLERNIA: Well, I'll tell you what
9 we'll do. Ralph, you have your question and then
10 we're scheduled for a break. We'll take that break at
11 10:30, we'll come back and we'll put you back in the
12 hot seat there, Sam. How does that sound?

13 MR. RAUCH: No, that's fine.

14 CAPT DiLERNIA: Okay. Ralph?

15 MR. RAYBURN: It might not be that
16 important, but relative to moving to a dedicated
17 access privileges, what are the implications of that
18 then with commercial fishermen serving on councils?

19 It seems like once you move into more of
20 the dedication of the privilege, that the conflict of
21 interest on council activities is going to be much
22 greater than you would have an open access fishery.

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1 So is that going to suffer a lot on the commercial
2 fishermen's involvement in council process?

3 MR. RAUCH: Well, we believe that the
4 existing conflict of interest laws that are on the
5 books, including the conflict provisions of the
6 Magnuson Act, are sufficient to cover any of that. We
7 have not proposed any increase in the conflict of
8 interest.

9 The Senate does strengthen it a little
10 bit, not truly in any great detail. But the conflict
11 of interest clauses are not changed. If the fishermen
12 gain a substantial benefit personally, not just their
13 sector but personally from the regulation, they can't
14 vote on that.

15 If they vote, they get kicked off the
16 council and there's a potential criminal
17 investigation.

18 So we don't think that there is a need to
19 deal with that. I mean, we are vigilant in looking at
20 those conflicts of interest, and General Counsel
21 reviews their financial statements, to make sure and
22 where we believe there's a conflict, we indicate that

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1 they shouldn't vote.

2 We've not had a problem, that we're aware
3 of, of people voting where they had a substantial
4 benefit to be gained.

5 CAPT DiLERNIA: Okay, thank you. Let's
6 take a 15 minute break and 15 minutes it will be, and
7 we'll get back and Sam, you get back up. Thank you.

8 (Whereupon, a short recess was taken.)

9 CAPT DiLERNIA: Please come to order.
10 Before we continue with our question and answers with
11 Alan and Sam, Dr. Hogarth has asked for a few moments.
12 So Bill?

13 DR. HOGARTH: Yes, thank you. We put
14 together a certificate of appointment. Most of the
15 times, you get appointed, it's just that. You get
16 appointed, and they get a letter, but that's all
17 you're going to hear from us.

18 But we put together, the United States
19 Department of Commerce, National Oceanographic and
20 Atmospheric Administration, National Fisheries Center
21 Certificate of Appointment.

22 This one says, "Anthony D. DiLernia is a

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1 duly appointed member of the National Marine Fisheries
2 Service, Marine Fisheries Advisory Committee,
3 according to the Federal Advisory Committee Act, 5
4 U.S.C., appointment to -- something to 1971, for the
5 term 2005 to 2008."

6 We have one for each one of you, and so
7 rather than have everybody come up, you want me to
8 just bring them out to save time, or if you want to
9 come up and get them, it would be great.

10 CAPT DiLERNIA: If you want -- let me,
11 perhaps Bill, if you don't mind to save time, if you'd
12 pass them to the members?

13 DR. HOGARTH: Right. But thank you. We
14 really appreciate the job you've done. So we will,
15 rather than have everybody to stand up and walk up,
16 we'll just pass it back to you. But again, thank you
17 for serving and look forward to it.

18 CAPT DiLERNIA: And on behalf of the
19 Committee, Bill, thank you very much. As you
20 mentioned, we got a letter, and the certificate of
21 appointment is something that, it feels good, it's
22 nice. It's good for persons' offices. So thank you

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1 very much.

2 Okay. Sam and Alan, you're back on.

3 MR. RAUCH: Okay, thank you. In order to
4 have enough time to have a full discussion of
5 overfishing and hard TACs, I think I'm just going to
6 run through the rest of the issues, and then take
7 questions at the end, in order to get through what I'm
8 going to do.

9 So we talked about the market-based
10 approaches. The other provisions of the Act that are
11 significant, and there's a lot of little details that
12 we don't need to go into, as Alan mentioned, both
13 bills have recreational fishing registration programs.

14 That's something that we very much support.

15 We also wanted a national commercial
16 program for commercial permits, a one commercial
17 permit, and Congress or the Senate at least has not
18 supported that provision.

19 As somebody mentioned earlier, there are
20 provisions for environmental review to coordinate
21 them, and the big one is NEPA.

22 There is a NEPA time line restriction in

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1 that NEPA requires a minimum of about 90 days in which
2 to act, where once we get a plan amendment from the
3 councils, whereas the Magnuson Act requires a maximum
4 of 95 days in which to act, and that doesn't really
5 work out very well for us.

6 But we're more concerned -- that is a
7 concern. But we're also concerned about making sure
8 that these two processes work together, and other
9 processes that we've got.

10 So Congress has given us the authority to
11 work with CEQ, to get a unified process that may not
12 follow the NEPA time lines that are set forth in the
13 CEQ regulations.

14 The Senate is largely supportive of that.
15 They do it in a slightly different way. They use
16 some stronger terms, but I think we're very close. As
17 somebody mentioned, I do believe that Representative
18 Pombo's bill is going to come out more strongly
19 against using NEPA.

20 Pombo is chairman of the House Task Force
21 on NEPA, and has proposed some fairly far-reaching
22 changes. Say that -- changes to NEPA. So we don't

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1 know, but I wouldn't be surprised to see him adopt all
2 those changes in his bill, and it remains to be seen
3 what the final bill would look like.

4 In terms of how this would affect
5 litigation, let me just answer that question. That
6 depends on what the final results is. If there is a
7 statute that says the fishery management plans are
8 exempt from NEPA, which is not what we're proposing.
9 But if that comes out, I think that would decrease
10 litigation somewhat.

11 It depends -- one of the things we've
12 argued is that the Magnuson Act council process
13 already is largely duplicative of many of the things
14 that NEPA would require. Not everything, but many of
15 the things.

16 So it somewhat depends. I mean when we've
17 heard of proposals to exempt actions from NEPA, there
18 have been countervailing requirements to add
19 provisions of the Magnuson Act, to make up for what
20 NEPA would give you.

21 If that's the case, it may not make any
22 difference at all, in terms of litigation. So it

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1 somewhat depends.

2 I think our proposal would hopefully
3 decrease some of those procedural litigation issues
4 about doing things within a set time, but wouldn't
5 change any of the substantive litigation challenges
6 that we get.

7 We have a fairly large Division on Science
8 that we separated out into a separate section.
9 Congress picked up some of these, but not everything.

10 Largely, it involved -- we wanted to establish a
11 unified national program.

12 I think Congress has given us the ability
13 to do that without having a national program. We
14 wanted to be able to collect economic information, and
15 Congress, at least the Senate, has gone along with our
16 request to increase -- to remove some of the
17 constraints in the Magnuson Act towards collecting
18 economic information.

19 As we indicated with these market-based
20 approaches, economic information is very important, to
21 try to figure out what the true impact will be of
22 these programs.

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1 We wanted to strengthen the
2 confidentiality provisions of the Magnuson Act, but
3 also to allow that confidential information to be
4 released to a broader set of circumstances.

5 One of the most significant ones is VMS
6 data to other law enforcement agencies, to allow for
7 when we are tracking fishing vessels for fishing
8 purposes, that the Coast Guard and Homeland Security
9 can get that for whatever purposes they need. This
10 was an important issue for us.

11 We have proposed to allow the SSCs to have
12 a stipend, so that this would allow us to get better-
13 trained people, and to actually compensate them for
14 the work that they do.

15 This is very important as we enter into
16 the realm of increased concerns about peer review and
17 data quality. We want to be able to use the SSCs as a
18 peer reviewing body. These are the scientific and
19 statistical committees.

20 We don't believe we should, in the
21 Magnuson Act, create an outside process, yet another
22 process. But we want to make sure that our existing

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1 processes are peer reviewed and that they are
2 adequately compensated and that we can use that.

3 We have a mechanism for observer funding
4 in our bill that the Senate didn't pick up. We're
5 somewhat concerned about that. We do have some
6 indication that the House is going to deal with
7 observers in some manner, but it's not clear how they
8 are going to do that.

9 Those are generally the science-based
10 issues that we've got.

11 On ecosystems, ecosystems was a big part
12 of our bill, as Alan mentioned. The focus of our bill
13 was an ecosystem plan, which would allow the councils,
14 at their discretion, to structure their decision
15 making along an ecosystem plan, and if they did that,
16 there were certain benefits that they could get.

17 But this was one of our functions. We did
18 not believe that every council should be required to
19 do that at this stage, because we're fairly new into
20 the process. We're somewhat concerned that ecosystem
21 planning, ecosystem-based management can mean
22 different things, depending on who you ask.

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1 So we would like the councils to, at least
2 in this version of the authorization, to be able to,
3 at their discretion develop these plans. We can look
4 at them and if they are good principles that we can
5 draw from them, then we would look towards a more
6 unified approach.

7 But we had other provisions in there, that
8 the Senate has picked up, although they don't use the
9 term "ecosystems." We want the councils to be able to
10 impose management measures or to adopt management
11 measures in order to protect things other than
12 fishing.

13 For instance, corals. We've had an issue
14 with protecting corals because if they're not
15 designated as essential fish habitat, so that they are
16 not actually -- you don't need to protect them in
17 order to have a sustainable fishery, then the Magnuson
18 Act really is not a good tool for protecting them.

19 So we wanted to give the councils the
20 ability to limit fishing activities around some of
21 these unique habitats, just because they feel that
22 these are unique habitats to be protected, without

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1 being tied to having a sustainable overall fishery.

2 So we have that explicit provision in our
3 bill. The Senate put similar provisions in their
4 bills. There's a provision for corals. There's a
5 provision for protecting habitat of non-target
6 species. They don't talk about ecosystems, but they
7 have something like that in there.

8 We thought that the birds are an important
9 part of the ecosystem, and we are concerned -- we had
10 a provision in our bill that would allow us to treat
11 birds as bycatch.

12 So then you would limit the, minimize the
13 bycatch of sea birds. This is part of our national
14 strategy on how to deal with bycatch in birds.
15 Congress did not go with us on the birds as bycatch
16 provision. They may still. We've got some
17 indications that this may come back.

18 They won't, at least the Senate, is not
19 going to treat birds as bycatch. But they do have in
20 there bycatch reduction. There is a program which
21 would allow us to work on bycatch reduction
22 engineering.

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1 The Senate has recognized that sea bird
2 bycatch is different from fisheries bycatch, but it is
3 a focus of that program as well.

4 As I indicated, as Alan indicated, there
5 are enforcement provisions with increased penalties
6 and joint enforcement agreements that the Senate and
7 the Administration largely agree on.

8 There are international provisions of the
9 Senate bill that we're quite concerned about. We
10 don't believe this is the proper approach.

11 The Senate bill would have us declaring
12 countries as supporting illegal, unregulated and
13 unauthorized fishing. We believe in a more
14 collaborative approach.

15 The State Department has been working with
16 other countries, and is making a lot of progress. We
17 believe this is a much better approach than sort of
18 the punitive approach that the Senate bill appears to
19 be taking.

20 It does appear that the House will not be
21 addressing the international issues. I don't know
22 where this is going to go in committee.

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1 There are other issues, including a
2 broader financial disaster provision that's in the
3 bill, dealing with catastrophic disasters. Currently
4 in the Magnuson Act, we have the ability to declare
5 fishery disasters, and then if Congress appropriates
6 money, we can spend the money.

7 There is still no money, but there is a
8 broader ability to declare disasters for -- larger
9 regional disasters that was added to the bill right
10 after Katrina.

11 We had in our bill, one of the things that
12 we were concerned about was broadening the council
13 representation and the council membership, and we do
14 not require quotas in terms of set number of
15 individuals from certain sectors.

16 But there are provisions in our bill
17 designed to encourage broader membership, to encourage
18 the -- to require the governors to solicit from the
19 public nominations, and a provision to allow us to
20 send it back if the representative is not --
21 representation is not sufficiently broad.

22 The Senate didn't deal with this, but did

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1 put a very restrictive provision on Gulf Council
2 membership, that there has to be five commercial and
3 five recreational members on that.

4 I already talked about some of the
5 conflict of interest provisions and we mentioned the
6 training. They do purport to also reauthorize a whole
7 bunch of other statutes that we didn't deal with.
8 That may or may not go out there. One of them is the
9 Atlantic Coastal Fisheries Conservation Act and some
10 other provisions.

11 So there's a whole list of other statutes
12 in there that Congress is attempting to reauthorize,
13 or the Senate would reauthorize at the same time. I
14 don't know whether the House is going to do any of
15 that.

16 So those are some of the bigger issues,
17 and I apologize for running through them quickly, but
18 we did take a lot of time on the market-based
19 approaches.

20 The other big one that is of concern to us
21 is the way that we're dealing with hard TACs and
22 rebuilding. So after we take some questions on what

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1 I've gone through quickly, I'd like to turn it over to
2 Steve. So we can take questions now.

3 CAPT DiLERNIA: All right. I have Heather
4 and I have Bob.

5 MS. McCARTY: Thank you. Heather McCarty.
6 I have a quick question on the peer review issue. The
7 peer review having to do with the SSC.

8 Can you elaborate on that just a little
9 bit? What would that mean if the SSC had to get peer
10 reviews or is that what you mean, that the SSC has to
11 get peer reviews on what they recommend or the plans
12 that they put forward? What does that mean?

13 MR. RAUCH: Well, Congress passed the
14 Informational Quality Act a few years ago, which is
15 requiring more and more peer review and analysis,
16 independent analysis of the data that we rely on.

17 OMB, in implementing that, has indicated
18 strongly that certain things should be peer-reviewed.

19 Fishery management actions probably qualify as
20 requiring peer review under the guidelines.

21 What we want, we want to make sure that we
22 have structured our Magnuson Act decision making

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1 process so that the SSCs themselves, or the other
2 processes that we create, are peer reviewers.

3 I mean these are independent scientists.
4 We want them to be the peer reviewers. We do not want
5 to have peer reviews of the SSC, because we think
6 that's peer review of a peer review, and that's not
7 what we want.

8 MS. McCARTY: Okay, thanks.

9 CAPT DiLERNIA: Bob Fletcher?

10 MR. FLETCHER: Yes, Bob Fletcher. Sam,
11 first of all, thanks for coming. This has been
12 fascinating. I really have enjoyed this kind of quick
13 summary. It's been really helpful.

14 On page 22 of the side by side comparison,
15 it talks about the Senate bill having a section on
16 cooperative research. I think on the West Coast,
17 we've seen probably the best cooperation between
18 agencies and the fishing industry as a result of some
19 of the work that's been done.

20 I know that NMFS has got a line item and
21 they're supportive. But have you thought about
22 supporting the language in the Senate bill, which goes

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1 into more specific detail on cooperative research, or
2 just where are you coming from?

3 MR. RAUCH: Well, there are a lot of
4 provisions in the Senate bill towards the end that are
5 stuck in there in terms of research programs, that we
6 have not officially said we support or don't support.

7 I personally don't see anything
8 objectionable in that, but in terms of getting -- as
9 to whether the Administration supports it, that
10 involves a larger process. This seems to be something
11 that we would not object to. It didn't make it in our
12 Viewsletter largely because it was stuck in at the
13 very end of the process.

14 But as you said, you know, this is --
15 cooperative research is something that we do a lot of,
16 and that we try to do. But I can't sit there and say
17 the Administration does or doesn't support this,
18 because this wasn't in our bill and we haven't gone
19 through that very lengthy process of developing
20 administrative positions on this one.

21 CAPT DiLERNIA: Okay. Mr. Roberts?

22 MR. ROBERTS: Ken Roberts. Why is Section

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1 114 incorporated in the Senate version and not the
2 Administration version? If the Administration has the
3 ability to act under Magnuson as it exists, why is 114
4 needed, Section 114?

5 MR. RAUCH: Well, the quick answer, 114 is
6 the provision that I was mentioning that deals with
7 these larger, regional catastrophic disasters. It
8 adds to our existing Magnuson Act authority when such
9 a disaster like Katrina happens.

10 There is no money associated with either
11 the existing financial disaster provisions or the new
12 114 provisions. What it does is we declare a
13 disaster, and then if Congress has appropriated money,
14 we can allocate it.

15 The short answer to why it's not in our
16 bill is that our bill went out before Katrina came
17 out, and we did not view the need to have anything
18 like that. I don't know that if we had to write it
19 today, we would put that in there. I think we were
20 concerned about some of the things in 114.

21 We were concerned about some of the
22 process requirements on us that we have to do quickly

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1 after a disaster. But the real reason is why it's in
2 their bill and not in our bill is because our bill
3 came out before these disasters hit, and then Congress
4 envisioned doing something like this here.

5 Basically, I think our general view is if
6 Congress appropriates us the money, we'll spend it.
7 But we declared a disaster shortly after Katrina, and
8 we were not appropriated -- there has not yet, I don't
9 think, been appropriated any money under that disaster
10 declaration.

11 MR. ROBERTS: Magnuson, as it exists now,
12 if Congress would have appropriated money, was a
13 suitable funnel for that money, without Section 114
14 being approved?

15 MR. RAUCH: There's the provision in the
16 Magnuson Act, as I was mentioning, on financial
17 disaster. There's also the Interjurisdictional
18 Fisheries Act, which provides another forum for
19 distributing disaster funds.

20 It depends on what you're trying to do
21 with those funds. There are cost-share provisions in
22 both. I think one of the -- 114 would address broader

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1 issues than we probably have authority to address now.

2 You know, we have -- we can rebuild fisheries, we can
3 rebuild communities, fishing infrastructure.

4 But there are limitations, and there's the
5 cost-share. If it was a 114 situation, one of those
6 larger ones, there wouldn't be a cost-share, and I
7 think it would probably broaden the things we could
8 spend the money on.

9 CAPT DiLERNIA: Okay. I have Pete, Chris
10 and Ralph. Pete?

11 MR. LEIPZIG: Pete Leipzig. You mentioned
12 data-sharing, and an example you talked about
13 enforcement and VMS and sharing it with the Coast
14 Guard and National Security. I didn't hear mention of
15 sharing that with the states. Do you see a problem
16 with that?

17 MR. RAUCH: There are provisions in our
18 bill that would -- in both bills that would allow some
19 limited sharing with the states, if the states --
20 basically, the marine fish agencies of the states.

21 It's not unlimited. So for instance,
22 there's no provision to share with the state

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1 Department of Taxation. But if it's for the state
2 fish agencies to work on cooperative management, we
3 put that in there. We put that in there because we
4 were having some difficulties with the current
5 existing Magnuson Act. So there's an explicit
6 provision for that in our bill, and I believe the
7 Senate bill picks that up.

8 DR. HOGARTH: Pete, to that point too.
9 I've been trying to negotiate with Homeland Security
10 on VMS, because I think it's a good tool, and they
11 have money and I was trying to get them to finance
12 VMS.

13 The problem is right now is that Magnuson
14 does not allow us to give the data, the VMS data to
15 the Coast Guard for Homeland Security, which is
16 surprising. But it doesn't.

17 Like I said, until that provision is, you
18 know, in there, then they're not willing to sit down
19 and finance. But I think if we could get a provision
20 for Homeland Security, then I think you'd see the VMS
21 being paid for by the government for all vessels,
22 period.

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1 CAPT DiLERNIA: Chris Dorsett.

2 MR. DORSETT: Thank you. Chris Dorsett.
3 Ken asked the question I had on Section 114. But I'm
4 also curious about Section 115 and 116, and these are
5 provisions that seem like they were stuck in word for
6 word from a previous omnibus bill for disaster relief.

7 I understand why they're put in here,
8 because this is the only game in town right now for
9 responding to the hurricanes. Will you be involved in
10 making sure that 115, 116, 114 and Section 312,
11 Capacity Reduction, all that works together?

12 Because right now, when I've looked at it,
13 there's some consistency issues, I think, there.

14 MR. RAUCH: We have, in general, on all
15 these things, provided technical drafting assistance
16 to Senate staff when asked, and they did ask about
17 these things, to try to work these together.

18 That came after this bill came out, so
19 there may well be changes. As Alan mentioned, I think
20 we're expecting that when the Senate deals with this
21 on the floor, it will be a somewhat different bill
22 that they take up, because the managers will correct

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1 some of these problems that we've identified. There's
2 a lot of little technical things.

3 That said, though, all our role is to try
4 to make sure that they all work together. I mean, we
5 would not take a policy position on whether, for
6 instance, there should be a shrimp fisheries hurricane
7 assistance program. That's -- you know, we could, but
8 that's a long process.

9 What we're trying to do is exactly what
10 you said, is trying to make sure that it works
11 together, so we can implement it if it's passed.

12 And there are -- it's not just us. I know
13 that there are plenty of other people doing exactly
14 the same thing.

15 CAPT DiLERNIA: Okay Chris?

16 MR. DORSETT: Yes, thanks.

17 CAPT DiLERNIA: Thank you. Mr. Rayburn?

18 MR. RAYBURN: Thank you, Ralph Rayburn. I
19 just wanted to clarify. In the current Magnuson, when
20 you speak to fisheries on disasters, are you talking
21 about the industry as well as a resource, or is there
22 any -- when you say fisheries, where -- so you can

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1 respond under Magnuson to a fisheries disaster that
2 would be a coastal community, fisheries community
3 issue rather than a resource issue?

4 MR. RAUCH: Under the Interjurisdictional
5 Fisheries Act, I believe that's correct. Under the
6 Magnuson Act, you have to have a resource-related
7 disaster to begin with. But under the
8 Interjurisdictional Fisheries Act we have broader
9 authority and can deal, I believe, with community
10 issues.

11 MR. RAYBURN: So this Senate language
12 would extend that to fisheries communities, coastal
13 communities; is that correct?

14 MR. RAUCH: Yes. As I said, there's
15 broader -- they removed some of the restrictions in
16 the current Magnuson Act, if you're in one of these
17 larger regional catastrophic disasters.

18 CAPT DiLERNIA: Okay. Do we have any more
19 questions for Sam Rauch? Okay, very good. Turning
20 now to do what to do about overfishing. Dr. Murawski?

21 DR. MURAWSKI: I think everybody knows
22 there's a short white paper at the end of Tab 11

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1 called "What To Do About Overfishing?" Basically,
2 this is a point of departure for hopefully a fairly
3 vigorous discussion about where the Administration
4 bill is, where the Senate bill is, and some of the
5 thinking behind this.

6 We wanted to try to clarify a few issues
7 and try to clarify where we stand with the NGOs and
8 other people about a variety of things that are
9 interconnected here.

10 As background, of course the last
11 reauthorization in 1996 of the Magnuson Act really
12 tightened up a lot of the performance metrics for
13 councils, in terms of overfishing and the status of
14 stocks; that is, the size of the stock relative to
15 some targets, and required us to have, you know, time-
16 certain rebuilding plans in place.

17 A lot of it revolves around the insertion
18 in the Act of a ten-year time limit, to effect
19 rebuilding to a designated target. So we have ten
20 years under our belt in terms of, you know, trying to
21 implement, you know, those provisions, and
22 particularly trying to rebuild the number of fisheries

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1 around the country, a variety of fisheries in New
2 England, the Gulf of Mexico, West Coast, etcetera.

3 So based on that, trying to change some of
4 the language of Magnuson to clarify a few things is
5 kind of a cornerstone of our approach, in terms of
6 developing the new bill.

7 You can see that "What To Do About
8 Overfishing" is really at the top of the list. Now
9 there's lots of issues that revolve around that, but
10 suffice to say there are two problems that have come
11 up when we look at the whole "overfishing issue."

12 First is that if you look at a number of
13 the rebuilding plans that we have, some of them extend
14 beyond ten years because of the nature of the stocks.

15 So what they do is some of these plants can lock in
16 overfishing, you know, harvest rates above the FMSY
17 for a very extended period of time.

18 So that -- and in some cases, you know,
19 that may actually, you know, result in stocks
20 continuing to decline even though, you know, long term
21 forecasting might improve.

22 So we're not -- in many cases, you know,

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1 we just simply keep doing that do-loop over and over
2 again of, you know, we've got an overfishing approach
3 to the limits, but you never quite get there.

4 So that's been a lingering problem in a number of
5 areas.

6 And of course the last -- the second issue
7 we're dealing with is the constraints of the ten-year
8 time limit. You know, harvested stocks, you know,
9 they respond to a lot of different pressures, and only
10 one of them being fishing.

11 So we can never fully guarantee that, you
12 know, a plan is going to work on that time schedule,
13 just because even if we stopped fishing, you know,
14 there's no guarantee that these stocks would
15 necessarily obey that sort of ten-year time closure to
16 rebuilding.

17 So our bill proposes two things. First of
18 all, almost universally when we talk to people,
19 particularly environmental community and others,
20 ending overfishing at the beginning of a rebuilding
21 program seems to us, and a lot of the scientists who
22 work for the agency, much more important than trying

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1 to play around with, you know, ten years or 12 years
2 or 15 years of the sort of back-end parts of a
3 rebuilding plan, in terms of trying to do things.

4 So the bill that the Administration
5 approved basically had a provision to end overfishing
6 within two years of the Act being promulgated. That
7 would give the councils time to actually look at, you
8 know, options to do this and try to ease some of the
9 ramifications.

10 But that would basically, we think, jump-
11 start conservation, in a way that this sort of slow
12 approach to ending overfishing really hasn't done in a
13 number of cases. So that's one issue.

14 Now if in fact we can get overfishing
15 under control in some of these sort of persistent
16 overfishing scenarios, and recognize that if we look
17 at the 230 stocks, major stocks we deal with, we're
18 only talking about 32 stocks that are in this
19 condition.

20 So it's not like, you know, we're talking
21 about more than 15 percent of the total. But there
22 are areas that have persistent overfishing problems,

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1 and we all probably know them.

2 So in terms of dealing with that, if in
3 fact we can get a handle on overfishing, then we think
4 that we can be a little bit more liberal in terms of,
5 you know, this ten-year time frame.

6 One of the problems with ten years is, of
7 course, the life histories of stocks are dramatically
8 different. We've got things that are essentially an
9 annual crop like shrimp and squid, and then you've got
10 these West Coast ground fish that live for 100 years
11 or more.

12 So you know, there is an out for those
13 long-lived species, but by and large, we think that
14 this is -- the ten years is arbitrary.

15 So the bill, our bill actually proposes
16 that we replace the ten years with the time limit it
17 would take to rebuild that stock, absent any fishing,
18 plus -- and this is sort of a technical term -- one
19 mean generation time. Which is no more than the point
20 in the life history that -- of an animal, that half of
21 its lifetime reproduction would have been generated.

22 So for a typical, you know, 20 year-old

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1 fish, that would be sort of eight or nine years. So
2 in a sense, what we're talking about for most stocks
3 is like a 20-year rebuilding period. There are, you
4 know, shorter ones, longer ones, etcetera.

5 We thought that that was more of a
6 realistic, you know, biologically-driven approach to
7 the time frame. So that was in the Administration's
8 bill.

9 Now in terms of the Senate bill, they
10 didn't really pick up on the ending the overfishing
11 issues, and they basically were mute on the ten years.

12 So presumably that, you know, will remain in the law.

13 Instead, they proposed a provision of
14 using hard TACs as a way to police the system for, you
15 know, places where there's sort of like continual
16 overruns in terms of the catch. So that sort of
17 defines the rules.

18 You all probably know there was a number
19 of amendments put in on that provision, to
20 particularly there are some interests where if hard
21 TACs don't currently occur, is there equivalency in
22 uses of days at sea or other measures that would, in a

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1 sense, you know, have a hard number involved, but also
2 have some sort of payback provision, that if you went
3 over that hard TAC in one year or, you know, the catch
4 limit, that you pay that back in the subsequent year,
5 either in actual fish or in days at sea or whatever.

6 That's a very difficult calculation. If
7 it's not either hard TACs or days at sea. Some of the
8 councils use closed areas, mesh sizes and other
9 things, and actually trying to figure out what any
10 kind of payback would be using those is going to be
11 extremely difficult and in fact almost impossible.

12 There's also a few problems with this
13 payback notion for particular species like Pacific
14 salmon, where you have a life cycle where it's a two
15 or three-year life cycle. So they go out and say,
16 "You overcaught that thing."

17 You're paying back in a whole different
18 year class, you know, in terms of the dynamics. So
19 trying to understand, you know, an equivalent payback
20 would be difficult. So there are some issues involved
21 with the Senate's provision.

22 So that in a nutshell is kind of where

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1 we're at. We do think that the science provisions in
2 the Administration's bill will help us monitor the
3 situation better, get a better handle on overfishing,
4 kind of support the whole process.

5 As well, you know, this kind of interacts
6 with the dedicated access privileges and provisions in
7 both bills, to the extent that, you know, we try to
8 get a system that doesn't have these overages that are
9 sort of persistent in the system.

10 So that's the point of departure. I'm
11 sure we'd be happy to have a general discussion on
12 this whole issue. If I can add one more point?

13 As Alan said at the beginning of this
14 session, we tried to get a handle on some of this time
15 frame issue, not waiting for Magnuson. We issued
16 these proposed National Standard 1 guidelines changes
17 last year.

18 As Alan said, we got a lot of criticism
19 for basically, you know, being more flexible on the
20 time constraint.

21 Now the actual National Standard 1
22 provision proposal was 18 or 19 provisions, which

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1 would try to frontload the conservation to the extent
2 we could, recognizing that the ten years is fixed in
3 law. We can't do anything about it. But also have
4 more liberal interpretation of the biological
5 consequences of it.

6 Now, you know, we got a lot of comments.
7 Now there was 250,000 comments. I think it was like
8 40 real comments and 249,000 e-mails of all the same
9 content. So it wasn't like, you know, we're sorting
10 through stacks of paper. We probably killed a server,
11 but that's about it.

12 But suffice to say I think in some
13 respects we feel that people didn't really understand
14 those provisions very well. So you know, we kind of
15 got caught up in a little bit of -- I wouldn't call it
16 hysteria, but I would say that the ball got rolling
17 down the hill pretty fast on that, and we couldn't
18 really respond very well. So Jim?

19 CAPT DiLERNIA: Thank you. Permit me to
20 say, Dr. Murawski, I heard an interview that you did,
21 I think, on National Public Radio discussing that, and
22 I thought you did a very good job of explaining the

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1 agency's position. I thought it was a job very well
2 done. So thank you for that. Questions to the
3 members? Chris?

4 MR. DORSETT: Thanks. Chris Dorsett. I'd
5 like to respond to some of the questions you asked us,
6 if this is the -- if this is how we're going to handle
7 those questions. But first, I'd just like to ask a
8 question about the Senate bill, which has some options
9 for what you do if you overrun your catch limits for a
10 year.

11 How that works with this requirement that
12 annual catch levels does not -- when you set them,
13 they can't exceed optimum yield. But I'm curious
14 about this, because my understanding is that when you
15 have a fishery that's overfished, you shoot for or
16 you're trying to rebuild back to an MSY threshold, and
17 then ultimately an optimum yield target level.

18 How do those two provisions work together,
19 and what -- I assume the optimum yield definition in
20 this bill is the same one that's in the law right now.

21 Do you have any thoughts on what exactly they're --
22 how it's going to work?

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1 DR. MURAWSKI: Well, there are a few
2 curiosities here. One of them is, of course, that,
3 you know, we're trying to achieve optimum yield, which
4 is MSY as reduced by a number of relevant factors.

5 Right now, the law kind of -- or the
6 interpretation of the law, as we have these rebuilding
7 plans where it allows overfishing, in a sense it says
8 we're allowing optimum yield to exceed, the current
9 yield to exceed optimum yield until you actually get
10 overfishing controlled. Which is an interpretation of
11 the current statute.

12 By ending overfishing early in the
13 process, you don't have this sort of juxtaposition of
14 the OY, you know, being exceeded on a long-term
15 rebuilding plan. So I think it kind of clarifies all
16 that.

17 MR. DORSETT: You can take other people.
18 I'll come back.

19 CAPT DiLERNIA: Thank you. Pete?

20 MR. LEIPZIG: Yes. I just wanted to voice
21 some support for this whole notion of re-tooling the
22 language on the rebuilding and the time frame. It's

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1 something that certain gets the Pacific Council, and I
2 suspect other councils, out of a box.

3 We just went through some litigation
4 dealing with dark blotch rockfish, where the courts
5 have basically ruled that --

6 COURT REPORTER: Can you move a little
7 closer to the mike please?

8 MR. LEIPZIG: Oh. The court ruled that
9 the National Standard guidelines that had been used in
10 the past was inappropriate, and that the law says that
11 you have to rebuild as quickly as possible, but take
12 in the needs of the fishing industry or the fishing
13 communities.

14 We've got this balancing act. The
15 councils are now trying to determine what the needs
16 are of the fishing community. There's a lot of
17 subjectivity there. They could pick some appropriate
18 level and then have to rationalize and support it.

19 Having something that would provide a
20 calculation of the quickest time possible, the key men
21 plus one mean generation, is a number, and you can
22 plug it into a formula and you can calculate what the

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1 yield is over time, and it's something the council can
2 do, rather than have to subjectively say, "Well, this
3 X number of tons is what the needs of the fishing
4 industry are," and come up with some economic
5 rationale, social rationale of why that number is more
6 appropriate than some other range of numbers that
7 could be out there.

8 So I fully support this. I think it's an
9 easier way to go about doing business, and it's
10 something that's very clear and I think it's
11 defensible.

12 DR. MURAWSKI: Pete mentioned the
13 litigation issue. This is one of those cases where
14 the ambiguity in the law is open to interpretation.
15 Now of course the 9th Circuit Court is there and
16 they're pretty aggressive. So right now it says as
17 soon as possible. But it doesn't say, "End
18 overfishing today."

19 Some, you know, there's been lots of
20 lawsuits that say that as soon as possible means right
21 now, as opposed to, you know, later on. So actually
22 having a provision to say what that time is, is going

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1 to help, you know, this whole litigation issue.

2 MR. RAUCH: Sam Rauch. To build on what
3 Steve said, currently, the law doesn't require us to
4 end overfishing at all, in terms of a rebuilding plan.

5 What it requires is you have to rebuild as soon as
6 possible.

7 So there is no requirement to end
8 overfishing, which is the one thing we can control.
9 We can't actually control rebuilding. So it is
10 somewhat of a disjunction, and we have had -- many of
11 these rebuilding plans allow basically a balloon
12 payment at the end.

13 You allow overfishing for nine years of
14 the plan, and then Year 10, if you're not there, you
15 have to have fairly draconian restrictions on fishing
16 to get to the end point.

17 We've won in court on all of those plans.
18 The law currently allows those balloon payments.
19 That's something that we want to avoid with our
20 language, is -- prevent that. I mean, we think you
21 need to end overfishing early. You can't allow this
22 to continue, because we're looking out at Year 9, when

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1 those draconian measures have to be put in place, and
2 are wondering, "Do we really have the ability to do
3 that?"

4 We would rather stop the overfishing now.
5 It makes the plan work a lot better. Thank you.

6 CAPT DiLERNIA: Mary Beth.

7 MS. NICKELL-TOOLEY: Mary Beth Tooley.
8 You know, I think to end overfishing as soon as
9 possible is a really good goal, but I do have concerns
10 about putting a specific time frame on it of two
11 years.

12 Science is not always, you know, the
13 scientific advice changes over time. Certainly Yellow
14 Tail in New England is a good example of that. What
15 happens if you have a program that's supposed to end
16 overfishing within two years and it doesn't? Are you
17 liable at that point? Do the councils have the
18 ability to put together these kinds of plans with
19 tight time frames.

20 Two years is very tight for a council to
21 act. I mean, currently they're required to take
22 action within one year, and with this kind of a

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1 restriction, they have to also end overfishing in that
2 two-year period.

3 Just what are the implications if they
4 think they are going to, and then find out they
5 haven't?

6 DR. MURAWSKI: Well, obviously, you know,
7 there's scientific uncertainty in all these
8 calculations, and we're constantly revisiting those
9 kinds of things.

10 Now if in fact we thought we were there on
11 a rebuilding plan, we'd do some reassessments, and
12 we're not there. One of the questions that's come up
13 a lot is do we actually have to follow the path that
14 we originally set out on a rebuilding plan, you know,
15 throughout the entire thing, or is actually having the
16 measures in place at the beginning of that that would
17 do that change, part of the law?

18 Frankly, that's a little bit ambiguous as
19 well, whether you actually have to meet, you know,
20 sort of interim targets to get to that final goal or
21 not. What I would say though is that, you know, as
22 any council gets scientific updates, they have to go

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1 through an adjustment process.

2 This happened on the West Coast, you know,
3 with Pacific ground fish. There was sort of an order
4 of magnitude drop in the understanding about
5 productivity that occurred a few years ago, you know,
6 and created a lot of angst in the councils.

7 But we have to go with, you know, the
8 current thinking in terms of the science. That was
9 one of the reasons why we talked a lot about whether
10 we should actually have it, you know, sort of as the
11 law passes, you know, that overfishing has to be
12 eliminated.

13 What's the right balance of a few years to
14 have the councils work on a plan that would mitigate
15 some of the losses and try to do that? So -- and
16 that, and the two years is totally arbitrary as well.

17 But it's trying to actually just find a better
18 compromise for that.

19 MS. NICKELL-TOOLEY: Yes, and I think that
20 most people understand that that's what the agency is
21 trying to do, is to compromise in some fashion, and to
22 end overfishing as soon as possible.

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1 I guess the concern would just be is in
2 the long run are we really creating more litigation by
3 having, you know, a time frame be so specific or not?

4 I guess again I have to wait and see on that.

5 But the other concern that I think has
6 been expressed is the payback provision in the Senate
7 bill. Certainly in New England, we are moving towards
8 multi-year specifications, and the Mid-Atlantic as
9 well.

10 So a council's ability to do these kind of
11 paybacks annually is simply not there. They don't
12 have the staff, they don't have the time. So it
13 creates a lot of concern.

14 CAPT DiLERNIA: Okay. Mr. Roberts.

15 MR. ROBERTS: Ken Roberts. I think I had
16 somebody else ahead of me, but if not, I'll go if
17 that's okay. Admirable job of writing this. I really
18 enjoyed reading this. It's well-done.

19 It posed a question though at the bottom
20 of the first paragraph. It raised kind of an
21 intellectual question, and I don't know whether we can
22 do this or not.

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1 But it's referring that NMFS and the
2 councils have the authority to end overfishing, but
3 have less authority and ability to regulate non-
4 fishing factors that contribute to depletion.

5 The question I'm going to raise is if some
6 of those are significant, the non-fishery aspects of
7 depletion, wouldn't it be a good thing to get
8 scientists, NMFS or somebody, to designate what those
9 are in the process of going through the overfishing
10 issue, and trying to resolve it simply with directed
11 fishery matters, to have a concomitant requirement in
12 the Act to require that non-fishing impacts leading to
13 the depleted status have to be identified and reported
14 to other agencies, so they may in fact take corrective
15 action?

16 It seems like in some cases, we're going
17 to be dealing with perhaps the minority part of the
18 depleted problem. I think this is an opportunity to
19 at least try to help identify the magnitude and the
20 sources of the non-fishery depleting actions. Just a
21 comment.

22 DR. MURAWSKI: I'd like to respond to that

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1 one, because it's a good one. One of the things that
2 we tried to do in the Administration's bill is to try
3 to look at fisheries as they relate to other
4 components in the ecosystem. So you know, our bill
5 had the provision where councils could provide these
6 fishery ecosystem plans, where we could look at other
7 non-fishery related inputs, you know, that controlled
8 productivity of species, how one species affects the
9 other, and to try to get more formal in that process.

10 Now I don't think -- you know, we're not
11 advocating that, you know, fisheries governance takes
12 on the issues of water pollution or coastal
13 development.

14 But that's actually the way like the Joint
15 Ocean Commissions see things in a little broader
16 perspective, and they'd like to see fisheries as part
17 of that larger debate about how we actually manage all
18 the trust activities that we've got, not just only
19 regulating the fishermen, because that's the only
20 thing that we have the ability to regulate in the
21 Magnuson Act.

22 Somehow we've got to have some sort of

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1 handshake with those other regulatory regimes, so that
2 fisheries interests are better represented.

3 MR. ROBERTS: Okay, I have a follow-up.
4 Just conceptually, I can probably depict a case where
5 we never recover from a depleted status simply with
6 fishing-directed factors or actions. In reality, is
7 that a possibility, that we would have that kind of
8 situation?

9 DR. MURAWSKI: Well sure. I mean if you
10 had a situation where, you know, coastal water
11 pollution was changing the productivity of the stock,
12 so that, you know, originally you had a biomass goal
13 that was here, but because of higher mortality on
14 young fish or whatever, you know, the stock would only
15 max out down here.

16 Sure, that would be the scenario. Now
17 hopefully, you know, we'd have our eyes open here and
18 say, "Look, you know. Be that as it may, the
19 productivity regime is changed." So we would manage
20 to that level of productivity, not the other one, you
21 know, and try to sort of -- try to always take it out
22 of the pocket of the fisherman, when in fact, the

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1 higher level of productivity is being determined by
2 some other factor.

3 Again, on the West Coast, this is
4 precisely what happens when you have these switches in
5 the upwelling that occurs here. You have high
6 productivity regimes and low.

7 What you want to do is to try to have a
8 fishery that sort of maintains the spawning stock when
9 productivity's low and, you know, you maintain slower
10 yields. But then, you know, when productivity
11 improves, you know, you've got a low harvest rate, but
12 the total harvest goes up to this other level, kind of
13 switches back and forth.

14 CAPT DiLERNIA: I have Chris and then
15 Eric. Chris?

16 MR. DORSETT: Thank you. Chris Dorsett.
17 As far as answering some of your questions, for
18 example, various proposals for ending overfishing and
19 rebuilding depleted stocks, I think the agency can
20 look around the nation and see which regions are doing
21 a better job at these things, and what tools that
22 they're using to get to the desired results.

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1 Our organization put forth an overfishing
2 scorecard, and in our analysis, the North Pacific and
3 the Pacific did the best. The Gulf Council, South
4 Atlantic, New England, and Caribbean were the lowest-
5 performing councils.

6 I think the key in the Pacific and North
7 Pacific fisheries is there's a capacity -- the
8 capacity issue is not as big. I think there's
9 accountability.

10 If you look at the Pacific Council's
11 system, where each meeting, they have this scorecard
12 and they're tracking mortality and they're adjusting
13 management measures to stay within limits, it's a much
14 better system than we have in place in other parts of
15 the country.

16 So I know that you've probably looked at
17 these things and you want our input on it, but I think
18 the answers are there, and you can look to regions
19 that are performing much better than others, to figure
20 out ways to end overfishing.

21 One thing I'm a little bit concerned about
22 is there's -- bycatch can play a huge role in

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1 overfishing, and if I remember correctly, the
2 Administration's bill softens the bycatch accounting
3 provision. It makes it, to the extent practicable,
4 instead of mandatory in getting this kind of
5 information.

6 But it's absolutely critical if you have a
7 fishery with a number of discards of target species.
8 That has to count against the total mortality and has
9 to factor into the overfishing equation.

10 I think places like the Pacific and North
11 Pacific are doing a much better job than other regions
12 with that.

13 I think that the main thing that you have
14 to have, if we're not going to have great observer
15 programs in certain regions, we have to have periodic
16 review and adjustments, and councils can come up with
17 triggers or NMFS can come up with triggers and it says
18 if this is the morality, if this is our limit and
19 we're exceeding it over this time period, we have to
20 do something to adjust it, and not just rely upon
21 input controls that say well, we're going to change
22 the mesh size and we're going to see what happens in

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1 five years. We have to start looking at actual
2 mortality and controlling it.

3 And the last point is a question. When
4 you look at councils that have continuing overfishing
5 problems, is the problem that they're going with the
6 balloon payment type of system, where they're saying
7 we're going to end overfishing way late into the
8 rebuilding period, or is the problem there that
9 they're setting management measures and keeping their
10 fingers crossed that they're going to work?

11 DR. MURAWSKI: I think I'll take that one
12 as a rhetorical.

13 (Laughter.)

14 DR. MURAWSKI: You know, my -- maybe I
15 won't. My background, of course, is in New England.
16 I spent, you know, 28 years there. When you look at
17 the current situation, this is one of the issues that
18 comes up.

19 There's an issue now, of course, that in
20 the majority of the stocks actually overfishing is not
21 occurring. But of course, you know, you're talking
22 about 19 stocks that are in a mixed fishery.

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1 You know, in a sense, what we have to do
2 is weak stock management there. We have to basically
3 make sure that they all in come in under the
4 threshold. Now of course, you know, there are mixed
5 stock fisheries elsewhere, like in Alaska.

6 One of the reasons why, you know, none of
7 the individuals are overfished is they end up leaving
8 so many fish on the table. I mean, harvest rates are
9 -- you know, the OYs are set way below, you know, some
10 of the MSYs. That's basically a way to ensure, you
11 know, that overall conservation goals are met in the
12 long term.

13 It's very difficult, though, when you're
14 actually doing a rebuilding plan from the highly
15 overcapitalized scheme, and you're going to see this
16 sort of trajectory, where a number of your stocks
17 start coming into line.

18 But you're going to always been drilling
19 towards those more persistent overfished stocks, in
20 terms of these approaches.

21 I will tell you that if you look at the
22 level, you know, the absolute magnitude of

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1 overfishing, that's been reduced dramatically in
2 places like New England.

3 So I mean, they've made a lot of
4 improvements, you know, in terms of this problem. But
5 actually getting to that last stock, you know, the
6 Gulf of Maine cod or whatever, that you know, because
7 of its biology it's just, you know, in the wrong place
8 at the wrong time.

9 Those are difficult management, you know,
10 management things that, you know, anything short of
11 almost banning fishing there is going to be a
12 difficult proposition to actually get, you know,
13 exactly what you want to accomplish.

14 CAPT DiLERNIA: Okay. I have Eric and
15 Larry.

16 MR. SCHWAAB: Thanks, Tony. Eric Schwaab.
17 I have a couple of thoughts and I'll try to do this
18 concisely, but first, I think this paper is great, and
19 I really like your approach, and agree with the focus
20 on overfishing, particularly because of these
21 ecosystem-based concerns, and I'll come back to that
22 in a second.

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1 But the one question that I have, I mean
2 it appears that I just want to clarify, you're not
3 objecting to the Senate focus on tax. But you have
4 more concern with the Senate's focus on sort of
5 specific payback provisions. Is that -- am I
6 interpreting accurately or --

7 DR. MURAWSKI: In terms of, you know, the
8 use of TACs, I mean obviously the Senate, you know, we
9 looked around the country and saw which councils were
10 performing best, and they said what are the
11 characteristics, and in Alaska it's hard TACs. So
12 that became the provision.

13 But of course, you know, what we found is
14 that, you know, one size doesn't necessarily fit all
15 in terms of what people want to do. Overall, in terms
16 of hard TACs, I mean, you know, I guess we don't
17 object to the Senate language there.

18 We need to make sure that they understand
19 that, you know, the full set of issues associated with
20 that. In terms of the payback, there's going to be
21 these sort of irksome things about life histories
22 that, you know, are not going to fit into that shoebox

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1 and accomplish some objectives.

2 So you know, I think we'd be looking to
3 try to modify that, you know, with some language that
4 would allow us some flexibility, you know, for those
5 circumstances to do that.

6 CAPT DiLERNIA: Okay, thanks. Sure.

7 MR. RAUCH: The Viewsletter that we sent
8 to the Senate staff before the final version of the
9 bill indicates that the Administration does support
10 annual catch limits.

11 So while we may disagree with them about
12 the mechanisms and the language that they've used, the
13 concept of annual catch limits is something that the
14 Administration did support.

15 I think one of our concerns is that it
16 detracts from what we think should -- the focus on the
17 Senate is so much on the annual catch limits and
18 they're losing focus on the need to prevent
19 overfishing.

20 But we are concerned about the language.
21 But the concept in general, I think, we do support,
22 and that's what we've publicly stated to the Hill.

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1 MR. SCHWAAB: So just then I have kind of
2 two other things I want to just focus on quickly. One
3 is back to kind of the ecosystem-based justification
4 for this approach, and I think, I mean Ken talked very
5 appropriately about one component of that, from sort
6 of a big picture perspective.

7 That is in a lot of cases, essentially
8 carrying capacities are reduced and we cannot get back
9 to some historic level. But I think the one thing
10 that's maybe not as apparent in here, kind of the
11 second sort of big picture justification, is in the
12 multispecies arena.

13 To the extent that -- I mean it's obvious,
14 it's becoming obvious that you can't manage everything
15 to its, you know, historic high, and there are
16 tradeoffs. I think that's something that maybe is not
17 as clear in this justification and approach as it
18 could be. Just kind of a thought to put on the table.

19 DR. MURAWSKI: I think that's a second
20 letter that we might want to write on, you know, why
21 an ecosystem approach, and it's because of a number of
22 those issues.

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1 MR. RAUCH: Yes.

2 DR. MURAWSKI: You know, we've been
3 working, toiling in the garden, trying to convince
4 people that the ecosystem approach is appropriate for
5 fisheries, in terms of where we're going here.

6 MR. SCHWAAB: Right, and then the last
7 thing that's kind of been on my mind since the last
8 discussion on dedicated access privileges, I mean I
9 don't -- I'm assuming that you, based on the comments
10 that you made with respect to leaving a degree of
11 flexibility in there, that you're not necessarily
12 going to dictate to the councils, you know, how they
13 assign privileges, whether it's in a particular you
14 can catch so many pounds of fish or you own -- not
15 own, but you have a dedicated privilege to a certain
16 percentage of an annual TAC or some other share. I
17 mean, is that accurate?

18 MR. RAUCH: Right. That's correct. I
19 mean we don't have the annual catch provision in our
20 bill. But our view is generally to allow the councils
21 the flexibility to comply with the statutory
22 standards, and to not put more restrictions on them.

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1 So I think that's correct.

2 MR. SCHWAAB: So to me, one of the
3 greatest justifications for going down that road is to
4 invest in the individual fishermen some greater stake
5 in future growth of the stock, so that it becomes a
6 big conservation incentive for each individual
7 participant in the fishery.

8 And you know, I think that then comes back
9 into perhaps this discussion, as it relates to
10 overfishing, more explicitly than you have articulated
11 here. Is that -- do you understand what I'm saying?

12 DR. MURAWSKI: Yes. I think it gets to
13 the question about, you know, what are the appropriate
14 measures, you know, to ensure overfishing is
15 eliminated and stocks rebuilt and you know, I think
16 you're talking about the efficiency of measures, you
17 know, that might relate to things like DAPs and other
18 things.

19 MR. SCHWAAB: Right. Of course then it
20 also creates some other problems when you start
21 talking about the ecosystem tradeoffs and multispecies
22 management, but that's for another day.

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1 CAPT DiLERNIA: Larry, then Mary Beth.

2 MR. SIMPSON: Thank you, Mr. Chairman.
3 Larry Simpson. Steve, how do you envision -- what
4 management measures would you envision to implement
5 ending overfishing beginning in two years?

6 DR. MURAWSKI: Well, I mean obviously
7 those --

8 MR. SIMPSON: I mean how would that differ
9 from, as you call it, a hard TAC payback provision?
10 How would that differ from that?

11 DR. MURAWSKI: Well, what we tried to do
12 is to, you know, allow the councils their flexibility
13 to eliminate overfishing. Now in terms of actually
14 having a hard catch requirement, you know, some of the
15 councils are going to use effort control. Some of the
16 councils are going to use, you know, actual landings,
17 you know, quotas where once their landing quota is
18 exceeded or reached that, you know, everybody just
19 goes home.

20 I mean those are going to be, you know, up
21 to the individual councils to try to, you know,
22 maintain as much flexibility in the fishery and all

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1 the circumstances are going to be different.

2 So I don't think we're going to prescribe
3 -- we haven't prescribed any measures specifically,
4 other than, you know, that there's some hard
5 accounting for this.

6 MR. SIMPSON: The Senate measure says
7 either by change of TAC or other management measures.

8 So all those are available. It doesn't have to be a
9 hard TAC. It could be bag limits. It could be closed
10 area. It could be any of what you just said.

11 My comment to you is how do you -- how are
12 you proposing, as the Administration, to do something
13 different by ending overfishing in two years, other
14 than just spread it out over two years?

15 DR. MURAWSKI: Well, I think the idea
16 would be if in fact we have a overfishing scenario,
17 and we're using some sorts of regulations, that those
18 have to be reconsidered in terms of, you know, how
19 effective they are, in terms of actually getting a
20 handle on it.

21 MR. SIMPSON: Let's say someone goes over
22 100 percent in their sector. Do you envision them,

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1 the Administration, trying to provide leadership to
2 do, to end that overfishing.

3 DR. MURAWSKI: Well, the sector issue is a
4 really important one, and in a number of the drafts of
5 the bills, there was talk about well, what happens
6 when only one sector, you know, goes over and they
7 basically control the whole quota? Maybe it's a minor
8 sector but, you know, so who gets to pay back? Is it
9 the sector itself or is it, you know, everybody
10 involved in the fishery?

11 And you know, the Senate language didn't
12 actually elaborate on that, but in terms of actually
13 making a program like that work, it would involve
14 first of all sector allocations, and maybe we don't
15 have sector allocations formally, you know, in some
16 fisheries.

17 But you know, if you start having those
18 provisions, certainly you know, you can see a whole
19 stream of people saying well, it wasn't our fault. It
20 was their fault. So the councils are going to have to
21 be more vigilant, you know, in terms of using sector
22 allocations, to make sure that, you know, we don't

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1 have these issues of one small sector controlling the
2 total.

3 MR. SIMPSON: I can probably assure you
4 that that's what they're thinking, the sector
5 allocations. But my point is still coming back to
6 you, is you're going to end overfishing in two years,
7 with all the tools that you have. How do you plan on
8 doing that, and why is that better than the Senate
9 version?

10 DR. MURAWSKI: Well, I think -- one of the
11 problems with the Senate's version is, you know, that
12 was their response to the overfishing thing, that you
13 know, we're going to be this sort of inadvertent
14 overages problem.

15 Well, one of the problems that does is it
16 doesn't address this question of if you've got a slow
17 approach to ending overfishing. All it says is that
18 if you have an annual TAC on that approach, you don't
19 exceed it.

20 But that doesn't get you to ending
21 overfishing. So there are really two separate issues
22 here.

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1 MR. SIMPSON: So you're just saying you
2 want to start in two years?

3 DR. MURAWSKI: Start in two years, that's
4 right. That was the compromise, that you know, the
5 plan would be in place to do this.

6 MR. SIMPSON: All right. So you're going
7 to start in two years, rather than wait until the
8 ninth year and start? When you start in that second
9 year, what are the tools that you're going to use to
10 start?

11 DR. MURAWSKI: Well, it's going to be the
12 tools that any individual council would apply, you
13 know, to react to that. So in the Gulf it will be a
14 different tool --

15 MR. SIMPSON: Hard TAC, bag limits, all of
16 the things that are in the Senate version.

17 CAPT DiLERNIA: Thank you. Mary Beth.

18 MS. NICKELL-TOOLEY: Thank you. I was
19 just curious. I had a question, because ecosystem
20 tradeoffs came up, and under the current law, we're
21 required to build all managed species to MSY, and when
22 you talk about some of the depleted stocks in New

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1 England, you know, the question arises can you do
2 that?

3 Are there tradeoffs that we should be
4 making? I don't see any proposals here from either
5 the Administration or the Senate, that would address
6 that. But certainly, I mean, the question comes up in
7 New England constantly. Can you rebuild cod and
8 dogfish at the same time, and do you want to?

9 So I was just, you know, just curious in
10 general, whether or not those discussions are going
11 on.

12 DR. MURAWSKI: Well, there's two issues, I
13 think, that come up in your question. First of all,
14 you know, how do species interact? You know, is there
15 a predator-prey relationship or what-not. Right now,
16 I mean, we should be considering those factors in any
17 kind of biological assessment.

18 Now the practical matter is, we're putting
19 more emphasis on single species stock assessments than
20 we are these broader ecosystem considerations, only
21 because of, you know, limited staff and our ability to
22 do those kinds of things.

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1 That was one of the reasons why we thought
2 that more focus on ecosystems would allow us a little
3 bit more flexibility to do that. But you know, we
4 should be looking at evidence already, and you know we
5 have, in terms of how those species interact.

6 The other question that I think your
7 question brings up is this whole issue of should we be
8 trading off some of these species that, you know, for
9 whatever reason, it would be better to keep
10 overfishing a stock, you know, relative to its
11 performance.

12 There was a provision in the current
13 Magnuson Act to do that. But it's actually never been
14 applied anywhere in the country.

15 So you know, right now -- we talked about,
16 you know, some provisions on that, you know, whether
17 we should change that or make it more -- you know,
18 what are the rules for that. Never kind of got into
19 the final version, but right now that language
20 persists.

21 CAPT DiLERNIA: Okay. Any other questions
22 for Dr. Murawski on the overfishing? Mr. Roberts?

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1 MR. ROBERTS: Ken Roberts. I don't have a
2 question. It's just a comment. In the first
3 paragraph, you say that part of the reason for using
4 the word "depleted" instead of overfished is that,
5 currently, the legislation doesn't give two
6 definitions of it.

7 The only thing that had struck me when I
8 read it is, well, renewable natural resources depleted
9 just sounds like a hopeless term. I think of
10 "depleted" uranium, depleted whatever. Depleted mine.

11 I'd rather see you go back and properly define
12 overfished separate from overfishing, than use a non-
13 renewable resource term for a renewable resource. But
14 that's just --

15 (Laughter.)

16 DR. MURAWSKI: Let me comment on that one,
17 because, you know, I mean we've confused the hell out
18 of people by using the terms "overfishing" and
19 "overfished." I mean that's a stretch.

20 So we're trying to make a distinction, you
21 know, better. We've been searching the synonym
22 dictionaries for, and if you've got a better word,

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1 we're all ears, you know.

2 MR. SIMPSON: It just doesn't convey a
3 renewable natural resource to me.

4 CAPT DiLERNIA: Okay, committee. Very
5 good. I think we've had a very productive morning.
6 Thank you. We're about to break for lunch, but before
7 we do, a couple of housekeeping chores.

8 First of all, if you have not -- first to
9 new members, if you have not communicated to either
10 myself or Laurel the committees that you care to serve
11 on, please do so, so that either before or after lunch
12 today, make sure that we know what committees you
13 choose to sit on.

14 If you look behind Tab 2, the committee
15 structure is listed there, and the four subcommittees
16 again are Strategic Planning, Budget and Program
17 Management, Commerce Subcommittee, Protected Resources
18 Subcommittee, and Ecosystem Subcommittee.

19 A brief description and responsibilities
20 of each subcommittee are also listed there, along with
21 the current members from the, I guess you would say,
22 senior members.

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1 To senior members, please check your committee
2 assignments, and if there's a committee that you'd
3 like to -- if there's a change, please let us know
4 that also. I remind committee members that they are
5 not limited to just one committee. If they wish to
6 serve on more than one committee, they can do so.
7 Once we have all the committee assignments, then we'll
8 be able to select the subcommittee chairmen, which
9 will then come together, and along with Dr. Hogarth,
10 Ms. Bryant and myself, form the Executive
11 Subcommittee. So we do need to know that by the time
12 we start today at 1:30.

13 As far as this evening's activities are
14 concerned, after we break I'm going to go and make a
15 phone call and see if that boat is still available to
16 us.

17 Anyone who wants to jump on the boat and
18 go for a boat ride this evening, provided it's still
19 available, just let me know when we get back from
20 lunch and you're just in on it. The boat can hold 20,
21 25 people, and hopefully we'll get some people to go.

22 Yes sir? Pete?

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1 MR. LEIPZIG: Before we get off the
2 Magnuson, it's a big issue, and not only for this
3 meeting but just nationally what's in front of us.

4 I guess a question for Dr. Hogarth, is
5 there more that MAFAC can do to help with the
6 Administration's issues. Is there something that we
7 should be, as a committee being prepared or being
8 prepared from the committee to provide you? Or what
9 are the next steps? Where do we go with this?

10 We've heard what you have to say. We've
11 told you what we have to say. We haven't, I don't
12 know if our position has gelled, or if there's just a
13 lot of loose ideas. But can we help further?

14 CAPT DiLERNIA: Before, and perhaps I
15 should have announced -- I'm not sure I did, but when
16 we started this morning, that I've asked two members
17 to take notes on the two topics of discussion.

18 I had asked Mr. Rayburn to take notes on
19 the overfishing discussion, and I asked Mr. Fletcher
20 to take notes on the recreational fishing discussion
21 we have scheduled for this afternoon.

22 Those notes will come together and be

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1 produced in the form of a summary, or perhaps even a
2 letter that will circulate to committee members for --

3 Not tomorrow, though. It will circulate
4 to committee members after our meeting, and then we'll
5 hopefully be able to edit, via e-mail, and then send
6 two reports for comments back to the agency that way.

7 So that's one opportunity that you'll have
8 there, and I guess I'll turn it over to Dr. Hogarth.

9 DR. HOGARTH: I think it's important to,
10 if you have comments, to send them. We'll have two
11 more opportunities, basically, I think. Even with the
12 Senate, we'll probably have another opportunity.

13 But the House hasn't even had hearings
14 yet. So it would be good to have comments from MAFAC,
15 that we would utilize and say, you know, we've
16 discussed this, what we plan to do, both from that and
17 Agriculture.

18 I think it's important to say that these
19 issues have been thoroughly vetted with MAFAC, and
20 they offered the following general things -- if you
21 don't have specifically what you want to get in if you
22 can't agree on specific things but on general topics

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1 that need to be addressed. I think it's good to have
2 that, and I definitely would use it. If I did the
3 testimony, I would definitely utilize it in that
4 respect. Yes?

5 MR. LEIPZIG: When are we going to have an
6 opportunity to kill that thing?

7 DR. HOGARTH: I would think tomorrow
8 during the discussion. Tomorrow, yes. We're trying,
9 through the subcommittees at the end, of what you want
10 to motions-wise to put out. Yes.

11 MR. RISENHOOVER: Alan Risenhoover. Just
12 one thing. On the overfishing paper, our kind of
13 purpose in that was, one, to bounce some ideas off
14 you, make sure we're refining our message correctly.

15 Because, you know, it doesn't look right
16 now like the Administration provisions -- well, the
17 Administration provisions on overfishing aren't
18 currently in a bill, and while we're still asking for
19 that in our comments, at one point it may not be an
20 option.

21 So the more we get back from the committee
22 on what they think of our logic in there, some of the

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1 comments we got already are very helpful along that.
2 But that will help refine our message, and take that
3 back up to Dr. Hogarth, and back up through the
4 administrative change in the Administration, before it
5 goes back to the Hill.

6 So, you know, instead of just Sam, Steve
7 and I figuring out what we think, having comments back
8 from you all will really help inform us when we have
9 to make kind of those tough decisions that are
10 probably coming on.

11 Do we support this or do we not support
12 this in future legislation, the "this" being whatever
13 that turns out to be from the Administration proposal
14 to the current Senate proposals, to something that may
15 come up a little later in some of the new bills.

16 CAPT DiLERNIA: Okay. Ralph?

17 MR. RAYBURN: I have to say I tried to
18 take notes, but I seriously doubt I'll do your
19 positions justice. So I'll try to bring something
20 together. I guess you were taking notes too, weren't
21 you?

22 But I was too going to -- and thanks,

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1 Pete, because I was going to ask, too, where's the
2 closure on the discussion, because it was really
3 random and I don't think we really addressed the
4 different dynamics in the question, in the
5 Administration versus Senate complete. So, we'll try
6 to at least get a document going that folks can put
7 their opinions in, and maybe help clarify what they
8 are, and from that get some consensus.

9 DR. HOGARTH: Just for your information, I
10 did put the National Standard Guideline 1 on hold
11 until Magnuson makes its decisions. I felt like we
12 maybe were viewed, somebody would view us as being in
13 competition with the Hill, and I didn't -- that wasn't
14 the purpose.

15 I think we'll see what Magnuson does and
16 then how does that affect what we were doing in
17 National Standard Guideline 1.

18 So the EIS is on hold until we get there,
19 because I don't want to look like we're going a route,
20 because we don't like what you're doing on the Hill so
21 we're going to go this route --

22 I think -- and we did have some basic

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1 differences, particularly with the environmental
2 groups, on National Standard 1. We're having a hard
3 time communicating past this, and we're going to try
4 to take another attempt to try to sit down and discuss
5 this, because I think we're talking past each other,
6 moreso than usual over this issue. I just want to try
7 to sit down and start working through.

8 CAPT DiLERNIA: Very good. Thank you.
9 Committee, anything else? Come back at 1:30.

10 (Whereupon, at 12:10 p.m., a luncheon
11 recess was taken.)
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1 A F T E R N O O N S E S S I O N

2 1:40 p.m.

3 CAPT DiLERNIA: Members, just some
4 housekeeping. What was planned for this evening has
5 been cancelled. It seems our captain has fallen in
6 love. He couldn't see his girlfriend yesterday, so he
7 asked for the night off today so he can see her, and I
8 understand. I hope you -- I'm sure you all do, too.

9 So he's 23 and he wanted to see his girl
10 for Valentine's Day. So he asked for the night off
11 and I said "Sure, okay." So our boat trip is off for
12 this evening, so I guess we're on our own for this
13 evening.

14 MR. RAYBURN: What about tomorrow night?
15 Do we need to sign up somewhere?

16 CAPT DiLERNIA: Tomorrow night. Is Laurel
17 here?

18 MR. RAYBURN: Yes.

19 CAPT DiLERNIA: I guess just see Laurel,
20 and be sure you're on that list for tomorrow evening.
21 Okay. All right.

22 MR. LEIPZIG: How about saddling up on the

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1 money? I mean, credit cards.

2 MR. RAYBURN: Yes. That was my question,
3 too.

4 CAPT DiLERNIA: During the break we'll
5 figure out what to do with that. Okay, hope everybody
6 enjoyed their lunch and they're well-rested and fed.
7 Now our topic for this afternoon is recreational
8 fisheries. We have a vision white paper discussion.
9 Forbes, Darby and Dr. Murawski. Forbes is here and
10 Steve is --

11 DR. HOGARTH: We wanted to tell you a
12 couple of things.

13 COURT REPORTER: Dr. Hogarth, could you
14 move back? Evidently, the mike's feeding back.

15 DR. HOGARTH: Okay. The agency has faced,
16 for a number of years, a lot of comments and concerns
17 about the recreational data, particularly how the data
18 collection is operated and things like that.

19 So we have made a conscious decision that
20 we're going to fix this some type of way. So in doing
21 it, we've gone out to the NRC, to have a study done.
22 They had been all over the country, and they've

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1 interviewed I don't know many people it will end up.

2 They'll make their recommendations to us
3 at a meeting we're setting up with the state directors
4 in the recreational industry at the end of March.

5 One of the things that's obvious in any of
6 this is that we don't know how many recreational
7 fishermen there are. We don't know who fishes, and
8 part of any survey is going to be really to identify
9 the universe that you're dealing with.

10 The survey that we now do is basically,
11 you pick up the phone book. You go through it and
12 find a name and you'll call and ask questions.

13 So we felt like that, you know,
14 registering the recreational fishermen was the first
15 step of this, and even the Ocean Commission, when they
16 looked at their report, mentioned the same thing.

17 So that's why you'll see that we went to
18 Congress in the Magnuson reauthorization and asked for
19 a salt water anglers registration. So -- but that's
20 just one of the things that's going on.

21 So, but we do want to talk about that, and
22 how we can improve the recreational fishing data, and

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1 other things that Forbes and Steve will talk about.
2 So thanks.

3 MR. DARBY: Okay. Thank you very much.
4 Can you all hear me? I know agency got into the
5 angler registration discussion, but Laurel asked me to
6 revisit a topic that I discussed last year with MAFAC
7 in Hawaii, and that's specifically how we wanted to
8 revitalize our recreational fisheries program.

9 COURT REPORTER: I'm starting to get
10 feedback a little bit.

11 MR. DARBY: I'm sorry, and specifically to
12 talk about how the strategic plan is going to be an
13 important step. I think most of you have seen this,
14 maybe some new members, so I do have some copies here
15 if you haven't seen it. Let me pass this around.

16 So it's actually coming up on exactly one
17 year since we unveiled our strategic plan, actually
18 last year down at the Miami Boat Show.

19 So, like other anniversaries, I'm sort of
20 prompted to do a little bit of soul-searching, and to
21 wonder if we're actually making some progress on our
22 promise to improve service to the recreational

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1 community.

2 And, you know, the problem often with that
3 is that you're often so close to the issue that you
4 lack any real perspective. Well, fortunately I was at
5 a dinner last weekend or last week with some members
6 from the sport fishing community in Washington, D.C.

7 And as I was standing in line for a drink,
8 the guy behind me leans in, and he pats me on the back
9 and he's like, "you know, you guys, you've got some
10 good stuff and we're hearing some really good things
11 about you."

12 So I was going through this sort of self-
13 evaluation process, and I was looking for some cheap
14 compliments. So I asked him, "Well, what exactly do
15 you think we're doing so well?"

16 He thought about it for a moment and he
17 finally remarked to me, he's like "Well, you know, I
18 really don't know. I just sort of get a feeling. I
19 hear some things that you guys are doing some good
20 stuff, and there's sort of this good buzz out there."

21 That wasn't exactly the answer I was
22 looking for, and I was hoping for him to be a little

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1 bit more helpful. I can't exactly come here to MAFAC
2 and say "We're making great progress because someone
3 told me there's a buzz on the street about us."

4 But it got me to thinking a little bit,
5 and I remember that a profile I recently read about
6 the rise of salt in the big mass merchants. And
7 specifically the story that focused on this woman
8 Jeanette Walker, who was the senior vice president for
9 Gillette back in 1996.

10 They were releasing a new product, a new
11 razor, and she had scheduled visits with two of the
12 big vendors, Target and K-Mart. Now it's important to
13 remember at this time that K-Mart was one of the big
14 guys on the block back in 1996, and Target was one of
15 these young up-and-comers.

16 So her first visit was to K-Mart, and she
17 walked in, and two executive vice presidents greeted
18 her at the door. They whisked her around the offices,
19 introduced her to people, and they talked about
20 marketing strategies and sales projections, and about
21 the product features and things like that. Very
22 interactive, very productive conversation.

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1 The next week she goes to K-Mart. Now K-
2 Mart's in this big, austere building. She walked in.
3 There's this sort of bland secretary that says "Yes,
4 go to the back and there's a conference room there."
5 There's two sort of mid-level guys just kind of
6 hanging out there, and they asked a few cursory
7 questions, you know, left in about 15 minutes. You
8 know, they were big customers so, whatever, they'll
9 still be with us, right?

10 So it's up to her now to make a decision
11 between K-Mart and Target. Well, which one do you
12 think she went with? Target obviously, right, because
13 Target came across as a winner, and K-Mart came across
14 as a bunch of losers.

15 And of course you know how the story plays
16 out, because you know Target went on to become the
17 number two retailer out there, second only to Walmart.
18 We also know that K-Mart went bankrupt in 2002.

19 So the thing that I find really
20 interesting about this, is that six years before K-
21 Mart went bankrupt, even when they were still making
22 money, people could see that they were destined to go

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1 under, just by the way that their staff interacted and
2 the way they treated their customers.

3 Six years, you could tell, if you knew
4 what to look for. So why do I bring up this story
5 that has absolutely nothing to do with fisheries?

6 Well, because I think it does illustrate
7 a way to measure the progress we're making in
8 recreational fisheries, because, think about it. I
9 was going to come here and I was going to talk about
10 some of our accomplishments, you know, some of the
11 "what's the things that we've done," some of the
12 things you might see in an annual report somewhere.

13 You know, things like, you know, we've
14 hired new staff. We had some regional meetings to
15 look at implementation of the security plan. We put
16 together electronic bulletin boards that would
17 facilitate communication. We had a big national
18 sports fishing summit meeting.

19 Those were all sort of the usual metrics,
20 usual benchmarks. They prove that I did something.
21 But the fact is that just doing something, just doing
22 things, isn't what we promised in the strategic plan.

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1 We made a commitment to revitalize our
2 service to the community, and that requires things of
3 us, ways of doing business that you just can't measure
4 with those standard metrics, those lists of
5 accomplishments.

6 So the real question that we're really
7 sort of -- that I'm asking myself and you're probably
8 asking, as well is any of this working? Are we really
9 making a difference in our service?

10 My answer, of course, is an unqualified
11 yes. I see many familiar faces here, and I hope that
12 they also believe that is true, as well. Now, I'll be
13 the first to admit, and you guys know this as well as
14 I do, is that sometimes it's a really frustrating
15 process.

16 Sometimes things take a lot longer than
17 you think they're going to do. Sometimes, I sit there
18 and I don't feel like I'm doing enough things. But
19 what keeps me energized is seeing those things and
20 seeing how they're making some positive changes in how
21 we do things.

22 This is where I brought up the parallel

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1 with the Target example that I just told you about.
2 You see, in Target, they're operating in a way that
3 even though outside the organization, anyone with
4 knowledge could tell that they were going to be
5 successful.

6 They were enthusiastic, they were
7 interested, and they were confident. And they're
8 enthusiastic, interested and confident because they
9 have a good strategy.

10 But you didn't need to see any of this.
11 You didn't need to look in the management books, you
12 didn't need to look at their structure. Hell, you
13 didn't even need to look at their sales figures to
14 tell Target was taking off, and K-Mart was going in
15 the tank.

16 Because you could tell by the positive
17 interactions between the staff and with the customers,
18 that they were going to succeed, and K-Mart was going
19 to fail.

20 So when I look at us, and I look at the
21 signals that we're sending out to our customers, to
22 our partners, to our constituents, and I see some of

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1 those same positive messages.

2 Now, some of this may seem a little bit, I
3 don't know, vague. So let me give you two quick
4 examples that I think illustrate what I'm talking
5 about, and they have to do with what we're talking
6 about today, which is recreational data, and
7 specifically they have to do with one of our key goals
8 in the strategic plan, which is on page ten, by the
9 way, which is to improve recreational fishing through
10 the use of credible and accurate science.

11 So my first example involves activity of
12 our brand spanking new recreational fisheries
13 coordinator in Hawaii, not a bad job to have. It also
14 involves our recreational economist back at NOAA
15 headquarters.

16 Back in October of last year, October
17 2005, just a few months ago, we got the results of
18 NOAA's Hawaii angler expenditure survey. It's
19 basically looking at the data that we produce or
20 conduct to look at the economic impact of sport
21 fishing.

22 And like the other recreational data

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1 collection surveys, it's a voluntary survey. So the
2 key is raising awareness and acceptance among the
3 anglers, so that we guarantee their involvement and
4 their participation in the survey. And of course that
5 ultimately -- their participation ultimately is a
6 measure of the success of the survey.

7 So now with that awareness and acceptance
8 of the survey, we went to the Science Center and the
9 Regional office and conducted brown bags. So they
10 were talking with NOAA staff and our state partners,
11 who helped us conduct the survey.

12 During the course of these conversations,
13 it became obvious fairly quickly that MRFSS wanted a
14 level of information that we just were not going to be
15 able to provide given the sample size we had budgeted
16 for the survey.

17 You know, obviously you can buy a certain
18 sample size with a certain amount of budget, and we
19 only had so much budget to spend in Hawaii.

20 So the result is that we really sort of
21 throw our hands up and say "Hey listen, this is all we
22 can do. We've got a budget. That's all we can do.

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1 But that's actually not what happened in Hawaii in
2 this case.

3 It was in our dialogue with fishermen that
4 the solution actually came up. The anglers said, what
5 if we provide you the sample? What if we could up
6 your sample for you? Would that help to increase your
7 sample size, would that help you meet the level of
8 precision that we're asking for.

9 Yes, of course it would. I mean, it's a
10 pretty obvious fact, but no one really had thought
11 about it. No one really thought to bring it up. He's
12 like "Give me some names, give me some contact
13 information, and I'll make sure it gets recorded and
14 we'll get a better result from that."

15 So this relatively simple discussion, this
16 simple solution, ignited a huge grassroots effort to
17 support the survey in Hawaii. There's been incredible
18 ownership over this survey in Hawaii among the
19 anglers.

20 The angler community was actively
21 recruiting anglers to sign up to participate in the
22 survey. In just the past six weeks, one tackle shop

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1 signed up 250 anglers to participate in this survey.

2 And Nicole, the coordinator out there,
3 she's out there fanning the flames as well. She's
4 going to more tackle shops. She's visiting more
5 docks. She's talking to leaders in the community out
6 there. She's raising awareness for the survey, and
7 explaining the importance of this survey to them.

8 So Hawaii's going to get some increased
9 precision from the survey. But what do we get?
10 What's the payoff for us? Well, the first payoff of
11 course is that we're getting better, more detailed
12 information. That helps us all out.

13 But perhaps equally important, or maybe
14 even more important, is that NOAA is earning
15 tremendous good will within that community for being a
16 responsive partner.

17 This is only possible because the
18 coordinators go out to Hawaii and walk the docks, and
19 go to tackle shops and talk to anglers both in person
20 and on the phone in her office at NOAA, and figured
21 out that we could do more.

22 There are other things and other concerns

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1 that they had, and then to devise this sort of, you
2 know, creative solution to that problem.

3 Let me tell you about a second example.
4 It's a little bit more recent. It happened just a
5 month ago back in Washington, D.C. We had a lunch
6 meeting. We have a lot of lunch meetings, but two
7 things made this meeting, in particular, different.

8 The first thing is it involved this
9 unprecedented grouping of people. This was a meeting
10 hosted jointly by NOAA Fisheries and the Atlantic
11 Coastal Cooperative Statistics Program, the ACCSP, our
12 sort of quasi state-federal partners in this.

13 And of the 30 or so people who were in
14 that room, we had Dr. Hogarth. We had four internal
15 NOAA offices. We had four regions. We had two
16 interstate commissions, and we had any number of
17 states involved. We have scientists, managers, and
18 communicators coming together.

19 Now I can't tell you how unheard-of this
20 is to have this grouping of people, sitting down in a
21 room to talk about MRFSS. To my knowledge, that's
22 never happened.

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1 So what prompted this meeting? What
2 prompted this great gathering of people? Well, if an
3 issue has been brought up among several places, but
4 perhaps most notably at our two regional meetings
5 we've had in California and the Gulf of Mexico, to
6 discuss implementation of the strategic plan.

7 And at both these meetings, anglers and
8 our partners came to us and said "Can you please do a
9 better job talking about the MRFSS? Can you please be
10 more clear and more understandable?"

11 So I'm going to be a little honest or
12 blunt here, but the fact is that we're not effectively
13 explaining the who, what, when, wheres and whys of
14 MRFSS, of the survey.

15 Now we know that the people are telling us
16 this, but we ought to know that there should be,
17 because right now this information about the survey is
18 rampant. You can't pick up a fishing magazine or a
19 newspaper article and see accurate information in
20 there.

21 And this misinformation is one reason why
22 we're seeing negative perceptions of MRFSS among many

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1 of our partners and constituents. So this meeting we
2 had back in January with our scientists, with our
3 managers, with our communicators, was an effort to get
4 on the same page, was to pick out and provide some
5 basic, easy to understand talking points and messages
6 on how to talk to our publics and go to commission
7 meetings and public meetings and council meetings, and
8 talk about the MRFSS, so people will understand it.

9 So that's a pretty good outcome, I think,
10 having them sort of get on the same page, having
11 consistent dialogue in order to understand messages.

12 But there are two other things that I
13 think are pretty remarkable about this meeting, and
14 this is sort of harkening back to my previous two
15 examples.

16 First, there was this realization that we
17 can do better, that it's incumbent upon us, it's our
18 responsibility to make sure that people understand the
19 MRFSS. It's our responsibility.

20 And it's clear that we can do a better --
21 we can do that better when we work with our partners,
22 with our other offices, and work together on that. So

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1 first that's our responsibility.

2 And the second reason I tell this story is
3 to highlight this unprecedented grouping, this
4 collaboration between different offices and partners.

5 Just like in MAFAC we had this enormous amount of
6 expertise that we're certainly going to have to tap
7 into.

8 Of course, you've got to know from working
9 on this and working where you do that, you know,
10 working in this sort of collaborative process can be
11 kind of painful. It can slow the process down. You
12 know, it hurts because it's not my opinion that might
13 be, you know, get brought forward.

14 So those are the negatives. But the
15 benefits of it far outweigh those negatives. I mean,
16 the payoff for us is the buy-in. It's the level of
17 commitment from everyone having been involved in the
18 process.

19 You guys know this. These brown bag
20 meetings, to have 30 people from different offices and
21 regions and partners say that "Hey, this is a better
22 way to talk about the MRFSS," rather than saying "Hey,

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1 let's try this, instead."

2 So that leads me to my summary point here,
3 which is the commonalities of these three stories,
4 sort of the way to measure our progress. And there's
5 sort of two things that stick out.

6 The first thing is responsibility, and the
7 second thing is collaboration. The Target example,
8 the Hawaii example, the MRFSS communication example.
9 Collaboration and responsibility. Those were the keys
10 to the success there.

11 That's how I'm looking at success. If we
12 can continue to do that, and we'll know we're being
13 successful when we go to a meeting like this and we're
14 standing in a line at a bar and someone leans into you
15 and says "Hey, you know, I'm hearing some good things
16 about you guys. I'm hearing good buzz from you guys."

17 So that's why I wanted to just give you an
18 update on the strategic plan a little bit, because
19 MAFAC has been extremely helpful all along through
20 this process, and there are many members of MAFAC
21 actually who are working with us regionally. I want
22 to thank you guys for participating in that process.

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1 But let's switch the discussion to this
2 afternoon. I mentioned just a second ago this MRFSS
3 communication effort.

4 Do I think having an easy to understand
5 message about MRFSS is going to solve all our
6 problems, real and perceived, about the survey, is
7 going to raise confidence in the program? Of course
8 not.

9 Just as I don't think any public relations
10 system or a program is going solve our problems,
11 either. The way I look at this is, since the
12 inception of MRFSS in 1979, we've been making
13 refinements to that program, and in angler
14 registration, and an improved, easy to understand
15 message.

16 Those are just two steps along this large
17 spectrum, this progression, to get to the point where
18 we have a data program and data that the public that
19 are scientists, that are managers, buys into and
20 believes in and has confidence in, and is in sync with
21 our management needs.

22 So this afternoon, Dr. Murawski's going to

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1 get into the angler registration specifically and how
2 we can move ahead on that. I'm going to turn this
3 over right now to Dr. Murawski.

4 But first, I'd like to introduce a special
5 guest of ours. Dick Brame is here, down from North
6 Carolina. He is from the Coastal Conservation
7 Association, and if any of you have been following
8 sort of this salt water registration license issue,
9 you know that North Carolina is currently going
10 through this process, or it has been going through
11 this process, of getting a salt water license.

12 So there's no one more knowledgeable or
13 closer, has better firsthand knowledge of what we're
14 going to be going through than Dick, here. So I
15 encourage Dick to please chirp in when you can, and
16 for the MAFAC members to also ask him questions,
17 because he really is a great resource, and we thank
18 him for being here. So with that --

19 CAPT DiLERNIA: First, Forbes, before you
20 leave the podium, is there any questions for Forbes
21 before we -- Ralph?

22 MR. FLETCHER: I may be an exception to the

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1 general public in terms of understanding MRFSS. I've
2 got a lot of history. But I want to make sure I
3 understand it, because we've all believed for years
4 that the program was adequate at doing what it was
5 intended to do.

6 But that people began to try to make it do
7 things it was never intended to do. Now that's
8 different from the way I hear you talking about people
9 that don't understand what MRFSS is.

10 Now there's -- maybe there's some subtlety
11 in there, but the reality is that we needed something
12 better than what MRFSS was able to provide, and what
13 we end up with is the knowledge that the MRFSS was
14 very equal as a result of a system that was being used
15 the way it was never intended to be used.

16 So are we talking about better
17 understanding of MRFSS as it's supposed to be, as it's
18 always been? Or are we going to talk about the "new,"
19 expanded, better MRFSS?

20 MR. DARBY: Well, what I'm talking about
21 and you're trying to fit a square, I'm putting
22 lipstick on a pig, here. One of the points that need

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1 to be pointed out is the difference between the
2 science of the surveys and how it's used in
3 management.

4 Part of our goal is to point that out, but
5 there is a difference there, that the way the survey
6 is conducted. I mean, even SRFSS, essentially, is
7 very similar to the MRFSS.

8 There's some basic rules about surveying
9 and how we collect enough information, that if you go
10 to council meetings and commission meetings and you
11 hear folks get up there and try to explain it, it's
12 incorrect.

13 So our point is to get, you know, talking
14 at the most basic level and get that sort of --
15 everyone on the same page as far as that goes, because
16 that is the way to describe it. I mean we can't --
17 how can we talk about the difference between SRFSS
18 (ph) and MRFSS if you don't really understand what the
19 existing system is?

20 MR. FLETCHER: Defining the terms is
21 critical.

22 MR. DARBY: I'd like to I guess explain

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1 that when I talk about data collection, we're talking
2 about management of that data. Anything that's got
3 seeds, it's got bumpers and got hoods.

4 Mr. FLETCHER: I don't think that --

5 MR. DARBY: Let me make this point.
6 Nothing we're talking about is that sort of level of
7 information, that level. So we're all talking about
8 the same things. We understand what surveys are, and
9 you are the exception, and actually most people in
10 this room are probably the exception, because you have
11 been around and you do understand it.

12 But there are a lot of folks out there who
13 don't. So I think before we have discussions about
14 where we need to be going and how an angler
15 registration fits in, we need to understand
16 fundamentally how it works and what we're trying to
17 accomplish with that.

18 DR. HOGARTH: Ralph Rayburn.

19 MR. RAYBURN: Thank you. Ralph Rayburn.
20 I just can't let Forbes get by without asking again
21 what the status is on the recognition of the Texas
22 Recreational fishing data.

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1 I have a "Fisheries of the United States
2 2004," put out in November of 2005, and you know,
3 Texas isn't in there. I do notice that, in the
4 description, it talks about -- and I know the reason
5 why Texas does a different program.

6 They do actually on site field surveys.
7 They touch base with people as they get off their
8 boat. They count their fish, they ID their fish, and
9 there's more, I guess more to it. They've been doing
10 it for 20 years, 25.

11 Anyway, so there's a complication of
12 getting that applicable, and I guess having that data
13 put into the recreational fishing survey. Texas would
14 probably be like number two or three, as far as value
15 and participants in recreational fishing.

16 But it hasn't been covered in any
17 information on that that I know of, anyway. I know
18 Bill's committed to do it. The problem is, I guess
19 you can't get the information. The last time I was
20 told that, I called and I think I responded in maybe
21 20 minutes with what the numbers were.

22 So the information is available from

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1 Texas. But Forbes, perhaps in this document, it talks
2 about "In place of the MRFSS, Oregon and Washington
3 conduct ocean boat surveys to produce catch and effort
4 estimates."

5 Then Washington and Oregon do have their
6 figures in here. So how does what they do, which is,
7 I guess, not apparently related to MRFSS, how does
8 that data differ so much from Texas that their
9 information's included and Texas is not?

10 MR. DARBY: I am so happy you asked this
11 question, because --

12 MR. RAYBURN: I bet you are.

13 MR. DARBY: I've been asked before at
14 other meetings.

15 MR. RAYBURN: Yes.

16 MR. DARBY: Unlike those meetings, I
17 actually have Dr. Murawski here to --

18 MR. RAYBURN: Somebody to answer. Well,
19 that's great.

20 MR. DARBY: To answer that question,
21 honestly it's -- we all know it's an issue. It's
22 certainly going to raise numerous points to our folks,

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1 and I don't know the technical answer of why we don't
2 combine them. But I guess I'll let Steve address
3 that, given -- in his time.

4 MR. RAYBURN: Thank you.

5 CAPT DiLERNIA: We'll get to you, Ralph,
6 in a second hopefully. Anything else of Forbes before
7 we go to Dr. Murawski? Steve, come on up. Thank you,
8 Forbes. Are you going to answer Ralph's question
9 first?

10 DR. MURAWSKI: No.

11 (Laughter.)

12 DR. MURAWSKI: We have a deputy secretary
13 in the Department of Commerce who's a Texan, and Bill
14 and I had to go down and explain to him why we don't
15 have a universal recreational fishing license. He was
16 pretty astounded by the time we got done, so Texas is
17 a unique place for us. I will talk about that issue
18 in a few minutes.

19 But in terms of where we're going with
20 this particular item, as Bill said, there's one issue
21 of making sure that people have information about what
22 MRFSS is and what we provide.

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1 There's -- aside from that issue of
2 communication about what we actually do, we're
3 dedicated to actually improving recreational fishing
4 data and making it more responsive to the kinds of
5 management needs that we've got.

6 You know, this is an important aspect.
7 Based on our estimates, there's somewhere between 13
8 and 17 million anglers in the United States. In many
9 fisheries, they account for the plurality of catch.

10 If you look at the map of recreational
11 data collection programs, and particularly in the
12 states, and we'll show you a map, it's very
13 disjointed, because there are no universal standards
14 for the collection and registration of anglers around
15 the country.

16 And that makes it particularly difficult.

17 As Bill said before, you know, recreational fishing
18 is divided into two -- data collection is divided into
19 two activities that we undertake.

20 First of all, there's lots of people
21 charging up and down on the docks, collecting
22 information on biological samples and the catch rates

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1 and, you know, how many anglers are on a boat and all
2 those kinds of things.

3 That has fairly high credibility in the
4 angler community. You know, people realize that we
5 have to collect data and it has to be face to face
6 transfers for measuring fish, et cetera.

7 Where we run into problems, though, is
8 trying to measure how much effort there is in angler,
9 recreational fisheries, how many people are on the
10 water. Because it's one thing to get a catch rate,
11 you know, the number of animals caught per day fished.
12 But you have to multiply that by the number of days
13 fished to get an expanded estimate. That's where we
14 run into problems with the credibility of the phone
15 survey that we conduct as part of MRFSS.

16 One point I want to make is that we keep
17 talking about MRFSS like it's the recreational fishing
18 data collection program. There are actually a myriad
19 of recreational data collections, one of which is the
20 sort of classic marine recreational fisheries
21 statistics survey.

22 There are a number of other surveys that

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1 we -- we started to collect information, for example,
2 in four higher surveys, that is, charter and party
3 boats, that get around this random digit dialing,
4 phone calls from them.

5 So what I'd like to do is this is all
6 converging with the discussion we had this morning
7 about Magnuson. In fact, one of the proposals that we
8 generated, you know, after Bill sort of committed to
9 try to improve the overall data collection, is, what
10 can we do in federal legislation to actually push the
11 ball forward.

12 So, as many people know, and we'll go over
13 some of the language very quickly, there is a proposal
14 in the Senate's version of Magnuson to allow the
15 federal government to register individual anglers, and
16 to register vessels as appropriate.

17 So what we want to do is to try to talk
18 about what we can and can't do with that sort of
19 program, how deferential it would be to state programs
20 like Texas and other places, and how we envision
21 putting all the pieces together if in fact this passes
22 in the legislation.

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1 I would bet, given the composition of the
2 room here, we're going to have a lot of questions. So
3 there's a lot of material in this presentation, but
4 I'd like to go through it rather quickly, just so that
5 we can get to the important part of the meeting, here.

6 Now of course recreational fishing
7 programs are extremely important. They're critical
8 for stock assessments, trying to estimate the total
9 magnitude of removals is one of the basic, you know,
10 functions of any kind of evaluation process.

11 That includes not only the total magnitude
12 of the catch, but also biological characteristics like
13 the length and size and age of the animals, etcetera.

14 Of course, many of our fisheries are
15 either 100 percent recreational, all the way down to
16 zero on things like striped bass and other sort of
17 very, very high proportion of recreational catch in
18 the total.

19 We definitely do need to improve the
20 quality and the credibility of these survey data. We
21 can do a lot with trying to get more information out
22 but, you know, it's very clear that, given the number

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1 of issues that we have on the Hill and otherwise,
2 people just don't get the concept of making random
3 digit phone calls to coastal counties.

4 We did an estimate of the number of people
5 that are potentially in that sampling frame that we're
6 calling. 155 million people live in the sampling
7 frame. We're looking for 13 to 17 million. So you
8 can figure out what the efficiency of that survey is.

9 One of the other things that we're going
10 to come back to is improving the efficiency of the
11 dollars that we are investing in recreational
12 programs.

13 One of the things we want to say is that a
14 lot of material in the proposals we have comes out of
15 working with various partner groups that we've gotten.

16 It includes the three regional commissions that we
17 deal with in the individual states. So we try to
18 circulate these ideas far and wide. This presentation
19 was put together originally for the council directors
20 and executive directors meeting, which was earlier in
21 January. I'm probably going to take this on to the
22 state directors' meeting later in March, and also have

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1 the NRC study there.

2 So in terms of the state federal programs,
3 of course, you know, we have the three commissions.
4 We call them the FINs, you know, for obvious reasons.

5 This is basically how we collect data in the number
6 of different regions.

7 Now, in terms of the National Research
8 Council, last year we commissioned them to empanel a
9 group to take a look at all of our recreational
10 fishing programs that National Marine Fishery Service
11 supports, and to look broadly at other recreational
12 fishing statistics programs, to try to get best
13 accounting of, number one, what we do.

14 Number two, how do I improve the system,
15 given the fact that we didn't have any additional
16 legislation or resources, you know, or other things
17 that we can do to manage the program better, and to
18 make some suggestions about overall improvements.

19 The panel is actually quite good. It's a
20 very broad-based panel of people that have fishing
21 backgrounds, and also -- or fishery science
22 backgrounds, and also people that are into survey

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1 statistics for a living.

2 So we've got a number of professors, and
3 it's chaired by Pat Sullivan, who's a professor at
4 Cornell. So their four tasks are to look at how
5 suitable, you know, the questions they have, how
6 suitable are the current survey methods for monitoring
7 different types of recreational fishing, do the
8 current methods provide statistical quality needed?

9 Frames for management. That's another way
10 of saying management regulations. How should
11 management regulations be sensitive to the types of
12 information that we're collecting?

13 For example, if we're collecting
14 recreational fishing data on a two-month interval, you
15 know, managing month to month doesn't make a whole lot
16 of sense. And so trying to make sure that whatever we
17 do in management of recreational resources fits with
18 the statistics that we've got.

19 And then lastly, are there other methods?

20 This is where I think we're going to probe this
21 committee very hard. Are there alternative methods to
22 get more out of the information we have, and basically

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1 also to move forward.

2 So, just to reiterate about the MRFSS
3 design, there are two parts to it on the left-hand
4 side. The coastal household telephone survey, which
5 is this 155 million people, and then the intercept.
6 They're combined in some simple math. And then that
7 gives us a total catch estimate.

8 Now the question we have for, and this
9 really gets right down to, you know, how good is the
10 coastal household survey for the effort part?

11 The question we have now in front of us
12 is, can't angler or vessel directory surveys of just
13 the actual participants in the fishery, how do they
14 improve the overall estimates of catch, as opposed to
15 doing this sort of random dialing deal?

16 So, you know, I said before we've asked a
17 lot of partners about, you know, how can we improve
18 the MRFSS. We've gotten a lot of feedback from
19 various people about the use of these very specific
20 registries to basically accumulate the phone list.

21 There's a number of groups who have
22 suggested this, so this is not just an internal NMFS,

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1 in terms of processing some of this stuff.

2 Now, in terms of the Magnuson legislation
3 and the Senate bill, there's a very specific set of
4 language there that says that, in a specified federal
5 program, that the Secretary will establish and
6 implement a national -- a regionally-based registry
7 program for recreational fishermen in each of the
8 eight fishery management regions.

9 So it would be sort of sensitive to the
10 uniqueness of each of the regions. The program would
11 provide a registration, including the identification
12 and contact information for individuals that are
13 involved in fisheries.

14 Then, if appropriate, the registration
15 could be vessels, as well. There's a variety of other
16 language in there, and one of the most important
17 parts, it says, if in fact an individual state has a
18 registration and a license program already, and is
19 willing to share the data and the data sort of meet
20 the minimum standards for the data elements that we
21 need, there really isn't any reason for the federal
22 government to come in and duplicate, you know, those

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1 kinds of things.

2 So the proposal is very deferential to the
3 individual states, and if Texas can provide the
4 information and, you know, it can be sort of
5 aggregated in the Gulf the right way, there's
6 absolutely no reason why the federal government or
7 anybody else should be registering anglers to do that.

8 Now, what we want to do is improve data
9 collection, and again, there's been a lot of
10 discussion about, you know, the reasons for doing
11 this, is this a big control thing or whatever. This
12 is really being driven by the data quality issues.

13 That really is the only objective of this
14 program, is to try to get more credible information
15 and more precise information into the system. There's
16 some requirements for us to look at the quality and
17 accuracy of the information, make sure that it
18 reflects the fisheries.

19 Then they have a number of specific things
20 for us to do, to make sure that we have an adequate
21 number of dockside interviews, and to look at
22 particular issues like how the weather affects fishery

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1 catch rates and some things.

2 Then finally, within 24 months of
3 enactment of Magnuson, if in fact this survives, they
4 want a report on how we're actually implementing the
5 proposal.

6 Now, the overall goals of this
7 registration program are, number one, more complete
8 accounting of participation. Number two, better
9 communication with the participants.

10 Because when you think about it, if, in
11 fact, we have a list of everybody participating in
12 recreational fisheries, we can be much more targeted
13 with a lot of the messages, and it can be much more
14 two-way communication street.

15 And a lot of the things that Forbes talks
16 about in terms of more effective communication with
17 the industry, you know, we would have a built-in
18 mechanism to do this, and we wouldn't have to rely on
19 mass media or using sort of intermediaries to do this.

20 This can be simple things like, you know,
21 changes in fishing regulations, all the way up to, you
22 know, expanded data collection, because, you know,

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1 once you know who the individuals are that are
2 participating in fisheries, you can do all sorts of
3 sort of cross-sectional studies of, you know, their
4 participation over time, their investments in fishing
5 activities, you know, all sorts of economic and social
6 studies that are difficult to do with these one-off
7 surveys.

8 One of the most important things is the
9 efficiency of sampling, and I alluded to the fact that
10 we're looking for about, you know, eight to ten
11 percent of the population, and we actually have some
12 estimates of how much we can improve the efficiency of
13 the sampling. I'll show you in a minute, and how to
14 ultimately get better cache data to go into
15 management.

16 Now, in terms of the efficiency gains,
17 we've done a number of surveys where we used to do the
18 random digit phone call. But now we have actually a
19 list of the people involved, and one of them is the
20 so-called "for hire" survey, which is basically
21 charter and party boats. It's a survey primarily in
22 the Atlantic.

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1 So we went from basically sort of every
2 once in a while you'd get a charter or a party boat
3 person, you know, answering the phone, to actually
4 having that list and then making those calls to those
5 people.

6 We estimate that we're somewhere between
7 25 to 30 times more efficient in that survey, in terms
8 of a getting a bang for the buck.

9 Then the same thing happened in the state
10 of Washington, in terms of a Puget Sound sampling
11 program, where having this angler directory allowed
12 that program to be five to six times more efficient,
13 in terms of the types of things that we're trying to
14 do.

15 Now, so one of the issues we have, of
16 course, is that, you know, we don't want to get too
17 layered here in terms of, you know, federal versus
18 state kinds of things. So one of the things that we
19 think we can do, and with the federal things of
20 course, and I don't see Sam here, but Sam will tell us
21 that, if it's a federal Registration, it only has
22 jurisdiction in the EEZ.

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1 So you know, the federal government can't
2 come in and register anglers that are only fishing in
3 state waters. So this is why fitting these programs
4 together with the commissions and with the individual
5 states is so critical, because the majority of angling
6 actually occurs within state waters.

7 So, you know, we only have limited
8 leverage, even with the power to do this. So that's
9 why it's absolutely important that, if we do a
10 Registration program, we do it in a way that
11 individual states can get on board, and we can sort of
12 put this together in a seamless kind of way.

13 Now the councils have a unique role to
14 play in here, of course, because the councils can
15 require data collection for the fisheries that are
16 basically federally-managed species.

17 So there are ways, I think, we can
18 actually get some of the states that don't have
19 registration or a salt water license, or really don't
20 play in this environment very well, to move towards
21 this, even though we may, in fact, only be able to
22 register anglers literally that are in the EEZ.

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1 So in terms of minimum data elements that
2 we would like to see from a registration program --
3 thanks for coming back, Sam, after I gave my legal
4 opinion --

5 (Laughter.)

6 MR. RAUCH: Shall I leave again?

7 DR. MURAWSKI: We have another lawyer in
8 the room, so that's okay. The minimum data elements
9 that we'd like to see in a registration program are
10 obviously, you know, things like people's names, their
11 state and county of residence, their mailing address
12 so that, if, in fact, we have follow-up things.

13 The critical things, of course, are going
14 to be the telephone contact information, you know, how
15 do we actually resurvey these people for their fishing
16 success and the amount of effort, and then some kind
17 of Registration number so that, you know, we can keep
18 track of who's where, and then the date of
19 registration and some categories of various people.

20 Now, one of the things we were thinking
21 about was, you know, like a state fishing license.
22 They're updated every year, and part of what the state

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1 fishing licenses do is a revenue collection issue. I
2 mean, they basically license fishermen to get money to
3 run various programs, et cetera.

4 None of us are looking at this as a way to
5 augment the federal treasury, here. We really just
6 want to collect the data. When you think about it,
7 there's no real reason why we have to update this
8 every year.

9 If we can start accumulating a list of
10 anglers, and it will be a gradual accumulation over
11 time, then eventually, you know, if we're successful
12 here, we will -- we'll begin catching the majority of
13 the recreational fishing population.

14 So there's really no reason why, you know,
15 we have to handle all this stuff every year, if we
16 don't have to. So our idea is to start accumulating
17 this.

18 One of the things that we're thinking
19 about was basically having anglers get up on the web,
20 you know, filling their information, and maybe print
21 out a small card and be done with it. Given the fact
22 that we're dealing with potentially millions of

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1 people, we don't necessarily want to be in the game of
2 doing that.

3 Now, if in fact we can get the states to
4 get on board with this, I mean the states are best
5 qualified to register anglers. All of the states have
6 recreational license programs, if in freshwater if
7 nothing else.

8 So, you know, the states know how to do
9 this much better, and ours would certainly be
10 deferential to the states in terms of engaging in any
11 kind of registration program that we do.

12 Now in terms of the current map of state
13 registries, you can see it's a calico map here in
14 terms of what the United States looks like. We sort
15 of outline a number of different categories of
16 individual states.

17 The green states are the ones where they
18 have mandatory recreational licenses for all angler
19 fishing. So, you see, it's pretty detailed in
20 Louisiana, Oregon and Washington, and the other states
21 have something less than full angler registration.

22 In states like California, and then some

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1 of the other Gulf states, they do have licenses for
2 all modes.

3 But in some cases, the phone numbers
4 aren't required, so in fact if we wanted to resurvey,
5 you know, that represents some difficulties, and I
6 know we're sort of still trying to get up to snuff on
7 SRFSS, in terms of making that, you know, fully
8 interactive.

9 Then lastly, there's a whole variety of
10 states that have no recreational license program
11 whatsoever, and you can see that they're primarily in
12 the Northeast.

13 North Carolina kind of wavers back and
14 forth. I'm not sure exactly where they are in terms
15 of --

16 DR. HOGARTH: It's in.

17 DR. MURAWSKI: It's in? Okay. This is
18 what you were talking about.

19 DR. HOGARTH: In January 2007, you'll have
20 to have a license.

21 DR. MURAWSKI: Okay, good. So it's -- you
22 know, we'll take that one off the list, you know. But

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1 really the tough nut are the states from Delaware,
2 north. You know, those are very hard, and a lot of
3 the states there really have objected to any kind of
4 license --

5 DR. HOGARTH: We've been gone from North
6 Carolina for 22 years. That's the time when I was
7 sort of the state director trying, and I've been gone
8 what, 12 or 14 years? So it took 22 years.

9 MR. BRAME: They went into it in '89.
10 That's when they talked about the license.

11 DR. HOGARTH: Yes, 22 years.

12 MR. SIMPSON: I've been doing this 28
13 years. Texas had theirs, and of course they've had it
14 for a long time. It takes a while.

15 DR. HOGARTH: Takes a while.

16 DR. MURAWSKI: I'm sure every state has a
17 story, you know, in terms of how, you know, where they
18 come from.

19 So, in terms of a phasing of this program,
20 and I don't want to go through a lot of detail here,
21 you know, in terms -- it's going to have to be an
22 evolutionary process to get up to speed, to try to get

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1 everybody to cooperate and to move forward.

2 So, in terms of an implementation program,
3 obviously we think that anglers that are in EEZ, and
4 also people in for-hire fisheries, you know, that
5 would be the place where we jump-start this thing.

6 But we really need to look at what we
7 would consider a dual frame for a number of these
8 things, which would include both the households of the
9 non-registered anglers.

10 Then so what we want to do is run these
11 systems in parallel for a while, so that we could
12 start to see, you know, what level of participation we
13 got. Then there's a variety of things that we can do
14 to kind of jump-start this a little bit, particularly
15 with the for-hire fisheries.

16 Then in some of the other phases, we would
17 want to sort of develop or help these states modify
18 their programs. Now one of the issues is, even with
19 states that have recreational licenses and lists, some
20 of them are -- most of them are incomplete.

21 For example, in the state of Florida, I
22 think something like 40 percent of the anglers are

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1 outside of their license program, because you don't
2 have to have a license if you're younger than a
3 certain age, older than a certain age, and if you fish
4 from shore.

5 Well, those are big potential loopholes in
6 terms of counting fish catching. So, I know a number
7 of states have thought a lot about how they may bring
8 people in there, and, you know, frankly from the point
9 of view of just data collection, we don't care if they
10 give free things away, as long as they basically get
11 the telephone numbers and what people are doing.

12 And as Forbes said before, you know, we
13 definitely need to upgrade, in terms of our
14 communications plans with people, how we're going to
15 work with the councils and state directors.

16 You know, we've already talked a little
17 bit to the council chairs. We're having this meeting
18 with MAFAC. The interstate commissions, we're going
19 to talk to them in February and March, and state
20 directors at the end of March about this program.

21 In terms of the issues that we have on the
22 table here, and this is the entry point for the

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1 discussion, you know, how do we work together to build
2 a more successful salt water angling program,
3 including the registration, which we feel is kind of
4 the cornerstone to improving data collection? How can
5 we build on existing state programs and not, you know,
6 sort of overarch the systems that we have?

7 Are some states better equipped right now
8 to move into this? Larry and I had a discussion at
9 the council directors meeting, and I think, you know,
10 the Gulf is probably in a good position to be a model
11 program for moving this forward.

12 But knowing data elements, you know, why
13 do we need various things and what do we want to
14 collect, and then sort of what do we have for
15 performance measures here?

16 So, just in terms of the design
17 considerations, you know, what should we be thinking
18 about for designing these kinds of things if, in fact,
19 they come into play? What do we expect a fully-
20 rigged future program to look like? How do we
21 maximize the convenience and the efficiency of these
22 programs to anglers, looking at best approaches, and

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1 how can we utilize things like the Worldwide Web to
2 help data collection?

3 So with that, I think we'll turn it back.

4 CAPT DiLERNIA: Thank you, Dr. Murawski.
5 I know I have a number of questions, and I see hands
6 all around the table here. Perhaps you'll take my
7 questions first, and I'll make a list of members.

8 You're going to be estimating both catch
9 and effort. That's what you all hope to do, because
10 currently the for-hire survey only estimates effort at
11 this point?

12 DR. MURAWSKI: Well, there's two parts
13 there. I mean, you obviously collect information on
14 their catch rates, too, and they come in from log
15 books and other things, as well.

16 But you know, they're basically looking at
17 effort through the phone call part of that. So the
18 two parts actually go back together.

19 CAPT DiLERNIA: When I provide information
20 for the for-hire survey, all they're asking me for is
21 effort, number of days fished, anglers, fishermen.
22 Every day I tried from the beginning to volunteer

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1 catch, also, and there was no way to include that
2 information, and I was disappointed about that.

3 DR. MURAWSKI: Well, that's part of the
4 things that are set on the table. But you would be
5 filling out catch in your log book, right, you know,
6 for --

7 CAPT DiLERNIA: That's correct, on my
8 VTRs. I fill out catch there.

9 DR. MURAWSKI: Yes. There probably is
10 amendments to some of these programs. In fact, we're
11 looking to the NRC, which has looked at these programs
12 and others, to say, you know, would it be more
13 efficient for us to look at catch information, as
14 well.

15 I remember that this is sort of recall
16 information on the fish, and, you know, the preferred
17 method of course is to look at them, weigh, measure
18 and count in the field, you know. But again, a lot of
19 fishing is recall information, anyway.

20 CAPT DiLERNIA: Okay. My next question is
21 a little more general, but, well, I have a fear --
22 well, not a fear -- I suspect that once this system is

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1 put into place, we're going to realize in the
2 recreational community more fish are being caught than
3 previously estimated. I suspect that will be the
4 case. We'll begin to realize that more fish are
5 actually being caught.

6 How are you going to reconcile the new
7 information, the new catch information, with the
8 state-by-state quota systems that have been put in
9 place, that have divided species, recreational
10 species?

11 I'll return to the MidAtlantic. We'll say
12 summer flounder. Currently, there's a division in
13 that fishery between commercial and recreational, 60
14 percent commercial, 40 percent recreational.

15 The commercial landings were captured
16 fairly accurately, because there was some ex-vessel
17 information that was used to develop and estimate the
18 commercial catch in the years that was used to develop
19 the management system, quota management system.

20 Yet the recreational - there was no real
21 recreational process to capture that recreational
22 catch at that time. Now we're going to come back and

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1 we're going to have excellent -- and I don't mean that
2 facetiously -- I believe we will have excellent
3 recreational catch statistics.

4 Now, do we apply those statistics to the
5 old management system? I mean that's -- my concern is
6 that, if we use that with the old management system,
7 what will actually happened is they'll be even more
8 unclear in the sense of the recreational community
9 than what happens right now.

10 The recreational community may, in a
11 sense, be penalized as a result of that more accurate
12 data. I don't mean penalized -- I'm sure you see
13 where I'm going with this.

14 DR. MURAWSKI: Absolutely. The issue of
15 bias is a fascinating one, and for as many people that
16 will tell you that the MRFSS overestimates, there is a
17 group of people that say that it underestimates.

18 You know, we've seen a few examples where,
19 you know, new surveys have come on board. Like, for
20 example, the classic MRFSS doesn't do a very good job
21 on the rare encounter species, you know, the things
22 like blue fin tuna and other things. Just because of

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1 the nature of it, it's not tuned up.

2 Of course, you know, when we started
3 looking at for-hire surveys and the other recreational
4 surveys we got for large groups, you know, we could
5 see, for example, in North Carolina that it had a huge
6 bias. You know, we were underestimating the catch,
7 just because of the rare encounter issues. It was so
8 variable, you know, in terms of the precision.

9 There was an issue in California. You
10 know, the issue there was that MRFSS was
11 overestimating the catch, and I think that was one of
12 the reasons why SRFSS was basically pulled together,
13 to try to put information on the table.

14 Now, one of our strategies, as I said
15 before, if in fact we can pull this off, is to run
16 systems in parallel, so we can start to understand the
17 nature of any biases that might occur.

18 So, in terms of this calibration of old
19 series to new ones, what parts of MRFSS, if in fact
20 there is a bias, what parts of MRFSS were leading to
21 that? Then the idea would be to go back and correct
22 those parts of the previous data to actually

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1 recalibrate the time series.

2 CAPT DiLERNIA: Well, when you say,
3 "correct," now suppose you run your parallels and
4 there's a need for a correction? Does that -- can I
5 then assume by extension of the term "correction" to a
6 quota management system, say for summer flounder, does
7 that mean, does lead us into a redistribution of the
8 quota between the sectors, the recreational and the
9 commercial sector?

10 DR. MURAWSKI: Well, you know, I wouldn't
11 want to step into --

12 CAPT DiLERNIA: Well --

13 DR. MURAWSKI: Well, there's a couple of
14 issues here. If, in fact, we have higher catch levels
15 or lower, right, what we have to do is reassess the
16 stock, you know, based on a different set of catch
17 information.

18 So that's going to set the level of the
19 stock, you know, higher or lower, you know, because
20 fishery removals are a major element of fishery stock
21 assessment. So that plays into that.

22 The other thing, of course, is that we

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1 ought not to count our biases until we actually see
2 them in practice, and how they're going to work. Now,
3 this will be a debate in, say, your 60-40 example, and
4 if we were underestimating the recreational catch by a
5 factor of two or something like that. I mean, do you
6 actually redistribute the formula based on what those
7 previous things are, or do you make a new formula
8 based on the current realities.

9 But that's actually the councils'
10 business, right?

11 CAPT DiLERNIA: Okay. It's just that,
12 making a new formula based on current realities, in a
13 sense, we have an artificial environment that we've
14 created through management.

15 DR. MURAWSKI: Yes, that's true. But one
16 of the issues we have, of course, is that right now
17 the credibility of recreational data in those kinds of
18 analyses is -- it's difficult, you know, in terms of
19 trying to make better decisions based on, say,
20 percentage, you know, allocations to sectors.

21 You know, people say, well, you know, my
22 state's not covered well, and you know the issues that

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1 occur, particularly when you have multiple states like
2 in the Northeast, where the amount of information
3 coming in recreational surveys is very limited, apart
4 from the classic MRFSS.

5 So I think it puts better information on
6 the table, and how the managers are actually going to
7 react to that and, you know, look back in history.
8 We're just going to have to let the chips fall where
9 they may in terms of, you know, the quality of
10 information.

11 CAPT DiLERNIA: I understand. I fully
12 support this system. For someone who first got his
13 very first start in fisheries representing the
14 industry almost 30 years ago, opposing the salt water
15 license, I've come completely around, and I fully
16 support the concept of a registration of recreational
17 anglers, because I believe that it will produce better
18 information and we can better manage with it.

19 I'm just afraid that, if we misapply some
20 of this information, it could be -- the recreational
21 community could end up -- there might be some
22 unintended consequences as a result of the

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1 misapplication of the information.

2 With that, I'll go around the table. I
3 see a number of members. So perhaps I'll just start
4 here and go around. Bob Fletcher?

5 MR. FLETCHER: I think that is a great
6 idea, and the idea of registration of vessels. The
7 difficulty in registering vessels, at least in
8 California, is the DMV, which is the one that you have
9 to go to, it doesn't want to talk to you.

10 They have a very busy life, and their
11 universe is all taken up, and it would be a struggle.

12 DR. MURAWSKI: Knowing the traffic
13 situation in California, you can understand that.

14 MR. FLETCHER: That's another issue. But
15 I really believe that vessel registration of private
16 recreational vessels will begin to give you a much
17 better sense of the universe of anglers, and in
18 California right now, you'd have a difficulty
19 registering marine recreational anglers, because in
20 California there's one fishing license required by all
21 anglers, whether you fish for bass or you fish for
22 tuna.

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1 So it would be difficult to split those
2 marine recreational anglers out. Now I think that's
3 going to change, hopefully before too long, when they
4 go to an automated license system, which they claim
5 is very soon coming.

6 But I think that, in our case, Tony, I
7 wanted to also tell you that the result of better
8 information wasn't more fish being caught by
9 recreational anglers, because in California, Oregon
10 and Washington, with everyone having licenses
11 required, there was a fairly good sense of who was
12 fishing, and with the new SRFSS system in California,
13 it gives us a much better sense of what those people
14 are catching.

15 As it turned out, some of the problems
16 that MRFSS created were the result of a lack of
17 specificity. For example, there was one observed trip
18 on a for-hire vessel during a two-month wave, and it
19 was a boat that happened to go fish off Cordell Bank,
20 and they caught really big rockfish.

21 That average size per fish ended up in
22 that wave is what everybody caught. So the number of

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1 pounds of fish was huge, in a time when the wind blows
2 almost every day, and very few people even want to go
3 out on the water.

4 So, we've been able to address some of
5 those issues. Unfortunately, it's taken many dollars
6 of additional funding to do that. All I can hope is
7 we can continue to hang on to that, because, as far as
8 we're concerned, it's quite a leap beyond what we had
9 to deal with before.

10 But I think understanding the numbers is
11 going to be huge as a start, and we can't get phone
12 numbers from our anglers now, but we do have the SRFSS
13 capturing one of every 20 anglers now, and they have
14 phone numbers. So we can do a subset of anglers. So
15 that's a start.

16 But I think this automated license
17 approach is without a doubt the best solution.

18 DR. MURAWSKI: I think California is a
19 good example of, you know, when you sort of switch
20 horses here. You know, you've got to keep both teams
21 running for a while, so you can go back and forth and
22 learn a little bit.

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1 I know, you know, it's going through its
2 birthing pains right now, in terms of getting up and
3 running. There's a committee out there, you know, of
4 the states. PACFIN is kind of looking at the issues
5 of, you know, how that becomes fully integrated.

6 I think it's a good example of potentially
7 what we're looking at, as we try to migrate, say, to
8 the Gulf or other places to make the system work.

9 CAPT DiLERNIA: Okay. Work our way up the
10 table?

11 MR. PORTER: Russell Porter from Pacific
12 States. We've been involved with the MRFSS since it
13 began in '79, and that, unlike on the other two coasts
14 where the NMFS consultant did the field surveys, the
15 Commission worked with our member states, because all
16 of our states have done field surveys for many
17 decades. They've also all had licenses before the
18 council began, and before we started these surveys.

19 So we worked with MRFSS for many years,
20 and as Bob said, the issue really with MRFSS and the
21 council's management regime primarily was that MRFSS
22 was designed to be an overview of all fisheries, and

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1 the basic four modes for the year as a whole.

2 We found ourselves trying to respond to
3 the Council's monthly meetings and analysis of the
4 catch against quotas with the MRFSS system, which just
5 could not respond. But the data was collected in two-
6 month sampling waves, and it took anywhere from
7 another month and a half to two to make the estimates.

8 So it was not responsive to the council need.

9 Originally, that wasn't an issue because
10 the commercial fishery dominated all the council plans
11 and the catch. But in the last decade or so, sport
12 fisheries has become much more important. So in mid-
13 2003, and working with NMFS and Dr. Hogarth's support,
14 we walked away from the MRFSS system in all three of
15 our states.

16 While we were doing MRFSS for many years,
17 we still had some state surveys ongoing. We looked at
18 MRFSS as an overview and an angler-based survey, where
19 the states have some season and fishery-specific
20 sampling to deal with, primarily in the first case
21 salmon issues and a court-ordered mandate to share the
22 catch with tribal fisheries and to monitor that catch.

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1 So, as we found that MRFSS could not
2 really respond to the council needs for management, we
3 have built upon those state programs, and in
4 California we started in January of `04 the new
5 California recreational fisheries survey.

6 The difference between that and MRFSS is
7 that all three of our states had a license frame.
8 Washington is now the most forward of all of those, in
9 that starting last year it's an electronic system,
10 where all the licenses are issued electronically.

11 Like this morning I could draw a sample
12 from all of the licensed anglers who last night sailed
13 from the system. So when we're ready to do our sample
14 each month, we can get an exact up to date sample from
15 the license frame, to do a phone survey of licensed
16 anglers.

17 We use that primarily for those modes of
18 fishing in all three of our states that are hard to
19 access the effort estimates in the field. Where we
20 can count effort in the field, we do so because these
21 are high-sampled fishing modes, and the boat
22 fisheries, and we prefer to count all the boats at the

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1 fishing sites each day when we're sampling there.

2 But things like SRFSS fishermen and
3 private access boats and night fishing, we use the
4 license frame to tally the effort. The private access
5 has always been a problem in the MRFSS. We used to
6 capture that effort in the household survey. But we
7 had to apply the catch rates from the public sites to
8 that private access effort, assuming that they were
9 representative.

10 We've done some samples in California with
11 log books of anglers, both from private access and
12 from the public ramps, where we also measure catch and
13 effort, to see if that's appropriate.

14 We're still struggling with how best to
15 get a catch rate for private access boats, to apply to
16 the effort we capture from the license frame. But
17 there's a lot of complications with all of these.

18 In the new SRFSS system under MRFSS, we
19 had four fishing modes in two areas, Southern and
20 Northern California. Now we have six areas we make
21 estimates for to go with the council management areas.

22 We have two types of private boats,

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1 primary boats that are sampled at about a 27 percent
2 rate. We go to all those sites eight times a month,
3 where in MRFSS, we would go there not even once a
4 month, always. So it's a much higher sample rate.

5 Those primary sites are ones where 90
6 percent of the catch of species of concern in the
7 management program are landed. The secondary sites we
8 sample at a ten percent rate, about three times a
9 month.

10 So all of those then are -- we put on top
11 of that a trip target tax. So we applied catch rate
12 from like a tuna-targeted trip, the tuna catch rate to
13 tuna trips. So there's many more levels to get the
14 precision we want than we had in MRFSS.

15 And of course, this is extremely
16 expensive. We have 45 samplers in California. Our
17 costs now are over \$2 million a year. Under MRFSS, we
18 were spending about 350 to 400 thousand, and we
19 weren't out there nearly that much.

20 We still could use more money, because we
21 have to address the private access. So the license
22 frame is something we've had the benefit of having.

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1 Oregon and Washington both have electronic frames.
2 Oregon is upgrading theirs like the Washington system.

3 But they aren't perfect because we do have
4 some people who don't have the license, or buy a daily
5 license, and some of those are issued on charter
6 boats. It's a paper license. They are entered in the
7 frame eventually, but not the exact day they are sold.

8 Of course, we ask for the license type and
9 sampling in the field, so we can get those ratios and
10 apply corrections. But there's a lot of things going
11 on as we move to an expanded recreational fishery
12 that, you know, we have been doing 25 plus years with
13 MRFSS in these new programs and we also did with our
14 member states for many decades before that.

15 But the bottom line is money. NMFS has a
16 strategic plan. They want to improve precision, but
17 that's going to take more money. So we have to get
18 money. We've been level-funded for quite a while.
19 NMFS has worked their best to add some money to the
20 basic RECFIN sampling from MRFSS. But we definitely
21 need a lot more money.

22 Bringing license frames online everywhere

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1 is still a challenge. In California, we have one, but
2 it's not electronic. The state is trying to bring
3 that online in `07. I guess maybe`08 we might get
4 there.

5 But we do have this new system we started
6 two years ago, where the licenses are issued in books
7 of 20 and we capture an angler name and address and
8 phone from the first license sold out of each of the
9 books. But all of that doesn't get in. We have to
10 hand enter it.

11 We were hoping to have a license sample of
12 about 85,000 by the end of the year. We have about
13 20, because about three-quarters of them aren't filled
14 out right.

15 Luckily on line with the reverse
16 directories, we can capture some phone numbers for
17 those that are left blank. So our consultant does
18 that before making the calls.

19 But there's a lot of issues. It's a lot
20 of money. It's a very complex system. We're still
21 doing the for-hire survey under the MRFSS design and
22 the charter boats, and to kind of amplify your

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1 question, the catches is collected from the samplers
2 on the dock, and the interview of those boats.

3 So the for-hire phone survey of skippers
4 captures the trips, and that's a better estimate than
5 just dialing anglers at home and asking them how many
6 trips they took on a charter boat or party boat. But
7 we prefer to see all the catch at the dock.

8 In California and with our management
9 plans, we have a couple of species, canary, rockfish
10 and yellow eye, where we no longer have retention.
11 But we have a catch quota in the management plan.
12 It's just a few metric tons.

13 We're discarding these fish, but we have
14 to take mortalities for some of those. So in
15 California, we ride all the boats at sea. We try to
16 look at the discards and the size. Because a lot of
17 times these discarded species are small and deprived.

18 To apply the bigger average weight for retained fish
19 overestimates the amount discarded.

20 So there's a lot of issues there. It's
21 very complex to try to manage fisheries at these small
22 catch quotas and get a correct estimate that doesn't

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1 cause the fishery to be closed down just from fish
2 that are having to be thrown back because of the
3 mortality you have to take.

4 So we're working hard to refine all these
5 systems. In the meantime, since we have 24 years of
6 MRFSS data and NMFS is still doing the household
7 surveys, so we can compare our effort estimates from
8 our new field and license surveys to interpret that
9 historical data that you indicated goes into the
10 fishery-specific stock assessments, fishery-dependent
11 stock assessments from the catch data.

12 Now if we have different estimates applied
13 to an old stock assessment, the council's going to
14 have to make a decision what to do.

15 But unfortunately as we're moving forward
16 and we needed a couple of years of overlap to look at
17 that, the council's moving forward, changing the
18 management scheme as we go along, with more closures,
19 area closures, depth closures.

20 So it makes it hard to compare the data,
21 even though we're capturing both, because historically
22 we would have a different fishery than we have now.

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1 But those are all challenges that a new and improved
2 recreational sampling program is going to have to
3 bring to the table.

4 CAPT DiLERNIA: Thank you, Mr. Porter.
5 Thank you very much.

6 MR. PORTER: Sorry that was kind of long,
7 but there's a lot of issues involved in that.

8 CAPT DiLERNIA: Absolutely, absolutely.
9 I'd like to work my way up the table, up to Mr.
10 Kramer.

11 MR. KRAMER: Rob Kramer. Steve, first of
12 all, thanks for the presentation. I know we've been
13 talking about this for many years now, and like Tony,
14 I fully support this program and not only think that
15 the recreational community needs to accept the concept
16 of a state license; they need to demand it.

17 It's truly the only way that we're going
18 to get an accurate picture of what's going on out
19 there. I also believe that the recreational community
20 can't be afraid of the truth either, that it's
21 critical for the recreational community to get engaged
22 at the state level, work to develop the systems within

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1 their state, and then be prepared for whatever reality
2 is.

3 But they won't have confidence unless
4 they're part of the process of developing that. Doing
5 this at the state level is going to be critical to
6 whatever we do there.

7 I have a couple of questions specifically
8 regarding the data accumulation at the federal level.

9 I assume you would have some sort of main database at
10 the federal level, that those data from the states
11 would then be merged into and compiled with everything
12 else, so you could look at the whole picture at a
13 glance?

14 DR. MURAWSKI: Yes. I mean, we would be
15 working with the regional partners, like the ACCSP,
16 Atlantic States Cooperative Program. Of course, many
17 of the species we're dealing with, they range, you
18 know, throughout a fairly wide region. So you need to
19 try to merge those datasets together.

20 One of the requirements in that draft
21 Magnuson is if a state, you know, has a state license
22 and is willing to share the data with the federal

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1 government in the right level of precision, sort of
2 all the details, that we would accumulate those as we
3 do now. We have a central database for the MRFSS
4 survey and it's in Silver Spring and we pull the data
5 together there, and we go over the regional
6 information, do quality checks at that level and try
7 to pull it back together again.

8 Now with 13 to 17 million people, that's
9 going to create a huge database, in terms of what
10 we're dealing with. But we want to make sure that,
11 you know, formats are consistent and we can generate
12 timely products.

13 Because one of the criticisms of the
14 current standard MRFSS program is that, you know, it
15 produces information on a two-month wave. You're
16 looking back two months to start with, and then you've
17 got time for processing.

18 So the data, you know, they trail the
19 fishery at a pretty good clip. That's one of the
20 problems. If you've got a management scheme that's
21 trying to keep up with your quota overages, and then,
22 you know, make some sort of in-season adjustment.

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1 MRFSS doesn't really do that very well.
2 So that's why a number of states have gone to their
3 own programs. So handling all those kinds of data
4 issues and doing it efficiently is going to require
5 some sort of a group that, if nothing else, it pulls
6 together the elements in a common way.

7 We may in fact have a distributive data
8 system that, you know, is primarily run in the states.

9 But it would look transparent to, you know, a user
10 that's trying to do that.

11 MR. KRAMER: Okay. One other question,
12 too. Something that's becoming more and more popular
13 out there, I see Larry has his out, is a sportsman's
14 license. A lot of the states, I believe, have this
15 now, where you can sign up and you can either get salt
16 or fresh or hunting or all of the above.

17 Additionally, they're offering -- the
18 states are offering multi-year licenses, to encourage,
19 keep those anglers engaged, to make sure they get
20 those state dollars.

21 Has there been consideration, one as to
22 how to -- how those individuals will be dealt with

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1 that are buying those multi-year licenses, how to make
2 sure that you have accurate contact information on
3 there?

4 I mean, we're managing a database right
5 now of over 100,000 records, and it seems like it's
6 constant trying to keep phone numbers and addresses
7 and everything up to date. When somebody buys a five-
8 year, they move two or three at the time.

9 So I can see, as Russell pointed out,
10 there's going to require some money to maintain this
11 national database.

12 DR. MURAWSKI: No, it's going to be a very
13 interactive process, you know, compared to what we've
14 got now which is, as Bill said, pick up the phone book
15 and make some calls.

16 Now that's increasingly difficult to do
17 because of the advent of cell phones, and you know,
18 people put you on the thing where you never answer the
19 call and all those kinds of things. We hit a lot of
20 machines, you know, in doing what we're doing.

21 But one of the things that we're thinking
22 about is if we get web mail addresses on people, and

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1 that's going to be some fraction of who we're dealing
2 with, theoretically we could send out these surveys
3 rather than the phone. We could send them out online,
4 you know, and sort of get information back that way.

5 So there must be multiple ways, that once
6 we've got that list of people, you know, we can do
7 mailings, we can do phone surveys, we can do Internet
8 surveys. There's multiple ways around the barn on
9 that one, I think, in terms of updating.

10 MR. KRAMER: Okay. Thanks Steve.

11 CAPT DiLERNIA: Okay. Coming up the
12 table, next? Tom?

13 MR. RAFTICAN: Tom Raftican. First of
14 all, thanks Steve. I appreciate the overview. I'd
15 like to echo Rob's comments, that this isn't something
16 that, you know, should be forced upon recreational
17 anglers. It's something we need to demand.

18 I'd like to touch on a couple of things,
19 although most of this has been covered. You know,
20 problems with the dock survey, you know. The things
21 that we've seen in California are missing slip-based
22 boats, which could be a very, very high dollar item;

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1 shore-based anglers, which is big here in Florida but
2 also in California, and the emerging kayak fisheries,
3 which actually do pretty well but are difficult to
4 track.

5 One of the things you might want to look
6 at, you know, where you do catch on your dock-based
7 surveys. I think as you get into whether they're
8 electronic, then telephone, or strictly electronic,
9 which will be the way to go in the future, your
10 quality of data is going to get better as you go down
11 the line.

12 Now again, you know, you can't sit down
13 and look at every -- you lose some of that on-dock
14 presence. But the thing is, with that higher quality,
15 and again, I would emphasize instead of putting a
16 tagging on the last, as far as e-mail, I think, you
17 know, that's the way things are going to go. Let's
18 get a run at it right now.

19 But you can get a fairly high quality
20 survey, where the angler has it in front of him and
21 can put that together and get back in a timely manner.

22 I think that's the future, and we can again start

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1 getting very, very high quality information back in.

2 Probably a lot more rapidly and actually
3 in the long run, maybe you could start reducing costs
4 substantially.

5 DR. MURAWSKI: I want to comment on that
6 one, because it's a really good point. When you look
7 at the traditional MRFSS, there's a two-month
8 lookback. Well, I can't remember, you know, what I
9 did yesterday, never mind, you know, two months ago.
10 We're asking people how many recreational trips did
11 you take and a bunch of other details.

12 If in fact we had like a thing where they
13 had their little web space and they could go in, right
14 after the fishing trip, go in there, enter some
15 information about whatever we're collecting.

16 You know, right away that could go into
17 the system. Now it wouldn't be complete, but you
18 would accumulate data from day one, as opposed to,
19 you know, doing this recall period, which -- it's
20 difficult, you know, in terms of actually trying to
21 implement that. So I agree with you.

22 CAPT DiLERNIA: Vince O'Shea?

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1 MR. O'SHEA: Thanks, Mr. Chairman. I'm
2 following up on a point, I think, the chairman did a
3 good job of making, and that is as more data comes in,
4 you know, the actual harvest of the recreational
5 sector is going to put pressure on the existing quota-
6 managed species.

7 I think a part of the issue here, the big
8 policy issue, it's not necessarily addressed in what
9 you gave this morning's or here, Steve, but it's
10 Question No. 2. What incentive is there for folks to
11 report if they know that those landings are going to
12 come against, you know, are going to count against how
13 much fish they get to catch the next year?

14 Now I understand out in the Gulf, the for-
15 hire sector, it's mandatory for Gulf for-hire boats to
16 report. But we've been made aware of instances on the
17 East coast where different organizations have either
18 claimed to have put in a boycott or threatened to put
19 in a boycott.

20 So on one of your earlier slides, you said
21 that you're looking at a state license that would be
22 substitutable for a federal license. I think one of

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1 the things that, from a policy thing needs to be
2 addressed is if the federal license has a mandatory
3 reporting requirement for the for-hire sector, I think
4 it would be critical that the state system that would
5 substitutable also have a mandatory requirement.

6 I hear the good things about how much
7 benefit there is by reporting, but I think human
8 nature, the way it is, to the for-hire sector, I think
9 we really realistically need to be looking at a
10 mandatory reporting system. Thank you.

11 DR. MURAWSKI: I think you made a lot of
12 good points about making sure that the systems
13 reconcile one another. The incentives to do this, I
14 mean, incentives for commercial. I mean, we have a
15 lot more control.

16 You know, it's more of a command and
17 control thing because, you know, they're paying for
18 expensive permits. You know, the level of enforcement
19 is high. So getting people to report. I mean, you
20 have more control.

21 When you're trying to influence, you know,
22 13 million people --

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1 MR. O'SHEA: Some would call it higher.

2 DR. MURAWSKI: Well, I'm talking about,
3 you know, what's the incentive for any recreational
4 fisherman to actually report. For-hire, you've got
5 more control for sure.

6 But I mean, this gets back to the
7 strategic plan and the credibility of this in the
8 public's eye. We're going to have to do a really good
9 public relations outreach effort to get people,
10 because even in implementing this thing, it's going to
11 be slow progress. You know, we're going to move up
12 the ramp. You know, we're going to start with a low
13 percentage.

14 And one of the reasons why to run MRFSS,
15 traditional MRFSS alongside it is one of the questions
16 we can ask is do you have a registration -- are you
17 registered in the system, right?

18 We can also do this on the intercept
19 surveys, and if so, what's the number, right? Because
20 then it's like a marked recapture sample, that you'll
21 be able to correct those registry estimates for the
22 fraction that are actually participating in the

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1 program, and eventually, you know, with high enough
2 participation level, you can drop the other one.

3 So this will be kind of an evolutionary
4 process as we move along.

5 CAPT DiLERNIA: Eric Schwaab?

6 MR. SCHWAAB: Thanks. A couple of things,
7 and I'll try to run through them fairly quickly, some
8 comments, some questions. First of all Steve, thanks
9 for the presentation and thanks. Just to let Bill
10 know that, you know, we have had extensive
11 conversations with Steve as this thing has unfolded.
12 He has been incredibly helpful to us, trying to
13 represent the State Fish and Wildlife Agency and
14 assisting in this licensing issue, and that's been
15 great.

16 I did indicate to Steve, I mean, we do
17 have a committee and our association that focuses
18 specifically on supporting state fish and wildlife
19 license systems, as they automate and upgrade,
20 etcetera.

21 So I think that -- and we have a lot of
22 experience with some of the issues that arise when you

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1 start trying to use those systems for information.

2 For example, a lot of the states, by
3 virtue of the method through which they collect their
4 data, would likely be prohibited from sharing it into
5 a federal database. So there are going to be some
6 mechanical things that we should continue to work very
7 closely on as you think about the options and how to
8 build this system.

9 I had a question about the NRC
10 investigation, because I think one of the things that
11 you get to is kind of, from the front-end design
12 perspective, is you need to know what you need out of
13 the system before you design the system.

14 Obviously, one of the problems with MRFSS
15 is that we're pushing it beyond sort of its limits.
16 So I wonder and it wasn't clear to me whether the NRC
17 investigation is including some interaction with, for
18 example, fishery managers, saying, you know, how much,
19 how robust a system do we need?

20 DR. MURAWSKI: I can tell you. I
21 participated in a few of the sessions. They got
22 robust input from lots of people about, you know,

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1 what's good and what's bad about the current system,
2 and how we need to look forward.

3 I'm hoping, expecting, that their
4 recommendations are going to be, you know, what can we
5 do with the current system the way it is, and if we
6 had a different system, you know, how might we better
7 manage, you know, the output.

8 That's why we're pointing up to this
9 meeting at the end of March, with the people actually
10 on that panel, so that there can be more interaction
11 and questions back and forth about this.

12 Because I know they've been very itchy to
13 get into this debate in the, you know, the
14 Congressional realm, you know, because they have some
15 things to offer. So I think they've thought about
16 many of these issues.

17 We need to not only get their report but
18 pick their collective brains about this stuff, because
19 you know, we have some real -- I'll get the list of
20 panel members if you want, but we have some excellent
21 survey statisticians and people who are knowledgeable
22 about the fisheries on that panel.

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1 So we ought to get our money's worth,
2 which is a substantial amount of money, from that
3 group about ideas for moving forward.

4 MR. SCHWAAB: Yes, and I mean to build on
5 an analogy from the start of this discussion, I mean
6 we're probably driving a Yugo now, and we might like
7 to have a Cadillac, but we might have to settle for a
8 Chevy.

9 Because that, you know, which takes me
10 really to my last point, and it's a point that I
11 really want to build here, so I'm going to wait for a
12 second.

13 (Pause.)

14 DR. HOGARTH: Okay.

15 MR. SCHWAAB: I want you to hear this
16 point, because one of the things that I think we're
17 looking at is when we talk about what kind of system
18 we need, what kind of system we might like to have, is
19 this issue of cost, and there are a tremendous number
20 of tradeoffs.

21 I've heard, as I've listed them out, I've
22 heard four things. They're going to cost more money.

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1 The first is designing whatever the new system is,
2 interacting with all the partners, putting the pieces
3 together, etcetera.

4 The second is then actually implementing
5 that new system. I mean, even if you do something
6 that's Internet-based, there still is a cost
7 associated with setting up a system to collect
8 information from, you know, 12 to 17 million anglers.

9 The third is this concept of side by side
10 testing. Assuming we put in a new system, there's
11 still going to be a period of time when we have to run
12 the existing system.

13 Then last but certainly not least, I mean
14 what I heard from Mr. Porter was that, you know, the
15 California system, it sounds like, is five times the
16 cost of the system before. So if you talk about,
17 again, going to that Cadillac or even anything moving
18 down to Yugo, you're talking about two or three times,
19 at least, the cost of the system we have now.

20 I hope that we're anticipating that in
21 budget planning, so that, you know, because if we're
22 spending eight or ten million dollars now on

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1 recreational data collection, is somebody planning for
2 a 25 or 30 million dollar budget item a year or two
3 years from now?

4 DR. HOGARTH: Steve, what are we spending
5 on that?

6 DR. MURAWSKI: About \$9 million was spent
7 in all the recreation, and this includes, you know,
8 add-ons, you know, from the various states, etcetera.

9 I can tell you that for this year, you know, for the
10 first time, we actually got some money in this stock
11 assessment improvement line that NMFS gets, and we
12 devoted over \$2 million to actually putting MRFSS on a
13 stable financial platform.

14 Because we've been sort of begging and
15 borrowing money from this, that and the other thing to
16 do it. So now at least we have a stable base to work
17 from, and at some point, you know, if we transition
18 out, there will be a stable base of money that we'll
19 be dealing with.

20 The real question is how many chrome
21 fenders on this thing are we willing to pay for, you
22 know, given the budget environment? You know, it's a

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1 tough environment as you know right now, in terms of
2 amendments to the system.

3 But I think everybody who's really
4 committed to trying to improve the quality and
5 credibility of these data, and it has wide support.
6 So I'm hopeful that, you know, if we can come to one
7 mind here, in terms of the support for this, that we
8 can get the political support we need to get the
9 money.

10 MR. SCHWAAB: So I hope that part of that
11 outcome of the NRC investigation and all the
12 discussions are going to be what we should anticipate
13 that cost being, so that Bill can have the appropriate
14 information on which to build his budget.

15 CAPT DiLERNIA: Dr. Hogarth?

16 DR. HOGARTH: You know, one possibility of
17 all this that I've heard too is to turn it over to the
18 states, or turn it over to the commissions, who work
19 with the states, turn the recreation over. I don't
20 know what the NRC has said with that, but I did hear
21 that discussed at one of the meetings.

22 So that the states may be more positioned,

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1 better positioned to collect the data, since they do
2 have certain collection systems already, that they may
3 be in a better position to do it. So I think it would
4 be interesting.

5 But you're right. I mean, we have talked
6 to the Hill about the recreational data and about the
7 costs, and I think a lot of them are waiting to see
8 the NRC study, you know. Then we'll have to look at
9 really what it means.

10 CAPT DiLERNIA: Okay. I have Mr.
11 Fletcher, Mr. Roberts, Mr. Rayburn, Ms. Tooley. Bob?

12 MR. FLETCHER: Thank you. Bob Fletcher.
13 I just thought, in response to Vince's comment about
14 mandatory 400 of those surveys, we have a mandatory
15 log book in California for 25 years. But it was only
16 about five years ago that the state decided it was
17 time to start raising the priority on enforcing the
18 regulation.

19 So it's not only having the regulation in
20 place, but having enforcement willing to check. Now
21 it's not uncommon for a warden to step on a boat as it
22 backs into the dock, and go straight to the wheel

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1 house and say "Captain, I'd like to see your log
2 book."

3 The law says you have to have it filled
4 out by the time you hit the dock. They're also
5 required to submit those logs by the 15th of the
6 following month, and the Fish and Game Commission has
7 actually threatened a couple of boats with suspension
8 of their privileges to carry passengers. So there's
9 enforcement now, and it's made a big difference.

10 Well, as far as I'm concerned, that's
11 very, every bit as important as having it mandatory.
12 But the other thing is that we will do a better job if
13 we can have a good reason behind it.

14 I think this goes back to Forbes' comments
15 about how the agency's got to do a better job of
16 selling the importance of this, and we handed out an
17 article that appeared in a publication in California,
18 it's going to appear, that's soon to appear, that
19 talks about how anglers should start getting on board.

20 I think that this came as a direct result
21 of the fact that we were the people involved in trying
22 to speak out on behalf of recreational anglers in the

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1 for-hire industry, felt that we had a system now that
2 we can believe in, and that's the SRFSS system.

3 It's more expensive, no doubt about it.
4 But it was only after we were being taken off the
5 water routinely that we felt like we had to make as
6 big as pitch as we could, and thanks to Pacific
7 States, we were able to excel that, and we're having
8 the money now to do that job.

9 But the alternative is going to be ugly, I
10 think. I think we need the data and we need to sell
11 the fact that we need that. However best we can help
12 with that, I'm prepared to do that, because I don't
13 ever want to go back to where we were.

14 CAPT DiLERNIA: Mr. Roberts?

15 MR. ROBERTS: Ken Roberts. I want to echo
16 exactly what Bob's saying. It's one of the notes I
17 have. I'm going to see you afterwards. I've got a
18 list of things answering your questions, but I'm only
19 going to deal with a couple of them.

20 Number one, I don't know if states can
21 legally give you telephone numbers of people. I mean
22 that's something for the counsels in each state to, I

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1 mean, legal counsel in each state to let you know
2 whether or not they can actually share those files
3 with anyone.

4 DR. MURAWSKI: It could be that we
5 actually get the states to do those phone calls within
6 the state, I mean, however we evolve the system.

7 MR. ROBERTS: And that's going to my next
8 point. This is a very long-run career type effort,
9 because you're relying on the states, basically a
10 relationship with the states. Some of the states are
11 much further along than others.

12 So I would recommend very strongly that
13 you try to pick a region that's more advanced than the
14 others, and right now looking at your map, the most
15 uniform one is the Gulf, I guess, in terms of having
16 licenses.

17 They may not have numbers, but I'll give
18 you a hint. You can buy telephone numbers. If you've
19 got the names, if they give you the names of people,
20 you can get telephone numbers. You'll see some of our
21 good researchers at LSU to tell you how to do that.

22 The other thing -- so I think focusing on

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1 the states is obviously where you've got to go. I
2 would recommend, since all of the states in uniformity
3 or are not in uniformity, you're going to have to go
4 to the regions first, to kind of proof of concept and
5 get your feet wet.

6 The other thing that I don't see
7 addressed, and particularly if you're relying on
8 licensees right now, if you would have gone to
9 Louisiana with a program right now to sample people
10 with salt water recreational licenses, you would miss
11 about 28 percent of the population.

12 It's not just the youth that's not
13 included. We have one of those Earl K. Long states
14 where every man's a king and a chicken in every pot.
15 Over 60 years old you don't have to have a salt water
16 fishing license. You buy a \$5 permit and that's good
17 for everything.

18 So you've got a group of population there
19 you have to more heavily sample, I would imagine, if
20 you can get ahold of those things. But I applaud you.

21 I think this is the right way to go. I am worried,
22 Bill, about the amount of money it will take, and

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1 don't got into it half-heartedly, because it's going
2 to be expensive.

3 But the dividends ought to be high, and I
4 would encourage you just to stick with it for a while.

5 I think you'll be all right. Even if you have to go
6 to such legislative extremes as going to get Dingell-
7 Johnson or Breaux, Wallop-Breaux amended to say that
8 states that receive that money have to share their
9 license files with you, you might have to get started
10 in that direction too. Thank you.

11 CAPT DiLERNIA: Mr. Rayburn.

12 MR. RAYBURN: Ralph Rayburn. Steve, I
13 might have missed it. Did you relate to what the
14 states are doing that don't, are not involved in the
15 MRFSS program? What are you going to do with those
16 states? What are you going to do with Texas and
17 Alaska? Are you just going to leave them out there,
18 or how do you incorporate -- are those the only two
19 states?

20 It looks like from reading this that
21 Alaska and Texas, the recreational fishing information
22 that the state collects are not incorporated into the

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1 recreational fisheries statistics of National Marine
2 Fisheries Service? Am I right?

3 DR. MURAWSKI: Of course, there are lots
4 of states that have no program whatsoever. I mean you
5 take all the states from Delaware north, none of them
6 have recreational, comprehensive recreational licenses
7 at all.

8 MR. RAYBURN: No, no. I'm not talking
9 about licenses. I'm talking about marine recreational
10 fisheries statistics. Don't you still do MRFSS? You
11 still collect MRFSS from them or not, from those
12 states that don't have licenses? Do you still collect
13 --

14 DR. MURAWSKI: Absolutely. That's the only
15 game in town. But, you know, states like Texas and
16 Alaska, I mean, we'll want to fold that information
17 into the system, you know, in a transparent way, so we
18 can do things. Our whole Gulf analyses, for example.

19 You know, right now of course the
20 relationship with Texas is, you know, for red snapper
21 updates, are we just relying on the states to provide
22 the information from their dataset.

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1 But there's lots of questions that the
2 managers will want to ask more interactively. So
3 combining the things in an electronic dataset that
4 people can query back and forth I think is a goal of
5 that program, or this program.

6 So we're going to have to work more
7 closely with the state of Texas and other, and Alaska
8 and other states, to see if we can find some common
9 ground there, in terms of getting the datasets
10 reconciled.

11 MR. RAYBURN: But to that point though, if
12 this done with the Magnuson, they will have no choice.
13 They'll be under -- Texas and Alaska will be -- they
14 wanted it in it and voted for this bill. They will
15 have to abide by this. So if they have a system, you
16 know --

17 DR. MURAWSKI: You're talking about
18 collection of recreation fishing information.

19 MR. RAYBURN: Not license-related, but I'm
20 talking about catch-related. That's part of the
21 Magnuson's requirements, that everybody's going to
22 have to go with this recreational statistical survey

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1 that's being developed?

2 DR. MURAWSKI: No, there's two things
3 here. First of all, if in fact the state doesn't want
4 to supply information, then we have -- this would give
5 us the authority to register anglers who would be
6 fishing in the EEZ, from Texas or anywhere else,
7 right? So, I mean --

8 MR. RAYBURN: But that's not the question.
9 I mean, Texas has got a license. They've had license
10 for years. You know, we've got a salt water
11 fishermen's license. So I don't know that that's not
12 a relevant thing --

13 DR. MURAWSKI: It's a willingness to share
14 part too, right, in terms of the information.

15 MR. RAYBURN: Willing to share the license
16 information?

17 DR. MURAWSKI: Right.

18 MR. RAYBURN: That's one thing. I mean
19 I'm still back to the deal about recreational fishing
20 data, you know, how many fish were caught
21 recreationally in the state. That's still the issue
22 that I'm --

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1 DR. MURAWSKI: Well, you're talking about,
2 I think, more the intercept part. You know, in the
3 field, how do we estimate what the catch of an
4 individual angler is and do the way and measure it.

5 I mean that's still done, I mean partly
6 done at -- you know, with MRFSS contracts. Some of
7 the states augment that, and many of the states
8 actually conduct that --

9 MR. RAYBURN: That's not where I'm at
10 either.

11 (Simultaneous discussion.)

12 DR. HOGARTH: Texas collects its own data.
13 We don't do MRFSS or anything in Texas. Under this
14 system, you know, to get a license from them, you
15 know, get the people's data and all, are we going to
16 start a process, or would we try to figure a way to
17 rely on Texas to get the catch information? I mean
18 are we going to just --

19 MR. RAYBURN: Just accept the information
20 that Texas gives us. I guess we're apples and
21 oranges, maybe. I guess I'm not transmitting right.
22 Let me just say -- and what struck me Bill gave a

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1 presentation a year or so ago, that he was going to
2 give to the Secretary of Commerce.

3 In this slide presentation, he had listed
4 recreational fishing in the states, how much fish was
5 caught, how many fishermen and what the value of that
6 fish. Texas wasn't on the list, you know. I've seen
7 that slide two or three times since.

8 I mean it's not a big deal and I know it
9 goes way back to the, you know, folks, we have gone
10 from the state to the feds are still at the feds. But
11 I just can't believe that -- and I know Larry and his
12 group have been working on it.

13 I just can't believe -- maybe it's not
14 important, and if so, that's cool. But I think it
15 seems like if you've got -- if you're going to show
16 the impact of recreational fishing to the Secretary of
17 Commerce, it would be kind of nice to have like the
18 third or fourth most impacted state on the chart.

19 I mean it doesn't seem to be a problem,
20 except somehow there's a disconnect, and I must be
21 missing something, because it seems to me it's just a
22 matter of a phone call and putting it in, and it would

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1 help everybody out to know that recreational fisheries
2 has another million people involved in it, that maybe
3 you're making a \$6 billion impact to the state
4 economy.

5 That seems to be like that might be some
6 figures you would want to have out there, you know.
7 So I think we're missing the boat. That's all I'm
8 -- and I'm sorry I'm not communicating, I guess, that
9 issue.

10 DR. MURAWSKI: I want to argue that point
11 with you. Obviously, you need to incorporate Texas in
12 any kind of summary of what's going on. There is some
13 issue of data coming back, and I don't know the
14 specific issue, but I think there's some kind of a
15 back and forth about, you know, getting data tables
16 and all that.

17 MR. RAYBURN: And that's what I've heard
18 too, Steve. I'll swear I'll call and they'll say "No.
19 Tell them just call us and we'll give them whatever
20 they want." You know, so -- and I know Larry's group,
21 when they meet there and the feds are meeting, and
22 maybe you can address it too, and am I missing

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1 something Larry, and should shut up? But I mean it's
2 like -- it's just like -- it's just an easy deal. I
3 know I've got --

4 MR. SIMPSON: This is Larry Simpson. The
5 data's in our system, and Larry and Ken said at that
6 meeting you were talking about, you should put Texas
7 data in there.

8 Now Texas alone, this is an old number,
9 old, old, old number, spends \$3 million of their own
10 money just for the state of Texas. Now they use
11 trailer counts rather than other things. So there's
12 some issues of how they mesh, but the data is still
13 there, and we have the data.

14 DR. HOGARTH: Hey Larry, would you send us
15 the data for the chart? You've got the chart. Would
16 you fill Texas in and send it in, and it will be on
17 the next slide presentation.

18 (Simultaneous discussion.)

19 MR. SIMPSON: Because Texas charter boat
20 data didn't exist until they started in January. So
21 we're still gearing up, but we --

22 (Simultaneous discussion.)

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1 MR. SIMPSON: They're doing it our way.

2 DR. HOGARTH: Well, can we have 2004 for
3 the anglers, that we can give to the state directors
4 at the end of March? We don't want to leave that off.

5 (Simultaneous discussion.)

6 CAPT DiLERNIA: Ralph, you've made your
7 point very clearly.

8 DR. HOGARTH: We'll see what the next
9 chart looks like.

10 (Laughter.)

11 CAPT DiLERNIA: Ms. Tooley.

12 MS. NICKELL-TOOLEY: Thank you.

13 CAPT DiLERNIA: Do you have any questions?

14 MS. NICKELL-TOOLEY: Well, I guess I'll
15 just offer another lonely opinion from New England,
16 where we don't have any licenses of any kind for
17 marine anglers.

18 It's not really an issue that I've spent a
19 lot of time thinking about in recent time,
20 particularly because I work with the commercial
21 industry. So before coming to this meeting, I made a
22 few calls to people in New England and asked them

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1 their opinion, and probably should have spoken to
2 more, a wider variety of people.

3 But the people I spoke with were against
4 the concept in general, felt that licensing vessels
5 that were going to be operating in the EEZ was a more
6 appropriate way to deal with the issue, that
7 registering millions of people to improve data, that
8 there were better ways to go about it.

9 As I said, these are opinions of others
10 and not necessarily my opinion. I'm not sure if I
11 actually have one at this particular point. I do live
12 with two recreational fishermen, and who are fishing
13 now, this afternoon, but they probably --

14 (Laughter.)

15 MS. NICKELL-TOOLEY: It was their opinion.
16 But I don't know. Maybe Steve should have some
17 outreach going on on the weekends when he comes home
18 in New England, and maybe that would help. I'm not
19 sure.

20 DR. MURAWSKI: Well, we've gotten a lot of
21 input on New England. In fact, when we had the
22 council directors' meeting, Tom Hill was very

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1 vociferous in his point of view about, you know,
2 supporting vessels in the EEZ, and of course, there's
3 no shore fishing in the EEZ.

4 I mean, you know, so you've got to be
5 there on something, and said it was more efficient to
6 do that. His opinion was that shore fishing, for a
7 number of the regulated species in New England, wasn't
8 a large fraction of the total.

9 But sure, there are other ways to do these
10 things. The real question is some efficiency and some
11 comparability across the programs.

12 CAPT DiLERNIA: I'd ask the committee
13 members for their patience for a few moments. There
14 have been some -- folks in the audience have been
15 patiently waiting to ask questions, and so I'd like to
16 go to the audience at this time, and see who may have
17 questions, and then I'll come back to the committee.

18 Mr. Brame?

19 MR. BRAME: Thank you. I'm Dick Brame
20 with the Coastal Conservation Association, and I
21 really wanted to just bring up a point Mr. Fletcher
22 brought up.

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1 It's incumbent upon the leaders in the
2 recreational fishing community to support this. That
3 way, the average angler will understand that the
4 people who are looking after their interest think this
5 is a good idea.

6 I think to do otherwise is nearly
7 criminal, because we're going to live and die by this.

8 I agree that the information -- we might not like the
9 information we get, but it would be good, solid
10 information that we can live with and people will have
11 much more comfort with that information. So I think
12 it's really up to all of us to support it.

13 It kind of draws on what we found in North
14 Carolina, trying to get a license, is if the agency
15 brings it up, it has a very difficult time going
16 anywhere. If the anglers bring it up, then it has a
17 much better chance of being successful.

18 That's not exactly applicable here, but if
19 all the different groups would support it, it would
20 certainly help this process to move along. Thank you.

21 CAPT DiLERNIA: Are there any other
22 members of the audience before I come back to the

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1 committee. The gentleman in the back. Go on.

2 MR. ROBINSON: I'm Jim Robinson --

3 COURT REPORTER: I'm sorry. Could you
4 flip on the mike? I can't hear you.

5 MR. ROBINSON: Is it better? I'm Jim
6 Robinson with the International Committee of the IGFA.

7 Many of the captains in that 120-boat
8 charter fleet are very upset with the way the data's
9 been handled, and they support good data. The IGFA
10 supports good data, we need good data, and let the
11 chips fall where they may. Everybody supports it.
12 We've got to have it.

13 I echo the sentiments of the CCA officer
14 here, that we have to have this data, and it's not
15 going to be a problem from the recreational community,
16 because we want it. Everybody wants it. It's very
17 easy to sell.

18 I would disagree with the lady over here
19 from New England, because we have to have this data or
20 you can't manage the data. You can't manage the
21 fishery, and what really, really upsets the people who
22 fish for a living is that you're going to put people

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1 out of work on data that you know is flawed and they
2 know is flawed.

3 You have to have credibility, because when
4 you tell a man he can no longer fish for a living
5 because the resource is stressed, you'd better base it
6 in fact. Thank you.

7 CAPT DiLERNIA: Thank you. Let me just
8 for the record be very clear. Ms. Tooley was, as a
9 good community member, was representing what she's
10 been advised by some other members of New England.
11 She made it clear it wasn't her own personal opinion.

12 MR. ROBINSON: I understand that.

13 CAPT DiLERNIA: And I really congratulate
14 her for taking the effort and the time for querying
15 the people in her region prior to coming to this
16 meeting. Thank you. Are there any other members of
17 the audience before I come back to the committee?

18 (No response.)

19 CAPT DiLERNIA: Okay, back to the
20 committee. Mr. Kramer.

21 MR. KRAMER: Yes. I just had one question
22 here, and I hope I'm not opening a Pandora's box here.

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1 But on one of your slides, Steve, it talks about "The
2 Secretary shall exempt from Registration under the
3 program" dah, dah, dah, and then it gets down to "If
4 the Secretary determines that the information from the
5 state program is suitable for the Secretary's use."

6 So for instance, let's say we have a state
7 that has a license, and has a data collection program,
8 but it is not compatible or integratable with the
9 federal system, would that state then be subject to a
10 state-imposed license or registration?

11 DR. MURAWSKI: Well, this is basically to
12 try to see if we can get, you know, the states to
13 cooperate and to work on this kind of thing.

14 But if in fact a state wants to be hard-
15 nosed about this and not share the information, so
16 that, you know, we can pull it together, then this
17 basically gives the Secretary the authority to
18 register anglers in the EEZ. That's all we can do
19 under the federal laws.

20 But it basically says that this is -- it's
21 a hammer, you know, to try to --

22 MR. KRAMER: Well, I guess my question is

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1 what if it's a compatibility thing? Let's say a state
2 spending two million a year on obtaining recreational
3 data, but to get it to a point where it's integratable
4 and compatible with all those other data, that's going
5 to cost an extra two million, and they don't have it
6 in the budget or for whatever reasons. I guess that
7 would be some leverage to get that done.

8 DR. MURAWSKI: And this is where we want
9 to go with a working group and a committee, to
10 actually look at those issues of what in fact are the,
11 you know, the bottom line issues that we have to have,
12 versus, you know, something that would be nice to have
13 but is going to cost money.

14 So you know, if we get authority to do
15 this, the first thing would be to pull together an
16 implementation team, you know, which would represent
17 the commissions, states and the federal government, to
18 try to look at specifically those issues. What datum
19 do we want and what are the "have to haves" versus the
20 nice to haves?

21 MR. KRAMER: Thanks.

22 CAPT DiLERNIA: Mr. Joner?

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1 MR. JONER: Steve Joner. I'm a big
2 believer in recorded data, and I don't know, this
3 might be kind of far-fetched, but have you considered
4 punch cards? I know they wouldn't work in Broward
5 County, because they --

6 (Laughter.)

7 MR. JONER: But you know, we've had in the
8 state of Washington for decades salmon punch cards,
9 and now most other species. It seems to me that once
10 the data are recorded, than it's a lot more reliable
11 than trying to do estimates.

12 I'll just give you an example. In the
13 tribal fishery, you have what's called ceremonial and
14 subsistence. So that's take-home fish caught by a
15 tribal member.

16 For years, the tribal fishermen resisted
17 putting them down on tickets. So we would make
18 estimates for halibut and salmon in particular. I
19 would base that on my observations while I'd be at the
20 dock monitoring the offloads, talking to our port
21 samplers, interviewing fishermen, and then eventually
22 with a little arm-twisting from the NMFS enforcement

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1 people, we went ahead and required that.

2 It turns out that we were overestimating
3 the take-home on halibut by quite a bit, and for
4 salmon even more than that. So it doesn't seem to me
5 like it would cost that much to require a marine fish,
6 it's called punch card. You don't punch them any
7 more; you write on them, and then it becomes an
8 enforcement issue.

9 In Washington state, if you're out
10 fishing, you have a pretty good chance of being
11 boarded by either federal or state enforcement, and
12 the first thing you do is look at your punch card. If
13 you have caught a salmon or whatever species you're
14 after, and not recorded it, you're contributing to the
15 state treasury.

16 DR. MURAWSKI: Well, just to talk about
17 the issue of catch cards, there are a couple of catch
18 card systems outside of the Northwest. They seem to
19 work really well with these rare event, you know,
20 individual fish kinds of fisheries.

21 There's a blue fin tuna program in
22 Maryland and North Carolina, a catch card, and you

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1 know, it's very reliable, you know, produces good
2 data. Those are the way to go for those kinds of
3 fisheries, you know, salmon and you catch a few, you
4 know, and those kind, halibut in Alaska.

5 We ought to, you know, one size is not
6 going to fit all here, in terms of the circumstances.

7 We ought to look at those catch card programs and see
8 which of the fisheries we can actually get, you know,
9 those kinds of data folded into this thing, as opposed
10 to trying to estimate everything the same way, you
11 know. So there's some good case studies there.

12 CAPT DiLERNIA: Okay. I see a number of
13 hands. Mr. Porter?

14 MR. PORTER: I was going to say, we have
15 punch record cards in a couple of our states, and
16 there's major issues with those in trying to manage
17 the fishery and get timely data.

18 People who catch nothing don't send them
19 back, so you don't have the zero catch cards. They
20 don't come back in a timely way. They're good for
21 enforcement, that you've recorded your fish for the
22 day and are using up your quota for the season.

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1 But they aren't real valuable for making
2 catch estimates unless there's a real timely
3 submission. The states have to go after those cards
4 again and again, just to get a reasonable sample. So
5 it's a major issue to get those back.

6 CAPT DiLERNIA: Okay. I have Mr. Schwaab
7 and then we'll close this and we'll take a break.
8 Eric?

9 MR. SCHWAAB: Thanks. Eric Schwaab. Just
10 a clarification on this, the applicability as
11 currently articulated in the Senate bill. You said
12 twice now that this wouldn't give, or that you don't
13 have authority in state waters.

14 But the way I read this, it very clearly
15 would require the registration of anglers targeting
16 anathermous (ph) species, regardless of where they're
17 fishing. Do you disagree with that?

18 DR. MURAWSKI: No. I didn't approach that
19 part of it. That's what it says.

20 MR. SCHWAAB: So if this were to be used,
21 then it would apply -- it would require registration
22 of anglers who never set foot in federal waters, but

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1 who target anathermous species of any kind in state
2 waters.

3 DR. MURAWSKI: That's right.

4 MR. SCHWAAB: Thanks.

5 CAPT DiLERNIA: Okay, thank you. Thank
6 you very much, Steve. You've been working hard, by
7 the way. No different than when you were up in New
8 England. We'll take a 15 minute break and we'll be
9 back. Thank you.

10 (Whereupon, a short recess was taken.)

11 CAPT DiLERNIA: Some housekeeping, and
12 then we'll come back to some other issues. First,
13 regarding committee assignments, let me just announce
14 the committee assignments and make sure that we have
15 them correct, and if they're incorrect, please let me
16 know.

17 On the Commerce Subcommittee, and again,
18 these are in no particular order. On the Commerce
19 Subcommittee you have Tom Billy, Bob Fletcher, John
20 Foster, Rob Kramer, Ken Roberts, Ralph Rayburn,
21 Heather McCarty, Tom -- I'm sorry to keep --

22 MR. RAFTICAN: Raftican.

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1 CAPT DiLERNIA: Raftican. Thank you, sir.
2 Are there any -- Ralph Rayburn. Ralph, you --

3 MR. RAYBURN: Yes.

4 CAPT DiLERNIA: Okay. Do I have everyone
5 correct? Okay.

6 MR. RAYBURN: Thank you.

7 CAPT DiLERNIA: And the chairman of that
8 committee is Tom Billy.

9 On the Protected Resources, we have Jim
10 Cook, Bob Fletcher, Jim Gilmore, Ms. Jones and Mary
11 Beth Tooley. The chairman of that committee is Mr.
12 Fletcher.

13 Ecosystems Subcommittee. I have Heather
14 McCarty, Chris Dorsett, Ralph Rayburn, Eric Schwaab,
15 Dorothy Lowman, Steve Joner, Mary Beth Tooley and Tom
16 Raftican. The chairman of that committee is Chris
17 Dorsett.

18 On the Strategic Planning, Budget and
19 Program Management, Chris Dorsett, Jim Gilmore, Pete
20 Leipzig, Ken Roberts, Eric Schwaab, Dorothy Lowman and
21 who have I missed here? Tom Raftican. The chairman
22 of that committee is Jim Gilmore. So those are the

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1 committee assignments with chairs.

2 We'll be meeting tomorrow to put together
3 some positions to give to the agency. The agency has
4 asked us for some positions on some of the items that
5 have been presented to us over the past couple of
6 days, and that will be included in the scope of
7 tomorrow morning's work.

8 Precisely how we'll do that, we're not
9 sure yet. Probably with committee meetings and, well,
10 in order to decide how we're going to do that, I think
11 I'd like to turn it over to Dr. Hogarth to find out
12 precisely the type of information he needs from us,
13 he's requesting. Bill?

14 DR. HOGARTH: Thanks. I think a couple of
15 things after the two days of discussions, which I
16 think have been really excellent.

17 I think if we can get some idea of the
18 position or support for offshore aquiculture, and if
19 they are -- or things that you think we ought to be
20 looking at in the bill or in the regulations.

21 But I think we need to get some support
22 from MAFAC. We've had several meetings now on

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1 offshore aquiculture. You probably have had the most
2 involvement of any one group in Alaska and all. So I
3 think we really have spent a lot of time with this,
4 and I think we would need some letter or some formal
5 support from you.

6 I think the other one is Magnuson-Stevens.
7 You heard a lot about that, and you know, I think
8 basically you've had a lot of input into the Senate
9 Commerce version. Are we going, you know, do you
10 think we're addressing the issues that need to be
11 addressed in Magnuson-Stevens, and if not, if there's
12 some further issues, we need to know from you, I think
13 basically in the discussion.

14 And I think we need to talk about, you
15 know, more input about, are we going the right way
16 with the recreational data collection? I know it's
17 hard to say specifically A, B, C, but do we have a
18 program underway that should come to a resolution on
19 recreational data?

20 If not, I mean, do you see different
21 avenues we need to go? I mean, I don't think you have
22 to -- we're not asking them to say, "Yes, you need a

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1 recreational license of this type," but are we going -
2 - do we have the right approach, working with the NRC,
3 working with all the constituents?

4 Have we laid out a plan that we ought to
5 be able to have a -- are we going in the right
6 direction, I guess, so to speak. So we ask that you
7 discuss it.

8 The other thing is the Seafood Council,
9 you just got that, and so I don't think it would be
10 fair to ask for you to do. You just got the bill
11 yesterday. But we handed that out yesterday
12 afternoon. But if you see the comments in February
13 23rd, if you want to send us comments later on that,
14 that's fine.

15 I think July may be a little late, though.
16 That's my problem, if you're going to move on that,
17 to get comments. So I don't know how you may want to
18 handle the Seafood Councils. You've got the bill in
19 front of you.

20 If somebody wants to look at that and give
21 us, you know. If you all want to, as a group, make
22 some initial comments, I think it would be fine. I do

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1 think it's -- and so they're really the four issues
2 that I think we've spent a lot of time on.

3 Now I do think we have to talk some about
4 MAFAC activities. You all know the agency well.
5 You've heard us talk about different things. Are
6 there areas in the agency that you think, you know,
7 you could help us more with?

8 I know we talked a little bit about
9 Katrina, lessons learned. But I think NOAA is doing
10 that. But you know, I think -- so we may want to wait
11 and see what comes out of that.

12 I think you talked a lot about fisheries
13 disaster, but I think Magnuson addresses that, and
14 we're doing some things there. So I don't know what
15 more could be done along that line.

16 But I do think Fisheries 2025 or
17 something, you know, we do need to talk more about
18 fisheries in the U.S. and overall how we want to sort
19 of see it go, have it structured.

20 I know Steve is working and is going to
21 have a workshop later this fall with some groups to
22 look at the technology, the science of fisheries in

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1 the future.

2 Do we go about some things the same way
3 and can we go with new acoustics and we're looking at
4 AUVs and things like that. What are the new
5 technologies for fisheries science in the future?

6 But I think we also need to talk a little
7 bit about fisheries, you know, how they're structured
8 really. You know, one thing I talked to Steve about,
9 and we've been trying to get it done but it just keeps
10 dropping down on priorities on account of everything
11 else we have to do was, you know, a universal data
12 collection system, you know, with the states and us,
13 both the recreational and the commercial, you know.

14 If we had to develop a universal data
15 collection system that we all bought into, states are
16 spending so much money, we're spending so much money.

17 We can go to the Hill and say, we have a universal
18 system for salt water, and for data, for recreational
19 and commercial.

20 It costs this amount of money. States are
21 putting this in it and we're putting this in it. We
22 need X amount more to make it work. But you'd have a

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1 universal system.

2 So there's no question about the data
3 collected in North Carolina commercial is the same as
4 data collected in Virginia commercially or in
5 recreational the same. I think it would go over in
6 the long run, and I think it would help quite a bit.

7 So that's just some things for the future.

8 But I think out of this meeting, I think -- and if
9 there's anything else you all want to tell us. I
10 mean, we're very open. We really, honestly I'll say
11 it again, want to make this group really useful, you
12 know, want you to feel like you're performing useful
13 activities.

14 I mean, the discussion helps us, but I
15 think there are probably some other things you want to
16 do. I know Protected Resources is probably something
17 we keep talking about, but we haven't gotten anywhere.

18 You know, the House has already taken
19 Endangered Species away from us and given it to
20 Interior. Is that the right way to go?

21 I personally think, in my own opinion,
22 it's going to create tremendous problems with

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1 management of the fisheries. So I think it's going to
2 be worse rather than better, you know. You may have
3 some uniform activities that maybe ESA is all over the
4 agency.

5 But then when you go to manage fisheries
6 and you've got to go somewhere else to get an opinion,
7 you've got to go here to get that before you can say
8 you can catch X, I think that's just a bigger mess.

9 So does, you know, MAFAC like to undertake
10 to look at what we're doing in ESA in the agency, how
11 we looked at jeopardy, how we looked at these things,
12 and see if we can do a better job, and if you see
13 overlaps or things with Interior that we can work on,
14 and identify those.

15 So that's something else I think we can
16 consider, because they're big issues. So I really do,
17 and I'll say again, I would like to see you all, and I
18 know you only meet twice a year, but I think there's a
19 way to work through committees throughout the year,
20 with the phone call and video, and we have to, you
21 know, money to have some committee meetings and
22 something separately, I think we could do that.

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1 So I just want you to feel utilized and
2 used and abused like the rest of us. But we really do
3 want your input. I think we really have tried to open
4 the agency up to do things differently.

5 We haven't finished that job, and I think,
6 you know, what Jim Cook said yesterday about
7 biological opinions and things and the lawsuits.

8 I think it's a matter of being open and
9 communicating, and get people to look at what you're
10 doing, and a willingness to change. I can tell you
11 we're willing to change. So I'll shut up for now, but
12 I think if there's any way to discuss these and give
13 us some input, it would be great.

14 CAPT DiLERNIA: Okay. I'll stay back from
15 the microphone. The committee we've been charged, it
16 seems to me, with three items that we have to report
17 back to before we close, before we adjourn.

18 That will be offshore aquiculture,
19 Magnuson-Stevens and recreational data. Now for the
20 newer members, typically to review how we used to do
21 business and how we still are doing business that way,
22 is we would adjourn to subcommittees.

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1 The subcommittees would meet, the chairman
2 would try to take notes of the subcommittee
3 discussion, and present a summary of the subcommittee
4 discussion to the full committee, and the full
5 committee would then act. That item would then become
6 advice that we gave to the agency.

7 So for the purposes of planning work for
8 tomorrow, we have offshore aquiculture. Mr. Billy, if
9 your committee could look at that item, discuss it and
10 report back to the Committee, we'd be grateful. Thank
11 you.

12 Another item we have is recreational data
13 collection. Mr. Fletcher, if your committee could --
14 well you -- yes sir.

15 MR. FLETCHER: Bob Fletcher. Bill, in
16 Steve's presentation, he talked about some things
17 going on that are looking at MRFSS and recreational
18 data collection. There's an NRC study coming out.

19 In light of all these things that are
20 right behind us, I think it would probably be most
21 appropriate if whatever people in MAFAC who want to
22 get together with me tomorrow morning, kind of focus

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1 on conceptual support for the approach of an angler
2 registration, similar to what's in the Senate version.

3 Is that kind of what you were looking for?

4 DR. HOGARTH: I think so, and yes, are we
5 going -- yes.

6 MR. FLETCHER: Jim, I'm also going to be
7 involved in a meeting with you in March, which is
8 going to focus on MRFSS, I think. But there's also
9 going to be some state directors involved; is that
10 right?

11 DR. HOGARTH: Yes. The March meeting,
12 Bob, is going to be -- NRC is going to make its
13 presentation and they are pretty much going to be
14 through then. But the latest we heard from them is
15 they think that they'll have a final report, a final
16 draft.

17 They're going to come and present that,
18 and I'm inviting the state directors to try to find
19 the leaders of various fishing recreational groups
20 across the country to come.

21 So that will be open, but we're making
22 sure we invite, you know, enough of the recreational

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1 leaders from all across the country to come to that
2 meeting, to hear what the NRC has to say, and to be
3 able to ask questions and have a dialogue on what they
4 recommend.

5 So it will be the unveiling, so to speak,
6 of the NRC results.

7 MR. FLETCHER: I assume, then, that anyone
8 that would like to be involved with me in preparing
9 that kind of support statement would get together with
10 me in the morning? Is that appropriate? Is that
11 right, Tony?

12 CAPT DiLERNIA: I'm sorry, sir. Could you
13 repeat your question?

14 MR. FLETCHER: There may be some in MAFAC
15 that want to get together with me tomorrow, to focus
16 on that particular letter or statement. So --

17 CAPT DiLERNIA: I'm hoping to break up
18 into three working -- tomorrow morning, I hope to
19 first convene here, take care of some of our business,
20 and then to break up into three working groups or
21 committee groups, have those three topics discussed, a
22 summary of the discussion developed, and those

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1 summaries presented to the entire committee.

2 Then reconvene as a committee, and have
3 those three summaries, hopefully with a position,
4 presented to this full committee to take action on,
5 take a vote on. So that's my plan for tomorrow.

6 The third item is the Magnuson-Stevens,
7 and if we just have any comments there. That would go
8 to -- typically that would go to the Strategic
9 Planning, Budget and Program Management Committee.
10 Mr. Gilmore, the chairman, is not here. I've asked
11 Mr. Leipzig if he would chair that committee meeting
12 tomorrow, and he's agreed.

13 (Pause.)

14 CAPT DiLERNIA: I'm not sure how to
15 organize this. This is another item that Dr. Hogarth
16 has reminded we of. We are changing things a bit as
17 to how we've done things in the past. We're trying to
18 make ourselves more productive.

19 I hear from all the committee members how
20 much they want to contribute. So there's a sincere
21 desire to be much more productive and to contribute to
22 the agency. We need to have a discussion on what some

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1 of MAFAC's activities should be in the future, and
2 what we should be doing.

3 My concept of a vision statement or
4 Fisheries 2025, I guess we would call it, is a project
5 that I hope the committee will work on for the next
6 couple of years.

7 Actually, I haven't had the opportunity to
8 speak to all the individual members. I hope to work
9 on that in a little more detail than the full
10 committee.

11 But we also need to have a discussion on
12 where do we want MAFAC to go, what do we see MAFAC
13 doing, and be prepared to have that discussion.

14 If we're broken up into three groups
15 tomorrow, when we come back, perhaps a short time
16 either before or after we break up into small groups,
17 be prepared to have that discussion, as to where we
18 see MAFAC, the function of MAFAC, where do we want
19 this to go, what should we be doing. We need that
20 information also. Mr. Rayburn.

21 MR. RAYBURN: At some point, Mr. Chairman,
22 I'd like to clarify on the assignments. I understood

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1 the Magnuson, the issue of overfishing was to be
2 addressed. Is that -- I was taking notes at your
3 request.

4 Laurel, perhaps, would work up some
5 information just on that subject, that we would pass
6 in to the Strategic Committee to evaluate during the
7 process of evaluating Magnuson. Is that your thought?

8 DR. HOGARTH: The overfishing item,
9 although it's included in Magnuson, was in a sense
10 such an important individual topic that we hoped that
11 we could have that as a separate item stand-alone from
12 a general Magnuson-Stevens discussion.

13 MR. RAYBURN: Okay. So we should be
14 prepared, then, to hand that to Pete, so he could use
15 it for his committee tomorrow? Would that be
16 appropriate? Or at least in a draft conceptual stage?
17 Is that what you're thinking?

18 DR. HOGARTH: Yes, yes.

19 MR. RAYBURN: And if I could ask another,
20 and I guess Chris, if it would -- I was in the process
21 of drafting, and I don't know whether I'll get it done
22 now with the overfishing deal, but drafting something

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1 on the hurricane response issue.

2 It may fit within lessons learned, but if
3 Chris was willing to -- if he wasn't involved in other
4 stuff, maybe if that committee could -- if I do get it
5 produced this evening, tonight, if his committee could
6 look at it and see whether that would be appropriate
7 for them to deal with.

8 DR. HOGARTH: Sure.

9 MR. RAYBURN: Is that okay, Chris, or did
10 you have other issues? You probably want to be in
11 some of the other meetings, and that's okay. But
12 maybe if we get it produced, we can look at it anyway.

13 MR. DORSETT: Yes. I think we can finish
14 that up quickly and join the other.

15 MR. RAYBURN: Thank you.

16 DR. HOGARTH: And, you know, maybe
17 tomorrow morning, some of us -- I mean, I've got Roy
18 here and I've got a couple of others, that maybe some
19 of them, maybe Larry or Russell or Vince and Tony and
20 I, and any others that may want to, in another corner,
21 can talk about the future, so we could come back with
22 something, while these other three are going on.

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1 But I really want to make sure we move --
2 we've talked about it and we've done a lot. But I
3 wanted to make sure we have projects and issues and
4 activities that MAFAC really feels like it's important
5 to deal with.

6 I'm sitting here scratching my eyes. I'm
7 very allergic to things, and I just realized after the
8 end of the day --

9 (Laughter; simultaneous discussion.)

10 DR. HOGARTH: I'm sitting here doing this
11 all day, and I'm saying what am I allergic to, and
12 it's right here in front of me.

13 CAPT DiLERNIA: Okay.

14 MR. RAYBURN: Could I ask another
15 question?

16 CAPT DiLERNIA: Yes sir.

17 MR. RAYBURN: As far as logistics, if we
18 do get something done up and we have it on a little
19 memory stick, where is the best place to get it
20 printed? Bring it here --

21 MR. KRAMER: Bring it in here, Ralph.

22 MR. RAYBURN: Okay. What time do you all

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1 get going in the morning? Will there be --

2 MR. KRAMER: 7:30.

3 MR. RAYBURN: Yes, something like that.
4 Okay. Thank you.

5 CAPT DiLERNIA: Okay, Committee. Is there
6 any other business? Yes, Mr. Billy.

7 MR. BILLY: Yes. Just, and I'll use the
8 aquiculture area as an example. If you go back and
9 look at the notes from the last meeting, the Committee
10 spent a fair amount of time not only being briefed on
11 the legislation that had been drafted, but also
12 talking about a variety of issues related to
13 aquiculture, some of which also came up in our
14 discussions yesterday.

15 But the Committee asked for some things,
16 and this is going to be a little bit of constructive
17 criticism, and it was to have the agency establish
18 some sort of mechanism that would keep the Committee
19 up to date in terms of what's going on with the
20 legislation, including information on input or
21 comments that were being received.

22 And at whatever point, soliciting from the

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1 Subcommittee and/or the full committee further input,
2 because the desire was to get legislation, you know,
3 that is workable and effective for the intended
4 purpose.

5 Coupled with that, the Committee also
6 asked for the agency to draft a ten-year plan that
7 would represent the agency's best thinking in terms of
8 what it was looking at in terms of the development of
9 commercial aquiculture in the EEZ, and perhaps more
10 broadly what the goals were, how it would relate to
11 wild fisheries, how it would relate to the roles of
12 the councils and so forth.

13 We're sitting here today and we don't have
14 that plan, and we asked for it for this meeting. It
15 would have been very helpful to have that plan as part
16 of the basis for our discussion here, and now to
17 follow-up on your assignment.

18 So I realize there were some scheduling
19 conflicts and other problems that were incurred, but
20 I think stronger attention to those kinds of inputs
21 from the agency would be helpful to the Committee in
22 allowing it to do its job in the role that you're

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1 asking us to do.

2 So I just wanted to point that out as we
3 move forward.

4 DR. HOGARTH: Tom, I appreciate that. I
5 know -- I thought the website had been set up, and
6 maybe they haven't done that, but they told me they
7 were doing it through the website. And I thought when
8 I was in Seattle that it had been set up. But I will
9 find out for sure.

10 MR. BILLY: There is a website, but when I
11 went to it, it had the information that we had at the
12 last meeting, and nothing else.

13 DR. HOGARTH: Okay, all right. And the
14 business plan, I looked at a draft, and I really don't
15 know what happened. But I take what you said to
16 heart, and we'll make sure it's corrected, because it
17 should be.

18 MS. BRYANT: And my understanding, Tom, is
19 we will certainly let the aquiculture program know,
20 and suggest that we really need a draft no later than
21 June, so that we can get that a month in advance to
22 the Committee.

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1 Certainly, we'll be looking at it
2 strategically, so that when we do get together in July
3 we can use our time effectively and really get
4 something out of it. It's on our radar. We just have
5 to make it happen.

6 DR. HOGARTH: And I think it's going to
7 have to happen quicker than that, because if we have a
8 hearing, it would be much better for you all to have
9 seen some of that.

10 MR. BILLY: Yes, that was part of our
11 thinking, to have it for this meeting.

12 DR. HOGARTH: I want to have a meeting
13 Tuesday with these people and find out what's what and
14 get them on the deadlines.

15 CAPT DiLERNIA: Okay. I have two other
16 members, Ms. McCarty and Mr. Leipzig.

17 MS. McCARTY: Thank you, Mr. Chairman.
18 Heather McCarty. Do we have those amendments? Did
19 you print them out and put them over there?

20 MS. BRYANT: Susan Bunsick is supposed to
21 get ahold of me, and she may have actually even e-
22 mailed me today. So I don't have those now. We've

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1 got -- was it the rule that we gave you? Oh no. I'm
2 thinking of the proposed rules on the Seafood Council.

3 DR. HOGARTH: No, there are about four
4 amendments.

5 MS. BRYANT: But there are four amendments
6 that I know we need to get you, and --

7 MS. McCARTY: Before tomorrow.

8 MS. BRYANT: I haven't looked at my e-mail
9 yet. But we'll get that to you, and probably we'll
10 put it onto your web page, if that's a good way to
11 distribute it.

12 DR. HOGARTH: Are you asking for it for
13 tomorrow morning's discussion?

14 MS. McCARTY: I would very much like to
15 have my hands on it tonight, actually.

16 MS. BRYANT: I'll get up and see if I've
17 got e-mail.

18 MS. McCARTY: Would it be somewhere where
19 you'd get it off the web?

20 MS. BRYANT: I'll call and see if we can.
21 They're all in Vegas right now, so I don't know
22 whether we can or not.

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1 MR. RAYBURN: I think she said they were
2 on Thomas, and if you can scan Thomas, then you can
3 get them. But I may be wrong. You guys play the game
4 more, but I don't think the Committee amendments are
5 on Thomas.

6 You'd have to go to the Commerce Committee
7 site and find the bill, and maybe they're posted
8 there. But they wouldn't be on Thomas. So I think
9 the Senate Commerce Committee site.

10 CAPT DiLERNIA: I think Ralph is exactly
11 right, yes.

12 (Simultaneous discussion.)

13 CAPT DiLERNIA: Pete?

14 MR. LEIPZIG: Okay. A question about the
15 logistics for these subcommittees to meet or how are
16 we going to -- are we going to meet in the corners of
17 this room? Are there other locations? What time do
18 you want to do it?

19 MS. BRYANT: There's this room and Rob,
20 we've also got some of the meeting rooms up in --

21 MR. KRAMER: Yes. I have two other
22 conference rooms --

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1 MR. LEIPZIG: Perfect.

2 MR. KRAMER: Inside here. One conference
3 room will seat about eight. The other one will seat
4 20. We also have a lab in the back that will seat 40.
5 So we can -- how many committees do we have?

6 MS. BRYANT: And there's certainly the
7 tables that are in front in the hotel.

8 DR. HOGARTH: We're going to assemble
9 first as a committee, as a full committee tomorrow,
10 and after some housekeeping, then we'll divide up into
11 subcommittee work, and at that time we can give you a
12 room assignment.

13 MR. KRAMER: How many subcommittees will
14 we have? Tony?

15 DR. HOGARTH: Three.

16 CAPT DiLERNIA: Three.

17 MR. KRAMER: Three? Okay.

18 MR. LEIPZIG: Well, I was also wondering -
19 - it's what, a little after 4:00, 4:30. Do people
20 want to get a head start on any of the subcommittees
21 this evening, this afternoon and we can make some
22 headway.

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1 CAPT DiLERNIA: What's your pleasure
2 committees?

3 MR. FLETCHER: You don't want to keep us
4 like that. Gilmore wouldn't have done that.

5 (Laughter.)

6 CAPT DiLERNIA: I have to tell you, I've
7 been reinforcing to Laurel over the past couple of
8 weeks that the Committee works 9:00 to 5:00, and after
9 that we're done.

10 But if there are people who want to get
11 together, by all means go right ahead. But she's been
12 wanting us to work until midnight some nights. She's
13 squeezing every dollar, federal dollar and efficiency
14 out of our budget.

15 DR. HOGARTH: The four amendments will
16 either be faxed to me tonight or e-mailed to Laurel,
17 so you can get copies first thing in the morning.

18 MS. McCARTY: Thanks. Vince is planning
19 on doing that, because he couldn't find a good draft.

20 CAPT DiLERNIA: Yes.

21 MR. COOK: I think -- I'm impressed by the
22 people here and the willingness to work. I know the

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1 three subcommittees that you're going to deal with.

2 But the fourth task you mentioned was
3 something to look at the future of MAFAC and I thought
4 that was in the context that we were hoping that MAFAC
5 would help us look at what the future of fisheries are
6 to be in ten years, as opposed to what MAFAC ought to
7 be in ten years.

8 Maybe MAFAC has to evolve to something in
9 ten years to help fisheries, look at what it will do
10 in ten years. But I think that was a question that we
11 had started with on the first day.

12 CAPT DiLERNIA: Thank you, and we hope to
13 have a little bit -- I hope to describe the program or
14 the scope of work for the future of fisheries, and
15 we're calling it Fisheries 2025 at this point. I
16 intend to describe the scope of that work tomorrow in
17 full committee. Thank you. Are there any other
18 business for the Committee? Any other business of the
19 Committee?

20 MS. BRYANT: I have some administrative
21 stuff.

22 CAPT DiLERNIA: Administrative stuff.

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1 MS. BRYANT: On events tomorrow.

2 CAPT DiLERNIA: Laurel has administrative
3 stuff. Laurel?

4 MS. BRYANT: Okay.

5 COURT REPORTER: Laurel, can you move the
6 mike over just in front of you.

7 MS. BRYANT: With regard to tomorrow's
8 activities, I was asked what time we're going to be
9 meeting. For the field trip that Rob has scheduled,
10 Rob and his staff have put together a shuttle bus for
11 us, that we're going to be collecting and meeting at
12 1:15 out here by the fountain.

13 That will take us on the field trip and
14 get us back here at around 3:30. We will then re-
15 meet, reconvene, get cleaned up or whatever, and then
16 for the evening activities, to go to the water taxi.
17 We'll be convening again out in front of the fountain
18 at 5:15.

19 That will take us to the water taxi, and
20 on a tour and the taxi, as I understand it Rob, will
21 drop us off very close to Shema's, the restaurant. Is
22 it Los Olas Riverfront?

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1 MR. KRAMER: If you say so. I've never
2 done this.

3 MS. BRYANT: Oh, okay. That's the plan.

4 MR. KRAMER: I've always wanted to.

5 MS. BRYANT: So we're doing that. The
6 river boat that we will -- we get to the water taxi by
7 6:00, and then that drops us off near the restaurant,
8 I think, like 7:45, and we're out near the restaurant.
9 I think we've got 8:00 reservations.

10 MR. KRAMER: I need to double-check when
11 the reservations are for the restaurant.

12 MS. BRYANT: I think they're at 8:00, but
13 probably double-check.

14 MR. KRAMER: Okay, because that's for
15 those who are not going on the water taxi, and who
16 just want to go to the restaurant, of course, would
17 need to know that.

18 MS. BRYANT: Need to know the address. So
19 we need to get that. And as far as costs, the water
20 taxi is \$27 per person, either cash or check to Emily
21 Collins. She's going to be collecting that from us
22 tomorrow. She'll have a money bag, so we'll make it

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1 real easy and she can collect that per person for the
2 water taxi trip.

3 And then as far as dinner, that's per
4 couple, per person on your own credit card dealing
5 with the restaurant. So that should be pretty easy.
6 If you've got any other questions, ask me. We'll get
7 you answers.

8 MR. JONER: And then we need to get our
9 own transportation back here? Is that --

10 MS. BRYANT: Transportation back, if I
11 understand, we lose the shuttle from that point. So I
12 understand, Rob, it's a fairly -- maybe an \$11 cab
13 ride or something --

14 MR. KRAMER: For those of you who haven't
15 been to Los Olas, I don't know what you thought, Jim.
16 Did you get a chance to go down there?

17 MR. COOK: Yes. It was a great tip. It
18 was a wonderful place, but it costs \$21 in a cab
19 coming back before the tip.

20 MR. KRAMER: Wow. We didn't know it was
21 that much.

22 MS. BRYANT: So the price of dinner just

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1 went up.

2 MR. KRAMER: We lost our bus, but there's
3 -- it's literally only probably six, seven miles from
4 here.

5 MS. BRYANT: Well then we can share cabs.

6 MR. KRAMER: But there's a lot to do on --

7 MS. BRYANT: You know, people can share
8 cabs so that we can split costs.

9 MR. KRAMER: Yes, we can share cabs for
10 sure.

11 CAPT DiLERNIA: Ralph.

12 MR. RAYBURN: Not to be -- if we -- how
13 far is it from where we disembark or re-embark, which
14 one is it? Get on the ferry, get on the boat and go
15 to the restaurant? How far is that?

16 So if we drove instead of taking the bus,
17 if we had a car, would that be of any advantage? Do
18 you follow what I'm saying? Is the restaurant close
19 to where we get on the water taxi, or is it several
20 blocks?

21 MS. BRYANT: Where we get off.

22 MR. KRAMER: It's all within ten miles

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1 from here, because the Intercoastal lines around. I
2 mean, for those who don't want to go on the water
3 taxi, it's literally less than ten miles from here.
4 But I didn't know it was a \$20 cab ride, so I'd
5 recommend splitting the costs.

6 CAPT DiLERNIA: Okay. Other business?
7 Seeing none, we're adjourned.

8 (Whereupon, at 4:30 p.m., the meeting was
9 adjourned, to reconvene at 9:00 a.m., Thursday,
10 February 16, 2006.)
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