

U.S. DEPARTMENT OF COMMERCE

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NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION

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MARINE FISHERIES ADVISORY COMMITTEE (MAFAC)

+ + + + +

ECOSYSTEM SUBCOMMITTEE FOLLOW-UP

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THURSDAY
MAY 24, 2012

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The Subcommittee met in the Ravenna Room, Sheraton Seattle Hotel, Seattle, Washington, at 7:45 a.m., Dave Wallace, Subcommittee Chair, presiding.

MEMBERS PRESENT

- DAVE WALLACE, Chair
- TERRY ALEXANDER
- JULIE BONNEY
- DICK BRAME
- PHIL DYSKOW
- JULIE MORRIS, Ph.D.
- ROBERT RHEAULT, Ph.D.

STAFF PRESENT

- MARK HOLLIDAY, Ph.D., Designated Federal Official
- ALAN RISENHOOVER

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

2 7:47 a.m.

3 CHAIR WALLACE: I was looking for
4 three or four, two or three issues that
5 everybody sort of focused on. We didn't find,
6 as I see it, something that everybody was just
7 fixated on.

8 So, the first thing I would like to
9 do is think about, out loud, for all of you,
10 to come up with a few that we think about. Now
11 they end up being interrelated. So, one
12 sometimes leads to one that we are actually
13 not talking about because one impacts the
14 other. But if we don't focus on it, we will
15 never get anywhere with this process because
16 all of those issues are actually very complex.

17 I just throw it open for
18 discussion. We have 11; we had six, and if
19 you would like, I will get into the right
20 screen here and tell you which ones we dealt
21 with.

22 We started off with OY. My machine

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1 just jumped over. So, we start off with ACLs
2 and Optimal Yield. But let me just refresh
3 your memory. We have stocks in the fishery
4 which are those non-managed stocks within a
5 fishery. Should they be managed, too? Should
6 they all have ACLs, which just makes the world
7 more complicated?

8 I won't tell you about some of the
9 fiascos we have had because we have non-
10 directed fisheries that are part of another
11 fisheries management plan, and they are
12 usually bycatch-only. And then, you exceed
13 the bycatch on the non-directed fishery, which
14 shuts down the directed fishery. In the Mid-
15 Atlantic, we have that, in particular, as a
16 squid fishery.

17 And then, we have mixed-stocks
18 fisheries. The Northeast is very interested
19 in the mixed stocks because of the groundfish.
20 Data-poor stocks, that is always
21 controversial. You know, when you don't have
22 good sites, you have good management.

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1 And then, Acceptable Biological
2 Catch rules. And then, rebuilding programs, I
3 picked up the rebuilding programs because they
4 impact all of them, especially if the
5 rebuilding program is not on the right
6 trajectory.

7 MEMBER BRAME: Are we trying to
8 come up with specific recommendations or just
9 that we think we ought to address this and
10 here is the general area?

11 CHAIR WALLACE: Well, that is a
12 great question because I don't think that we
13 can really get into the weeds simply because
14 we don't have enough time, No. 1. So, I think
15 that we can just make general, broad
16 recommendations of things that we think that
17 they should look at. Or Terry keeps saying we
18 should stay out of this.

19 MEMBER ALEXANDER: Well, the reason
20 I say we should stay out of it is because they
21 seem to be scoping for something that they are
22 not sure is something that people will look

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1 at. So, I don't know if we should even
2 comment on it. Do you know what I mean?
3 Because that may add some validity to the
4 conversation.

5 CHAIR WALLACE: Okay.

6 MEMBER BRAME: I think they are
7 pretty sure.

8 (Laughter.)

9 MR. RISENHOOVER: Just last week, I
10 was looking at the number of comments we get
11 per year. In 2009, there is this huge spike
12 of the 250 comments we got. We are going to
13 get comments.

14 MEMBER ALEXANDER: If it is pre-
15 scoping, then that is where I was going with
16 it.

17 MEMBER BRAME: And another thing,
18 Terry, we are not talking about -- a lot of
19 people get worried about reopening regs. We
20 are not doing that. This is about
21 implementation.

22 CHAIR WALLACE: Just the

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1 groundrules for dealing with National Standard
2 1, you know, the guidelines, how do you deal
3 with it?

4 MEMBER BRAME: I would have the
5 same problem you have, that you were talking
6 about, perhaps reopening Magnuson. But I
7 think we definitely need to look at how
8 that --

9 MR. RISENHOOVER: So, Magnuson, you
10 know, there is talk about reopening it or not
11 reopening it, and there are several bills on a
12 number of issues. Mark outlined some of that.
13 He didn't go into details. But there are
14 bills on rebuilding and bills on science, and
15 everything.

16 CHAIR WALLACE: Everything you can
17 think of.

18 MR. RISENHOOVER: So, part of what
19 we can do with this is, are there some changes
20 we can make outside of Magnuson? Again, we
21 can't change the basics of the law, but how do
22 we better implement the basics of the law? As

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1 I said, do we need to amplify some areas, the
2 OY/ACL relationship that we talked a little
3 bit about yesterday? Do we need to revise the
4 guidelines or should we revise the guidelines,
5 are the kinds of questions we are looking at.

6 Or is there some guidance? You know, did one
7 Council deal with their ACL issue in a
8 particular way that we want to provide to
9 others?

10 How do we help implement the Act
11 with our guidelines is another kind of basic
12 underlying question and rationale to this?
13 Everything from did we get it wrong in the
14 guidelines to what did we do absolutely right,
15 that is the range of comments.

16 CHAIR WALLACE: So, the first thing
17 that I would like the Subcommittee to think
18 about this, the notion of the question that
19 Dick asked, because I don't want to try to
20 impose what I think should be. I am just the
21 referee, right? And it is your decision.

22 So, are we going to talk in broad

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1 terms or are we going to get down in the weeds
2 and get into specifics? And do we know enough
3 to get into the specifics? So, it is open for
4 discussion.

5 MEMBER BRAME: Well, I guess the
6 first question is, should it be pursued? You
7 know, do we agree they need to do that or not?
8 That is the first question.

9 MEMBER BONNEY: I think they do. I
10 think they do.

11 MEMBER BRAME: I think they do.

12 MEMBER BONNEY: I think this is a
13 good outlet to see some changes, especially
14 knowing that there is a bill in the House and
15 the Senate that looks at this very issue.

16 MEMBER BRAME: Yes, a number of
17 them.

18 MEMBER BONNEY: Yes, a number of
19 bills. I think one of them, in particular, is
20 gaining some legs.

21 CHAIR WALLACE: Pam, what do you
22 think?

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1 MS. YOCHER: I am nervous about
2 commenting too much since I am not as familiar
3 with the nitty-gritty. But, from what I am
4 hearing, I think the discussion is going the
5 right way.

6 CHAIR WALLACE: Julie, now you have
7 been around the Council process a while. So,
8 tell us what you think.

9 MEMBER MORRIS: I mean, it is hard
10 to figure out how in the time remaining today
11 we can come up with comments. So, I don't
12 know, to begin with, the timing of the
13 comments.

14 CHAIR WALLACE: Well, the comments
15 are due the 1st of August. I moved that back
16 two weeks, just so that if we ran into a
17 snafu, we had a little bit of time. And so, I
18 said July 15. So, I was hoping to get some
19 direction today, so that when we did it by a
20 conference call, we have narrowed the scope of
21 what we are going to talk about to a point
22 where we just didn't get completely bogged

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1 down.

2 MEMBER MORRIS: But we could have a
3 general statement saying let's go ahead.

4 CHAIR WALLACE: Well, that is true.
5 We can have a one-liner that says we think
6 that it is worth going through, and let them
7 do it internally, or they reject it
8 internally.

9 MEMBER ALEXANDER: I mean, looking
10 at that list of the six things that you picked
11 out, does anybody else think that anything
12 else on that list should be maybe mentioned in
13 a little note. "Yes, we probably should look
14 at this." I mean, if we are going to open it
15 up, then why not open it up to everything?
16 You know what I mean?

17 CHAIR WALLACE: Well, unless we are
18 going to make a really broad statement --

19 MEMBER ALEXANDER: Yes.

20 CHAIR WALLACE: -- then, if you are
21 going to adopt everything, you are just going
22 to have a broad statement. But if we feel

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1 passionate about one or two that we want to
2 get into more detailed description -- but we
3 have a very short timeframe to deal with it.

4 MEMBER ALEXANDER: So, my fear,
5 this is my fear as somebody with a stake in
6 the fishery.

7 CHAIR WALLACE: Right.

8 MEMBER ALEXANDER: It is that they
9 are going to cherry-pick these 11 things.

10 CHAIR WALLACE: They already did --

11 MEMBER ALEXANDER: Okay.

12 CHAIR WALLACE: -- because they
13 could have been 50.

14 (Laughter.)

15 MEMBER ALEXANDER: And the ACLs are
16 probably, as far as I am concerned, the most
17 important thing on here. Because those of us
18 with a vested interest in the fishery, that
19 have been there for a long time -- we have
20 already had the fight or the debate -- are
21 really nervous that our investment is going to
22 go away, which I think that is a reasonable

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1 thing.

2 So, that is why I am thinking, if
3 everything is grouped together, if we get a
4 comment on it anyhow, then instead of
5 highlighting different things, that maybe we
6 should definitely look at everything.

7 CHAIR WALLACE: So, instead of
8 having maybe four specific comments, we should
9 have eleven general comments?

10 MEMBER BRAME: Why don't everybody,
11 what is important to us?

12 CHAIR WALLACE: Yes, well, I asked
13 that yesterday, right?

14 MEMBER BRAME: Yes. I mean, mine
15 is a similar one, but it is more about how
16 recreational fisheries should be managed
17 differently than how we are managing them now.

18 The current dataset --

19 CHAIR WALLACE: Well, where does
20 that fall in this list? Well, then, that is
21 not in this list.

22 MEMBER BRAME: Yes, the ACLs and

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1 Optimal Yields.

2 CHAIR WALLACE: Oh, yes, we are
3 going back. You are going to back to just the
4 allocation issue, not --

5 MEMBER BRAME: No, it is not even
6 allocation. It is ACLs and Optimal Yields.
7 The current data does not support setting more
8 ACLs in pounds and numbers. Don't do it.

9 MEMBER ALEXANDER: But the law says
10 that they have to do that. So, that is not --

11 MEMBER BRAME: The law says you
12 have to put a mechanism in place. I am not
13 proposing get away from anything. I am saying
14 that there is a different way or a better way
15 to do it.

16 MEMBER MORRIS: We are having
17 another Subcommittee meeting.

18 CHAIR WALLACE: Yes, I noticed that
19 we were losing participants quickly here.

20 MEMBER BRAME: Does data-poor stock
21 mean -- to me, that means the stock, you
22 essentially can't do a stock assessment. If

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1 you can do a stock assessment, then I guess
2 this is for myself with the background that we
3 don't have a lot of data, period, but we
4 generally do stock assessments based on catch
5 from one survey. In other places, I think
6 that would probably be called data-poor stock.

7 But some definition of that.

8 DR. HOLLIDAY: If I could?

9 CHAIR WALLACE: Sure.

10 DR. HOLLIDAY: Just remember to
11 keep this in context, because this is a start
12 of a long, long journey. And so, the first
13 principal question here is, is it even worth
14 opening this door to do a revision? And so,
15 if you say yes, that is an important piece of
16 advice because it is indicating something is
17 not right that needs attention.

18 Then, the agency has said there are
19 11 things there, and you don't have to come up
20 with a comment specifically about that. It is
21 just those are the ones that the agency has
22 heard. Are there other ones that you think

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1 are important that aren't on the list? That
2 is sort of a check-in point. And then, of
3 those 11, do some rise to the top? And that
4 is pretty much all you really need to do at
5 this stage to advance the process of the ANPR
6 into the regulatory, you know, into the next
7 stage.

8 And so, I think it will help people
9 to maybe --

10 CHAIR WALLACE: Yesterday we went
11 through all of that. We go all the way around
12 from Terry says this is not necessary, and
13 then everybody can think of some reason to
14 have one of them. And then --

15 DR. HOLLIDAY: The devil is in the
16 details.

17 CHAIR WALLACE: Yes.

18 MR. RISENHOOVER: Or you could say,
19 yes, but proceed with caution and we think
20 some of these rise a little bit more to the
21 top.

22 MEMBER ALEXANDER: So, how would

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1 you word something to what Dick is concerned
2 about?

3 MR. RISENHOOVER: You could say
4 look at how Councils have implemented ACLs for
5 recreational fishery, find best practices in
6 that, or look at the foundational --

7 MEMBER ALEXANDER: Or not.

8 MR. RISENHOOVER: -- or not, yes.
9 How has it worked? Where is it working? For
10 what types of fisheries do ACLs work? Again,
11 you can't remove the ACL requirement, but how
12 do we implement that effectively in
13 recreational fisheries? You know,
14 accountability measures in recreational
15 fisheries, how should those be handled?
16 Again, maybe just some broad areas that you
17 think the agency should potentially focus on
18 in this review or get more information or, as
19 I said before, amplify on some of the terms.

20 CHAIR WALLACE: You had your hand
21 up.

22 MEMBER BONNEY: Well, I was just

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1 thinking that I think most all of these are
2 pointed to the idea that you are having stocks
3 with poor information driving fisheries. Now,
4 because it is being intercepted in the tracked
5 fisheries, they are not on target; they are
6 the bycatch-only. And so, because of the
7 rigor of National Standard 1, you can't take
8 more of a commerce approach to some of those
9 management issues.

10 So, I guess my question is, do we
11 have to have the rigor that is involved with
12 National Standard 1? Can't we have some kind
13 of a relief valve to take kind of a common-
14 sense approach to some of those things that
15 are just not part of norm?

16 And I don't know whether that gets
17 us where we want to go, but, basically, from
18 where we are at, revising National Standard 1
19 and trying to build relief where we are
20 shutting down our main fisheries based on
21 poor-data stocks that, when you really break
22 it out, you can just look at a common-sense

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1 approach. Why are we worrying about that?
2 Why are we spending all of this money and
3 energy on something we know is no threat? We
4 just don't have the hard-core data to stand up
5 and say that, like they are trying to build
6 through National Standard 1.

7 CHAIR WALLACE: Well, National
8 Standard 1, you know, if you read it
9 literally, it is pretty straightforward. If
10 you actually go through and analyze what it
11 says, then you have to have this litany of
12 ideas on how you actually address all of the
13 eventualities.

14 MEMBER BONNEY: Right. Exactly.

15 CHAIR WALLACE: And that is
16 actually where we are. And some people don't
17 think that it works, and there were at least
18 11 ideas. And I am actually surprised that
19 somebody hasn't or a number of people haven't
20 suggested other things that they think need to
21 be addressed in this, but that is neither here
22 nor there.

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1 And so, how can we do something
2 constructive in addressing the original idea?

3 Should the guidelines be reconsidered and
4 which ones are important? That is what we are
5 trying to decide.

6 MEMBER BONNEY: But I think they
7 are all important, and they are all kind of
8 interwoven.

9 CHAIR WALLACE: Well, again, I
10 agree with that. So, then, what do we say?
11 As a Committee, we should just say we think
12 they are all interlocked? The guidelines seem
13 to be specific, but, then, after the fact,
14 there seems to be holes in it. And so, what
15 do we do to suggest that they fill these
16 holes?

17 That gets down into the weeds, and
18 I don't know enough about it to get down in
19 the weeds.

20 MEMBER ALEXANDER: So, how about if
21 we just say that we think that the 11 things
22 that they had were important, all important,

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1 and maybe pick the top three things that we
2 could agree on to go to the top of the list?

3 CHAIR WALLACE: From New England, I
4 would expect you to pick the top three.

5 (Laughter.)

6 MEMBER ALEXANDER: And maybe add
7 something, maybe put a 12th one in there to
8 help with --

9 CHAIR WALLACE: What is the 12th
10 thing?

11 MEMBER ALEXANDER: Well, what Alan
12 said about Dick's --

13 DR. HOLLIDAY: Management of the
14 recreational --

15 MEMBER ALEXANDER: Management of
16 the recreational fish.

17 MR. RISENHOOVER: Maybe some
18 technical guidance or additional review of
19 ACLs particular to rec fisheries may be
20 warranted or is warranted.

21 MEMBER BRAME: I mean, at this
22 point, Mark is exactly right. Should we do

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1 this, yes or no? I think the answer is yes.
2 What should you look at?

3 I have a hard time pulling anything
4 out of. I mean, I could think of examples of
5 all of these. In rebuilding, look at some
6 biological point and in the species the mean
7 generation time is four years.

8 MR. RISENHOOVER: But, yet,
9 everything seems to gravitate toward 10,
10 because you can take up to 10.

11 MEMBER BRAME: Yes, that's right.

12 MR. RISENHOOVER: Or if generation
13 time is longer, then it seems a little bit
14 more biological debate.

15 MEMBER BRAME: I would reduce it to
16 biology. I think there would be some
17 biological parameters and rebuild it. It just
18 makes more sense. But that is just an
19 example.

20 And I would think this mixed-stock
21 stuff, especially in the North Atlantic and
22 the North Pacific mixed-stock fisheries, is

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1 sort of getting to what your problem is. And
2 in the South Atlantic that has some validity.

3 The one that I am the most
4 comfortable with taking out is scientific
5 management uncertainty. In my view, they have
6 done a pretty good job of accounting for that
7 with the OFL, ABC greater than or equal to ACL
8 or ACTs.

9 MEMBER ALEXANDER: We have stocks
10 in the Northeast where there is 45 percent
11 scientific uncertainty. That is a huge amount
12 of money that we are leaving in the water
13 because of scientific uncertainty.

14 So, are you looking for three top
15 ones?

16 CHAIR WALLACE: I am looking for
17 whatever the three of you now can agree on.

18 MEMBER BRAME: I think we all
19 agree --

20 MR. RISENHOOVER: Have them each
21 pick one.

22 (Laughter.)

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1 MEMBER ALEXANDER: You're king.

2 (Laughter.)

3 CHAIR WALLACE: No, he's king.

4 MR. RISENHOOVER: Remember I
5 delegated "king" to you today.

6 MEMBER ALEXANDER: So, everybody
7 agrees that the data-poor stocks are
8 important?

9 CHAIR WALLACE: Yes, there are
10 three highlighted, right?

11 MEMBER ALEXANDER: And mixed-stock
12 fisheries or --

13 MEMBER BRAME: If I had to pick
14 three, taking off my just recreational
15 fisherman hat, that is the three I would --

16 CHAIR WALLACE: So, you would take
17 the ACL/Optimal, yes, and data-poor --

18 MEMBER BRAME: And the mixed
19 stocks.

20 CHAIR WALLACE: And the mixed
21 stocks?

22 MEMBER ALEXANDER: See, I think the

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1 data-poor should be No. 1, but I could care
2 less where it goes in the top three, but I
3 think that is -- if I had just a pure
4 recreational hat on, fishing and multi-year
5 impacts would be in the group. Overall, I
6 don't think important. We are not supposed to
7 be wearing that hat, are we?

8 CHAIR WALLACE: So, Julie, tell me
9 what you think over there.

10 MEMBER BONNEY: Well, I guess I am
11 wondering why we need to have --

12 CHAIR WALLACE: You have to talk
13 up. I don't hear very well.

14 MEMBER BONNEY: Why do we need just
15 three?

16 CHAIR WALLACE: Well, I guess I
17 will say, and we actually have 12 now,
18 recreational fisheries management, you know.

19 MEMBER BRAME: Can I?

20 CHAIR WALLACE: Sure.

21 MEMBER BRAME: I don't think we are
22 excluding. The suggestion was just -- and it

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1 may have been we could pick four, five, or
2 six. Just pick some that you think are --
3 which pigs are more equal than other pigs in
4 this Orwellian thing?

5 CHAIR WALLACE: And when I was
6 asked, I picked the ones that I thought should
7 be addressed and that that should be reduced.

8 I am like Dick; scientific and management
9 uncertainty, I don't think that -- the science
10 is the science, you know. We may not have the
11 best science because there is no such thing as
12 the best; there are no absolutes in what we
13 do.

14 And then, the management
15 uncertainty is up to the Councils to say how
16 much risk is there. Because with the AMs,
17 there is this penalty over on the other side
18 for doing it wrong. And so, when you pick the
19 number that is way too high and then it comes
20 back, if it way too high, then you have to pay
21 the consequences.

22 And so, before the reauthorization

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1 in 2007, you didn't have that penalty clause.

2 And so, there was no risk, and now there is
3 risk. You have to make sure the risk --

4 MEMBER BRAME: So, which three have
5 you decided are on the bottom?

6 CHAIR WALLACE: Well, these, three,
7 four, and six, they are numbered, but it was
8 No. 4, which was No. 1 originally; No. 3 was
9 No. 2, and No. 6 was No. 3.

10 Go ahead.

11 MR. RISENHOOVER: So, I think you
12 are going to say the 11 topics and emphases
13 outlined are legitimate things that you should
14 take public comment. But, on those, we feel
15 these three rise to the -- for this Committee,
16 I think it is the way to say that. So, Julie,
17 they are not excluding any. They are saying
18 you have got kind of the right mix, but these
19 three or so are a little bit more important,
20 based on the Committee's thoughts.

21 MEMBER BRAME: And I am
22 comfortable. I mean, we don't have to add the

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1 recreational ones as well. I mean, to me,
2 that fits right under --

3 CHAIR WALLACE: That's right.
4 Because I will add that in the report.

5 MEMBER BRAME: It would be nice to
6 be in the report that that is one of the
7 things we talked about. It doesn't
8 necessarily have to be another one because it
9 fits under more than one.

10 MR. RISENHOOVER: Or apply those 12
11 things and look at them in the context
12 specifically of recreational fisheries.

13 MEMBER BRAME: Because the process
14 is that we will make a report to the whole
15 Committee, and then it becomes the Committee
16 that really decides what we are going to do.
17 We are just a subcommittee that sort of goes
18 through this. Once they decide what they want
19 to do, then we go on with the more detailed
20 comments.

21 MEMBER ALEXANDER: I am sure that
22 the 22 people sitting around this table, or

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1 23, will have a whole different idea of what
2 should rise to the top.

3 CHAIR WALLACE: Well, that is what
4 I like about yesterday, because we had more
5 than half of the whole package there. So
6 that, if we can go to consensus with it, it is
7 almost a Committee of the Whole, then it makes
8 this a lot smoother because everybody has been
9 through the process.

10 MEMBER BONNEY: Okay. I am fine
11 with the three you have outlined.

12 CHAIR WALLACE: Okay. And are we
13 happy with the order? Or should we talk about
14 the order?

15 MEMBER BRAME: I don't think the
16 order matters.

17 CHAIR WALLACE: It doesn't make any
18 difference? Okay.

19 Agree with that? Do you agree with
20 that? Okay.

21 I guess we stand adjourned.

22 (Whereupon, at 8:16 a.m., the

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1 meeting was adjourned.)

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